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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Docket No. FV99–955–1 IFR]

Vidalia Onions Grown in Georgia; Fiscal Period Change

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule changes the fiscal period under the Vidalia onion marketing order (order) to January 1–December 31 from September 16–September 15. It also extends the current fiscal period which began September 16, 1998, through December 31, 1999. The order is administered locally by the Vidalia Onion Committee (Committee), which recommends its program expenses on a fiscal period basis. An assessment rate, levied on fresh Vidalia onion shipments, is established to pay those expenses. When the current fiscal period was established, it coincided with the Vidalia onion marketing season which ran from April through June. Due largely to the use of Controlled Atmosphere (CA) storage, Vidalia onions are now shipped through the fall. This action will make the fiscal period consistent with the current marketing season.

DATES: Effective September 7, 1999; comments received by November 2, 1999 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, F&V, AMS, USDA, PO Box 2276, Winter Haven, FL 33883–2276; telephone: (941) 299–4770, Fax: (941) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 955 (7 CFR part 955) regulating the handling of Vidalia onions grown in Georgia, hereinafter referred to as the ''order.'' The marketing agreement and order are 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 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.

Section 955.40 of the order provides authority for the Committee to incur expenses that are reasonable and necessary to operate the program. The order also provides that these expenses be paid by assessments levied on fresh shipments of Vidalia onions. The Committee prepares an annual budget of expenses on a fiscal year basis. Section 955.13 of the order defines ''fiscal period'' to mean September 16 through September 15 of the following year, or such other period that may be recommended by the Committee and approved by the Secretary.

This rule changes the fiscal period to January 1 through December 31, making it consistent with the current Vidalia onion marketing season. It also extends the 1998–99 fiscal period, currently September 16, 1998 through September 15, 1999, through December 31, 1999. These changes were unanimously recommended by the Committee at its November 19, 1998, meeting.

When the order was first issued in 1989, the harvesting and marketing season for Vidalia onions ran from April through June. The September 16 through September 15 fiscal period thus covered the entire marketing season and was appropriate for budget planning purposes. Over the past decade, changes in the industry have extended the marketing season. In particular, the adoption of Controlled Atmosphere (CA) storage by three-fourths of the handlers has allowed them to economically store Vidalia onions through December. While there are some added storage costs and losses due to shrinkage, these costs are more than offset by prices received for Vidalia onions during the holiday season (November and December).

The Committee's current annual budget is $373,577, and the assessment rate is set at 7 cents per 50-pound bag. Major expenses include $131,600 for marketing and promotion, $75,000 for research, $135,127 for administrative expenses, and $31,850 for compliance. It is appropriate that the Committee plan and finance its activities consistent with the Vidalia onion marketing season.

The Committee will begin operating under the revised fiscal period on January 1, 2000. Therefore, this rule also extends the current fiscal period

through December 31, 1999. This will provide for continuous operation of the program. The Committee will revise its current budget of expenses to cover the 3½ months being added to the current fiscal period.

The fiscal period change is designed to improve the functioning and operation of the program. The majority of handlers maintain their business records on a calendar year basis. Therefore, this rule will better reflect current industry practices.

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 initial 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 the 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 86 handlers of Vidalia onions who are subject to regulation under the order and approximately 133 Vidalia onion producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (SBA) (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.

During the 1996–97 fiscal year, about 14 percent of the handlers shipped about 2,771,000 50-pound bags of Vidalia onions, for an average of about 197,930 bags. The remaining 86 percent of the handlers shipped about 1,262,940 bags, for an average of about 14,685 bags. Using an average f.o.b. price of $12.80 per bag, the majority of handlers could be considered small businesses under SBA's definition. Likewise, the majority of Vidalia onion growers may be classified as small businesses.

Section 955.40 of the order provides authority for the Committee to incur expenses that are reasonable and necessary to operate the program. The order also provides that these expenses be paid by assessments levied on fresh shipments of Vidalia onions. The Committee prepares an annual budget of expenses on a fiscal year basis. Section 955.13 of the order defines ''fiscal period'' to mean September 16 through September 15 of the following year, or such other period that may be recommended by the Committee and approved by the Secretary.

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The Committee's current annual budget is $373,577, and the assessment rate is set at 7 cents per 50-pound bag. Major expenses include $131,600 for marketing and promotion, $75,000 for research, $135,127 for administrative expenses, and $31,850 for compliance. It is appropriate that the Committee plan and finance its activities consistent with the Vidalia onion marketing season.

The Committee will begin operating under the revised fiscal period on January 1, 2000. Therefore, this rule also extends the current fiscal period through December 31, 1999. This will provide for continuous operation of the program. The Committee will revise its current budget of expenses to cover the 3½ months being added to the current fiscal period.

This rule is a change to Committee operations which would not impose any new requirements on Vidalia onion handlers. It could, on the other hand, simplify handler operations by putting the program fiscal period on the same basis as handlers' internal reporting and recordkeeping procedures.

The Committee discussed the alternative of leaving the fiscal period as it presently exists, but unanimously concluded that this change would improve program operations.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large Vidalia onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Vidalia onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the November 19, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Committee itself is composed of nine members: eight producers and one public member.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

Small businesses may request information on compliance 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, room 2525–S, PO Box 96456, 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 invites comments on these changes to the fiscal period currently prescribed under the order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 1998–99 fiscal period ends on September 15, 1999, and this action is needed to be taken as soon as possible to assure continuity in

Committee operations; (2) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting; and (3) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

1. The authority citation for 7 CFR part 955 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new Subpart—Rules and Regulations is added preceding § 955.101 to read as follows:

Subpart—Rules and Regulations

3. A new § 955.113 is added to read as follows:

§ 955.113 Fiscal period.

Pursuant to § 955.13, *fiscal period* shall mean the period beginning January 1 and ending December 31 of each year, except that the fiscal period that began on September 16, 1998, shall end on December 31, 1999.

Dated: August 30, 1999.

Robert C. Keeney

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–23012 Filed 9–2–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 98–083–6]

Mediterranean Fruit Fly; Removal of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing the quarantined area in Orange County, CA, from the list of quarantined areas. The quarantine was necessary to prevent the spread of the Mediterranean fruit fly to noninfested areas of the United States. We have determined that the Mediterranean fruit fly has been eradicated from this area and that restrictions on the interstate movement of regulated articles from this area are no longer necessary. This action relieves unnecessary restrictions on the interstate movement of regulated articles from this area. As a result of this action, there are no longer any areas in the continental United States quarantined because of the Mediterranean fruit fly.

DATES: This interim rule is effective as of August 27, 1999. We invite you to comment on this docket. We will consider all comments that we receive by November 2, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 98–083–6, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03,4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 98–083–6.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

The Mediterranean fruit fly regulations (contained in 7 CFR 301.78 through 301.78–10 and referred to below as the regulations) restrict the movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States. Since an initial finding of Medfly in a portion of San Diego County, CA, in August 1998, the quarantined areas in California have included portions of Orange, Riverside, and San Diego Counties.

In an interim rule effective August 13, 1998, and published in the **Federal Register** on August 20, 1998 (63 FR 44539–44541, Docket No. 98–083–1), we added a portion of San Diego County, CA, to the list of quarantined areas. In a second interim rule effective August 14, 1998, and published in the **Federal Register** on August 21, 1998 (63 FR 44774–44776, Docket No. 98–083–2), we added a portion of Orange County, CA, to the list of quarantined areas. In a third interim rule effective November 24, 1998, and published in the **Federal Register** on December 1, 1998 (63 FR 65999–66001, Docket No. 98–083–3), we added an area in Riverside and Orange Counties, CA, to the list of quarantined areas. In a fourth interim rule effective June 1, 1999, and published in the **Federal Register** on June 7, 1999 (64 FR 30213–30214, Docket No. 98–083–4), we removed a portion of San Diego County, CA, from the list of quarantined areas. In a fifth interim rule effective August 16, 1999, and published in the **Federal Register** on August 23, 1999 (64 FR 45859–45860, Docket No. 98–083–5), we removed a portion of Riverside and Orange Counties, CA, from the list of quarantined areas.

We have determined, based on trapping surveys conducted by the Animal and Plant Health Inspection Service (APHIS) and California State and county inspectors, that the Medfly has been eradicated from the quarantined area in Orange County, CA. The last finding of Medfly thought to be associated with the infestation in that portion of Orange County, CA, was October 27, 1998. Since that time, no evidence of infestation has been found in this area. We are, therefore, removing that portion of Orange County, CA, from the list of areas in § 301.78–3(c) quarantined because of the Medfly. As a result of this action, there are no longer any areas in the continental United States quarantined because of the Medfly.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. The portion of Orange County, CA,

affected by this document was quarantined to prevent the Medfly from spreading to noninfested areas of the United States. Because the Medfly has been eradicated from this area, and because the continued quarantined status of that portion of Orange County, CA, would impose unnecessary regulatory restrictions on the public, immediate action is warranted to relieve restrictions.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective less than 30 days after publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

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

This interim rule amends the Medfly regulations by removing a portion of Orange County, CA, from quarantine for Medfly. This action affects the interstate movement of regulated articles from this area. We estimate that there are 77 entities in the quarantined area of Orange County, CA, that sell, process, handle, or move regulated articles; this estimate includes 55 fruit sellers, 12 growers, and 10 nurseries. The number of these entities that meet the U.S. Small Business Administration's (SBA) definition of a small entity is unknown, since the information needed to make that determination (i.e., each entity's gross receipts or number of employees) is not currently available. However, it is reasonable to assume that most of the 77 entities are small in size, since the overwhelming majority of businesses in California, as well as the rest of the United States, are small entities by SBA standards.

The effect of this action on small entities should be minimally positive, as they will no longer be required to treat articles to be moved interstate for Medfly.

Therefore, termination of the quarantine of that portion of Orange County, CA, should have a minimal economic effect on the small entities operating in this area. We anticipate that the economic effect of lifting the quarantine, though positive, will be no more significant than was the minimal effect of its imposition.

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

Executive Order 12372

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

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

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

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

2. In § 301.78–3, paragraph (c) is revised to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) There are no areas in the continental United States quarantined because of the Mediterranean fruit fly.

Done in Washington, DC, this 27th day of August 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–23011 Filed 9–2–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amt. No. 379]

RIN Number: 0584–AC63

Food Stamp Program: Food Stamp Provisions of the Balanced Budget Act of 1997

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This rule will implement two food stamp provisions of the Balanced Budget Act of 1997. The first provision provides State agencies the authority to exempt from the food stamp time-limit at section 6(o)(2) of the Food Stamp Act of 1977 up to 15 percent of the State's caseload that is subject to the requirement. The second provision provides additional funding for administration of Food Stamp Employment and Training programs. These two provisions enhance State flexibility in exempting portions of a State agency's caseload from the food stamp time limit and increase significantly the funding available to create work opportunities for recipients that are subject to the time limit.

DATES: This rule is effective November 2, 1999. Comments must be received by November 2, 1999, in order to be assured of consideration.

ADDRESSES: Comments concerning this interim rule should be submitted to John Knaus, Branch Chief, Program Development Division, Food Stamp Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302; telephone: (703) 305–2519. Comments may also be datafaxed to the attention of Mr. Knaus at (703) 305–2486 or sent electronically through the internet to: John__Knaus@FNS.USDA.GOV. All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, 22302, Room 720.

FOR FURTHER INFORMATION CONTACT: Questions regarding this interim rulemaking should be addressed to John Knaus, Branch Chief, at the above address or by telephone at (703) 305–2519.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This interim rule has been determined to be economically significant under Executive Order 12866 and Major under Public Law 104–121, and was reviewed by the Office of Management and Budget.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V and related Notice (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Shirley Watkins, Under Secretary for Food, Nutrition and Consumer Services has certified that this action will not have a significant economic impact on a substantial number of small entities. State welfare agencies and political subdivisions will be affected to the extent they must implement the provisions described in this action.

Executive Order 12988

This interim rulemaking has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the ''Effective Date'' paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions all applicable administrative procedures must be exhausted.

Unfunded Mandate Analysis

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) which impose costs on State, local, or tribal governments or to the private sector of $100 million or more in any one year. Thus this rule is not subject to the requirements of section 202 and 205 of the UMRA.

Paperwork Reduction Act

This interim rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3507).

The reporting and recordkeeping burdens associated with the 15 percent exemption and the increased funding for State food stamp employment and training programs authorized by the Balanced Budget Act of 1997 (Balanced Budget Act) and addressed in this rule necessitated a revision to a previously approved information collection activity, the Employment and Training Program Report (FNS–583), approved under OMB No. 0584–0339. Because the Balanced Budget Act mandated implementation of the food stamp provisions addressed in this rule effective October 1, 1997, without regard as to whether regulations were promulgated to implement them, FNS submitted an emergency request to OMB on February 17, 1998, to revise the information collection for the FNS–583 form to reflect the requirements of the statute. FNS estimated the total annual burden hours associated with the revised FNS–583 to be 195,363 hours—182,643 hours for the work registration process, 2,762 hours for the 15 percent ABAWD exemption, and 9,958 hours for the E&T funding requirements. OMB approved the burden estimate for the revised form for six months, with an expiration date of August 31, 1998.

On April 27, 1998, FNS issued a notice in the **Federal Register** (63 FR 20567) describing in detail the revised collection of information and requesting comments. FNS received no comments from the general public or other public agencies about the information collection.

On September 23, 1998, FNS received an extension of OMB's approval of the revised burden estimate for the FNS–583 through September 30, 2001.

Public Participation and Effective Date

The amendments to sections 6(o) and 16(h) of the Food Stamp Act of 1977 (Food Stamp Act) which are reflected in this rule were enacted on August 5, 1997, as sections 1001 and 1002, respectively, of the Balanced Budget Act, Title I, Pub. L. 105–33. The amendments were effective October 1, 1997. Section 1005 of the Balanced Budget Act required that regulations implementing sections 1001 and 1002 of the Act be promulgated no later than one year after the date of enactment of the amendments to the Food Stamp Act. In order to meet the requirement of section 1005 of the Balanced Budget Act, Shirley Watkins, Under Secretary for Food, Nutrition and Consumer Services, has determined, pursuant to 5 U.S.C. 533(b)(3)(B), that public comment on this rule prior to implementation is impracticable and that good cause exists for making this rule effective less than 30 days after its publication. However, because we believe that administration of the rule may be improved by public comment, comments are solicited on this rule for 60 days after publication. All comments received within the comment period will be analyzed, and any appropriate changes will be incorporated in the subsequent publication of a final rule.

Regulatory Impact Analysis

Need for Action

This action is needed to implement section 1005 of the Balanced Budget Act. That section requires the Secretary of Agriculture to promulgate regulations implementing the amendments made to the Act by Title I of the Balanced Budget Act.

Benefits

The provisions of this rule will provide State agencies the ability to exempt from the time limits at section 6(o)(2) of the Food Stamp Act (7 U.S.C. 2015(o)(2)) an additional 15 percent of the State's caseload subject to the requirement. It will also increase significantly the funding available to State agencies to create work opportunities for recipients subject to the time limit. Together the provisions, to the extent that they are fully

implemented by the States, will permit an estimated 84,000 recipients a month who are subject to the time limit at section 6(o)(2) of the Food Stamp Act to continue to receive Food Stamp Program benefits. Of these recipients, 64,000 will be exempted under the 15 percent waiver authority, with an additional 20,000 able to meet the work requirement and thus retain eligibility due to the expanded E&T funding.

Costs

The amendments made by this rule will increase Food Stamp Program expenditures by $1.4 billion over the next five years.

Background

On August 5, 1997, the President signed Public Law 105–33, the Balanced Budget Act of 1997. The Balanced Budget Act includes several provisions that affect the Food Stamp Program. This rule implements two provisions of the Balanced Budget Act. The first provision provides State agencies the authority to exempt from the time limit at section 6(o)(2) of the Food Stamp Act up to 15 percent of the State's caseload subject to the requirement. The second provision provides additional funding for administration of Food Stamp Program Employment and Training (E&T) programs.

15 Percent Exemption

Background

On August 22, 1996 the President signed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. 104–193). Section 824 of the PRWORA amended section 6(o) of the Food Stamp Act to provide that able-bodied adults without dependents (ABAWDs) can only receive food stamps for 3 months in 3 years unless they are working, participating in a work program 20 hours per week, or participating in a workfare program. It exempts individuals from the time limit if they are under 18 or over 50, medically certified as physically or mentally unfit for employment, a parent or other household member with responsibility for a dependent child, exempt from work registration under 6(d)(2) of the Act, or pregnant. It provides that individuals can regain eligibility if they work 80 hours in a 30 day period. Individuals maintain eligibility as long as they are satisfying the work requirement. If the individual later loses the job, he/she can receive an additional 3 months of food stamps while not working. The additional 3 months must be consecutive and begins on the date the individual notifies the State that he/she is no longer working. It should be emphasized that PRWORA provides an individual the opportunity to receive a maximum of 6 months of food stamps in a 3-year period without meeting the work requirement, if the two 3-month periods are interrupted by a period of work.

The Food Stamp Act, as amended by PRWORA, allows waivers of the time limit for groups of individuals living in areas with an unemployment rate of more than 10 percent or where there are not a ''sufficient number of jobs to provide employment for the individuals.'' 7 U.S.C. 2015(o)(4)(A)(ii). Subsequent to the enactment of PRWORA, the President signed the Balanced Budget Act. Section 1001 of the Balanced Budget Act amended section 6(o) of the Food Stamp Act to allow State agencies to provide an exemption from the PRWORA-imposed time limits of section 6(o) of the Food Stamp Act for up to 15 percent of covered individuals. ''Covered individuals,'' as defined in section 6(o)(6)(ii), are those ABAWDs who are not: excepted under paragraph 6(o)(3) of the Food Stamp Act, covered by a waiver, complying with the work requirement, or in their first or second three months of eligibility. Section 1001 of the Balanced Budget Act gives the Secretary the authority to estimate for Fiscal Year (FY) 1998 the number of covered individuals in the State based on FY 1996 Quality Control data and other factors the Secretary considers appropriate due to the timing and the limitations of the data. It provides that beginning in FY 1999, the number of exemptions will be adjusted to reflect changes in (1) the State's entire caseload and (2) changes in the proportion of the State's food stamp caseload covered by the ABAWD-related waivers. Section 1001 of the Balanced Budget Act also amended the Food Stamp Act to require that the Food and Nutrition Service (FNS) adjust the number of exemptions assigned for a current fiscal year based on the actual number of exemptions granted by the State agency in the preceding year. Finally, it gives FNS the authority to require whatever State reports it deems necessary to ensure compliance with the 15 percent exemption provisions. FNS has no discretion in implementing this provision.

Because there are many requirements of the PRWORA and the Balanced Budget Act which apply only to ABAWDs and the time limit, FNS is creating a new regulatory section, § 273.24 in this interim rule. This interim rule will incorporate the Balanced Budget Act provisions regarding the 15 percent exemptions into § 273.24. All the PRWORA provisions regarding ABAWDs and the time limit will be incorporated into § 273.24 once the proposed rule implementing those provisions is finalized.

Determining How To Use the Exemptions

The Balanced Budget Act provides that State agencies may allow an exemption from the time limits of section 6(o) of the Food Stamp Act of up to 15 percent of covered individuals. The law does not prescribe how the State agencies shall use the exemption authority. FNS recognizes that there are many ways a State agency may want to use the exemption authority. A State agency can, for example, exempt individuals pursuing their General Equivalency Diploma (GED), individuals residing in the balance of a county when only a partial county received a waiver under section 6(o)(4) of the Food Stamp Act, or individuals in an area that is geographically remote from the State's workfare sites. States could also use the exemptions to extend for a certain time the eligibility of individuals who have exhausted the time limit. Therefore, FNS will not be prescribing categories or geographic areas for which these exemptions must be used. Instead FNS will allow State agencies maximum flexibility regarding the 15 percent exemption authority. State agencies may apply the exemptions as they deem appropriate. At the same time FNS would like to remind State agencies that along with the flexibility they are afforded in terms of determining the exemption criteria comes the responsibility for developing exemption policies that comport with their number of exemptions. A State agency should maximize the number of exemptions without exceeding the number of exemptions allocated for the year.

Covered Individuals

Section 1001 of the Balanced Budget Act amended section 6(o)(6)(ii) of the Food Stamp Act to provide that a State agency may provide an exemption from the time limits of section 6(o) for covered individuals. The Balanced Budget Act defined ''covered individuals'' as those ABAWDs who are not: excepted under paragraph 6(o)(3) of the Food Stamp Act, covered by a waiver under 6(o)(4) of the Food Stamp Act, complying with the work requirement of 6(o)(2) of the Food Stamp Act, or in their first or second three months of eligibility. FNS would like to clarify that it is up to the State

agency to decide whether or not an individual has to exhaust his/her first and second three months in order to qualify for an exemption under this provision. For example, a State agency may exempt every ABAWD who resides in the part of a county that was not already waived under 6(o)(4) regardless of whether or not they have exhausted their first and second three months. However, a State agency may determine that the best way to manage their finite number of 15 percent exemptions is to require individuals to exhaust their first and second three months before receiving an exemption under this provision.

Arriving at the By-State Numbers of Exemptions for FY 1998

The Balanced Budget Act also amended section 6(o) of the Food Stamp Act to provide in paragraph (6)(C) that for FY 1998, a State agency may provide a number of exemptions such that the average monthly number of exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State in FY 1998, as estimated by the Secretary, based on the FY 1996 Quality Control (QC) data and other factors the Secretary considers appropriate due to the timing and limitations of the survey.

In a memorandum dated September 4, 1997, FNS advised the State agencies what their average number of monthly exemptions were for FY 1998. To arrive at the number of covered individuals for each State, FNS began with the entire FY 96 QC data file, and then made adjustments by:

- Excluding recipients exempted from the ABAWD provisions
- Excluding to the extent possible those non-citizens made ineligible for food stamps after August 22, 1997
- Excluding the number of recipients who were complying with the work requirements
- Excluding to the extent possible those people who were at the time in their initial first three months of eligibility
- Adjusting this data to reflect the actual change in each State's caseload between FY 96 and FY 97 and the expected national caseload change between FY 97 and FY 98, and
- Excluding those individuals living in waived areas.

To arrive at 15 percent of the covered individuals, FNS multiplied the number of covered individuals for each State by 15 percent.

Based on this methodology, FNS authorized for FY 1998 approximately 64,000 average monthly exemptions for ABAWDs nationwide and made allocations from this total to the States. It is important to note that the average number of exemptions allocated to each State for FY 1998 was based on the number of covered individuals in FY 1996 (before the ABAWD time limits took effect) and, therefore, was likely greater than 15 percent of the number of covered individuals in areas that have implemented the time limits.

Subsequent Fiscal Years

Determining the Number of Exemptions

The Balanced Budget Act amended section 6(o) of the Food Stamp Act by adding paragraph (6)(D) (7 U.S.C. 2015(o)(6)(D)) to provide that for FY 1999 and subsequent fiscal years, a State agency may exempt up to 15 percent of their unwaived, unemployed, childless able-bodied population from the three-month time limit. The number of exemptions allotted each State will reflect changes in the State's caseload and the proportion of food stamp recipients covered by waivers granted under paragraph 6(o)(4) of the Food Stamp Act. FNS would like to clarify that the amendment to section 6(o) of the Food Stamp Act made by section 1001 of the Balanced Budget Act requires that the adjustments be based on changes in States' entire caseloads and not just ABAWD caseloads as stipulated in the Balanced Budget Act definition of caseload.

Adjusting the Exemptions Based on the Previous Year's Use

The Balanced Budget Act also amended section 6(o) of the Food Stamp Act, again in paragraph (6)(D), to provide that for FY 1999 and each subsequent fiscal year, the Secretary shall increase or decrease the number of individuals who may be granted an exemption by a State agency to the extent that the average monthly number of exemptions in effect in the State for the preceding fiscal year is different than the average monthly number of exemptions estimated for the State agency for the preceding fiscal year. Therefore, if this level of exemptions is not used by the end of the fiscal year, the State may carry over the balance. If more exemptions are used than authorized in a fiscal year, the State's allocation for the next year will be reduced. Final information to make these adjustments will not be available until after the start of each fiscal year. Therefore, based on preliminary information, FNS will provide the State agencies with their average monthly number of exemptions prior to the start of each fiscal year, and will make adjustments based on final information if necessary.

Caseload Adjustments

Section 1001 of the Balanced Budget Act also amended section 6(o) of the Food Stamp Act to provide that the Secretary shall adjust the estimated number of covered individuals allocated for a State during a fiscal year if the number of actual food stamp recipients in the State varies by more than 10 percent, as determined by the Secretary, from the State's average caseload for the 12-month period preceding June 30 (7 U.S.C. 2015(o)(6)(E)). FNS would like to clarify that the adjustment will be based on the entire caseload and not just the ABAWD caseload. FNS will make only one adjustment a year. If an adjustment is necessary, FNS shall advise the State agencies during the third quarter of each fiscal year.

Reporting

Finally, the Balanced Budget Act amended section 6(o) of the Food Stamp Act by adding paragraph (6)(G) to provide that the State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this provision. In order to monitor State's use of the exemptions and to provide assistance if necessary, FNS has determined that the State agency shall track and report the number of cases exempt under the 15 percent criteria. State agencies shall track the exemptions any way they deem appropriate. State agencies shall report the numbers to the FNS regional offices on a quarterly basis on the employment and training report (Form FNS–583), as provided for in § 273.7(c)(6).

Quality Control Issues

Since State agencies have complete discretion in determining which recipients will receive exemptions, FNS will not be proscribing categories or geographic areas. Therefore, QC will not evaluate States' actual exemption decisions against the exemption criteria they have adopted under the 15 percent criteria. However, in order to distinguish cases that are exempt under the 15 percent criteria from cases that are exempt under section 6(o) of the Food Stamp Act, covered by a waiver, or fulfilling the work requirement (which will be evaluated by QC), State agencies need to clearly identify those cases that are exempt under the 15 percent criteria. For example, a State agency decides to exempt everyone over the age of 45. QC pulls a case where the State agency exempted someone who is 43. Even though the State agency

exempted someone under 45, the case would not be in error because the State agency can use the 15 percent exemption anyway it chooses. To avoid an error, however, the State agency must have documented in the casefile that the person was exempted under the 15 percent criteria.

Additional Funding for Food Stamp Employment and Training Programs

Background

Current Food Stamp Program regulations at section 273.7(d) contain rules governing State agency use of Federal E&T grants. Current regulations require FNS to allocate an annual Federal E&T grant to State agencies based on the number of work registrants in each State compared to the number of work registrants nationwide. The grant is 100 percent Federally funded and requires no State match. Under current regulations, each State agency must receive at least $50,000 in 100 percent Federal funds. State agencies are required to use their E&T grants to fund the administrative costs of planning, implementing and operating E&T programs. FNS pays 50 percent of all other administrative costs above those covered by the 100 percent Federal grant that State agencies incur in operating their E&T programs.

Section 1002 of the Balanced Budget Act provided an additional $599 million over five years in 100 percent Federal funding for the operation of the E&T programs. It also amended section 16(h)(1) of the Food Stamp Act (7 U.S.C. 2025(h)(1)), to require that all 100 percent Federal E&T funding remain available to FNS to allocate to States until expended.

The apparent intent behind the additional E&T funding provided by the Balanced Budget Act is to enable State agencies to provide additional work opportunities for individuals subject to the 3-month Food Stamp Program time limit discussed in the first section of this preamble. By providing State agencies with the resources to create more work opportunities, the supplemental funding will help insure that it is only those individuals who deliberately choose not to satisfy the program's work requirements who lose their eligibility and not those who are willing to work but cannot find opportunities to do so.

Increased Funding Levels

Section 1002 of the Balanced Budget Act significantly increased the amount of 100 percent Federal funding available to State agencies for the operation of Food Stamp E&T programs. Section 817 of PRWORA amended section 16(h)(1) of the Food Stamp Act to provide $405 million in 100 percent Federal E&T funding for FYs 1998 through 2002. The Balanced Budget Act further amended section 16(h)(1) of the Food Stamp Act to increase that amount by $599 million. It also amended section 16(h)(1) of the Food Stamp Act to require that all 100 percent Federal E&T funding remain available to FNS to allocate to States until expended.

Whereas all State agencies are eligible to receive some percentage of the 100 percent Federal E&T funding provided under PRWORA, section 1002 of the Balanced Budget Act further amended section 16(h)(1) to require that for a State agency to receive an allocation of the additional or ''supplemental'' funding provided under that Act, the State agency must maintain its level of expenditure of State funds on E&T and optional workfare programs at a level that is not less than the level of State agency expenditures on such programs in FY 1996. Therefore, only State agencies that choose to meet this maintenance of effort requirement are eligible to receive a portion of the supplemental Federal E&T funding provided by the Balanced Budget Act. The Balanced Budget Act's maintenance of effort requirement is discussed in greater detail below.

Allocation of E&T Grants

Current regulations at § 273.7(d)(1)(i)(A) require that nonperformanced-based, 100 percent Federal E&T funding be allocated among States based on the number of work registrants in each State relative to the total number of work registrants nationwide. In order to target Federal E&T funding toward serving recipients subject to the time limit at section 6(o)(2) of the Food Stamp Act, the Balanced Budget Act amended section 16(h)(1) of the Food Stamp Act to require that in FY 1998 E&T grants be allocated among States based on (1) changes in each State's caseload (defined as the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30); and (2) each State's portion of food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act to the work requirement at section 6(o)(2). The Balanced Budget Act further amended section 16(h) to require that in FYs 1999 through 2002, E&T grants be allocated to States based on (1) changes in each State's caseload; and (2) each State's portion of food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act who (A) do not reside in an area of the State granted a waiver to the work requirement under section 6(o)(4) of the Food Stamp Act, or (B) do reside in an area of the State granted a waiver to the work requirement under section 6(o)(4) of the Food Stamp Act if the State agency provides E&T services in the area to food stamp recipients who are subject to the work requirement. This rulemaking amends food stamp regulations at § 273.2(d)(1)(i)(C) to describe the new procedures for allocating Federal E&T grants.

Section 1002 of the Balanced Budget Act further amended section 16(h) of the Food Stamp Act to require that, for purposes of determining each State's allocation of the Federal E&T grant in a fiscal year, FNS estimate the portion of food stamp recipients residing in each State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act using the 1996 QC survey data. This rulemaking amends food stamp regulations at § 273.2(d)(1)(i)(D) to incorporate this requirement.

In accordance with the requirements of the Balanced Budget Act, FNS used the following three-step process to determine each State's allocation of Federal E&T funds in FY 1998:

1. Determine Population Not Excepted from Work Requirement. FNS estimated the portion of food stamp recipients residing in each State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act to the work requirement at section 6(o)(2) of that Act using the 1996 QC survey data.

2. Adjust for Expected Caseload Changes. FNS determined the actual changes in each State's caseload between FY 96 and FY 97 and the expected change in national caseload between FY 97 and FY 98. These adjustments provided a caseload adjustment percentage for each State that FNS used to modify the FY 96 QC data to represent, as closely as possible, the population in each State in FY 98 that is not eligible for an exception under section 6(o)(3) of the Food Stamp Act.

3. Determine the State-By-State Allocation of the 100 percent Federal E&T Grant. FNS established the percentage basis for the E&T allocation by dividing each State's estimated FY 98 population of recipients not eligible for an exception under section 6(o)(3) of the Food Stamp Act by the national estimate of that population in FY 98. FNS then multiplied the resulting percentage by both the base Federal E&T appropriation of $81 million provided under PRWORA and the supplemental appropriation of $131 million provided

under the Balanced Budget Act to determine each State's share of base and supplemental E&T funds. All State agencies were eligible for the base allocation. To receive a supplemental allocation, a State agency must meet its maintenance of effort requirement as described below.

To determine each State agency's allocation of 100 percent Federal E&T funds in FYs 1999 through 2002, FNS will follow the same three-step procedure as described above, except that in estimating the number of recipients in each State not eligible for an exception under section 6(o)(3) of the Food Stamp Act, FNS will adjust FY 96 QC data by eliminating recipients eligible for an exception under section 6(o)(3) who reside in an area of the State granted a waiver to the work requirement under section 6(o)(4) of the Food Stamp Act except if the State agency provides E&T services in the area to food stamp recipients who are subject to the work requirement. (FNS estimates that 30 out of the 39 State agencies which had waivers under section 6(o)(4) in April 1998 provided E&T services in at least some of the waived areas). FNS will also adjust QC data to reflect caseload changes for the appropriate fiscal years.

Current regulations at § 273.7(d)(1)(i)(B) require that each State agency receive at a minimum $50,000 in 100 percent Federal E&T funding a year. The Balanced Budget Act left this requirement unchanged. In order to ensure that each State agency receives a minimum allocation of $50,000, FNS shall reduce the grant of each State agency that is allocated to receive more than $50,000, if necessary, proportionate to the number of food stamp recipients not eligible for an exception under section 6(o)(3) of the Food Stamp Act that reside in the State as compared to the total number of such recipients in all the State agencies receiving more than $50,000. The funds from the reduction shall be distributed to State agencies initially allocated to receive less than $50,000 so that they receive the $50,000 minimum. This rulemaking amends Food Stamp Program regulations at § 273.2(d)(1)(i)(E) to incorporate this requirement.

Current regulations at § 273.7(d)(1)(i)(D) provide that FNS may reallocate unexpended 100 percent Federal E&T grants during a fiscal year if a State agency will not expend all of its E&T grant. The Balanced Budget Act contains the same requirement except it provides FNS the authority to reallocate unexpended funds in the fiscal year that those funds are allocated or the next fiscal year. This rulemaking amends Food Stamp Program regulations at § 273.2(d)(1)(i)(F) to incorporate this requirement.

Use of Funds

The Balanced Budget Act amended section 16(h)(1)(E) of the Food Stamp Act to require that at least 80 percent of the 100 percent Federal E&T grant a State agency receives in a fiscal year, including both the base allocation for which each State agency is eligible and the supplemental allocation available only to State agencies that choose to meet their maintenance of effort requirement, be earmarked to serve food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act and who are placed in and comply with either a workfare program that meets the requirements of section 20 of the Food Stamp Act, 7 U.S.C. 2029, or a comparable program established by a State or political subdivision of a State, or a work program for 20 hours or more per week. The 80 percent use of funds requirement applies to any grant of 100 percent Federal E&T funds a State receives in a fiscal year, including both the initial grant received by a State at the beginning of a fiscal year and any grant composed of reallocated funding which a State receives during a fiscal year. State funds, including State monies expended to satisfy a State agency's maintenance of effort requirement as described in the next section, are not subject to the requirement.

The remaining 20 percent of a State's 100 percent Federal E&T grant may be used to provide work activities for food stamp recipients who are eligible for an exception under section 6(o)(3) of the Food Stamp Act, or on work activities that do not qualify either as work or workfare programs under sections 6(o)(2)(B) and (C) of the Food Stamp Act, such as job search or job search training programs for any food stamp recipient.

Although the language of section 1002 of the Balanced Budget Act which amends section 16(h)(1)(E) of the Food Stamp Act might be interpreted as requiring that a specified dollar amount (not less than 80 percent of the funds actually received by a given State agency) must be expended by the State agency to serve ABAWDs in qualifying activities, such an interpretation would necessitate an accounting of each dollar expended by a State so that no less than 80 cents could be used to serve ABAWDs in qualifying activities and, conversely, not more than 20 cents could be expended for other allowable E&T costs. In addition, if a State agency wished to expend the full 20 percent of its allocation permitted to be used for unrestricted E&T activities, it would be required to expend all of the amount allocated to it in order to meet the 80 percent requirement. However, because nothing in the Balanced Budget Act specifies that 80 percent of the funds which are restricted to serving ABAWDs in qualifying activities must be expended before a State agency may expend any of the 20 percent which may be used for other E&T purposes, the Department is permitting State agencies to spend the 20 percent of their E&T allocations that are available for non-ABAWD activities independent of whether they spend any of the 80 percent of their E&T grants that are earmarked for ABAWDs. This interpretation of Section 1002 of the Balanced Budget Act will significantly increase State flexibility in operating their E&T programs.

State agencies, therefore, are not required to utilize all or any of the 80 percent of their 100 percent E&T grant earmarked to serve participants subject to the work requirement but may operate their E&T programs utilizing only the 20 percent of their grant available to serve non-ABAWDs and to be spent on non-qualifying activities. If a State agency chooses not to spend some or any of the 80 percent of its E&T grant earmarked for ABAWDs and ABAWD qualifying activities, however, FNS may reallocate the unexpended funds to other State agencies as it considers appropriate and equitable in accordance with regulations at § 273.2(d)(1)(i)(F).

If a State agency spends more than 20 percent of the 100 percent E&T grant it receives for a fiscal year to provide work activities for food stamp recipients eligible for an exception under section 6(o)(3) of the Act, or on activities that do not qualify either as work or workfare programs under sections 6(o)(2)(B) and (C) of the Food Stamp Act, the allowable costs incurred that are in excess of the 20 percent threshold will be reimbursed at the normal administrative 50–50 match rate.

One hundred percent E&T funds that a State expends on ABAWDs who reside in an area of a State granted a waiver under section 6(o)(4) of the Food Stamp Act or on ABAWDs who have been granted an exemption under section 6(o)(6) of the Act will count toward the 80 percent expenditure requirement so long as the funds are spent creating activities that meet the requirements of sections 6(o)(2)(B) and (C).

This rulemaking amends food stamp regulations to add a new section that contains the requirements for State agency use of Federal 100 percent E&T

funding established by the Balanced Budget Act. The new section will be designated § 273.7(d)(1)(ii) and titled ''Use of funds.'' Former § 273.7(d)(1)(ii), which contained requirements for reimbursements for E&T program participants, will be redesignated § 273.7(d)(1)(v) and remain unchanged except for changes to several cite references.

Regulations currently contained at § 273.7(d)(1)(i)(E), (F), and (G), list additional requirements for use of Federal 100 percent E&T funds. Current regulations at § 273.7(d)(1)(i)(E) require that Federal 100 percent E&T grants be used only for the purposes of funding the administrative costs of planning, implementing, and operating E&T programs and not for funding other activities, such as work registration or sanctioning activities. Current regulations at § 273.7(d)(1)(i)(F) require that State agencies have an E&T plan approved by FNS prior to receiving any Federal 100 percent E&T funding. Current regulations at § 273.7(d)(1)(i)(G) prohibit State agencies from using Federal 100 percent E&T funding to supplant nonfederal funds for existing educational services and activities that are part of allowable E&T components. This rulemaking makes no changes to the content of any of the three provisions but moves them all to revised § 273.7(d)(1)(ii) in order that all requirements concerning use of Federal 100 percent E&T funds may be in the same location. Current regulations at § 273.7(d)(1)(i)(E), (F), and (G) will be redesignated as § 273.7(d)(1)(ii)(E), (F), and (G), respectively.

As noted above, section 824 of the PRWORA amended section 6(o) of the Food Stamp Act to provide that ABAWDs can only receive food stamps for 3 months in 3 years unless they are working, participating in a workfare program, or participating in a work program for 20 hours or more per week. Section 824 defined a work program as a program operated under the Job Training Partnership Act (JTPA), a program under section 236 of the Trade Act of 1974, *or* an E&T program operated or supervised by the State or a political subdivision that meets standards approved by the Governor of the State, other than a job search or job search training program. On August 7, 1998, President Clinton signed the Workforce Investment Act of 1998 (WIA) (Pub. L. 105–220). Section 199 of the WIA repeals the JTPA effective July 1, 2000. Section 199(A) of that Act requires that all references in any other law to the JTPA be deemed to refer to the corresponding provision in the WIA. To address this change, the new regulations at § 273.7(d)(1)(ii)(A) define a qualifying work program as one operated under the JTPA or, after July 1, 2000, one that was previously operated under the JTPA that is now operated under the WIA, a program under section 236 of the Trade Act of 1974, *or* an E&T program operated or supervised by the State or a political subdivision that meets standards approved by the Governor of the State, other than a job search or job search training program.

Maintenance of Effort

Section 1002 of the Balanced Budget Act also amended section 16(h)(1)(F) of the Food Stamp Act to require that, in order for a State agency to receive its portion of the supplemental E&T funds allocated under the Balanced Budget Act in any fiscal year, that State agency must spend in that fiscal year at least the same amount of State funds it spent in FY 96 to administer E&T and the optional workfare program (if one was available).

State agencies are required to meet the maintenance of effort requirement only if they wish to spend some or all of the supplemental E&T allocation provided under the Balanced Budget Act. State agencies that chose not to utilize any of the supplemental allocation for which they are eligible are not required to satisfy the maintenance of effort requirement. If a State agency chooses not to meet its maintenance of effort requirement, the supplemental allocation for which it was eligible will be reallocated to other States in accordance with regulations at § 273.7(d)(1)(i)(F).

In order to increase State flexibility in operating E&T programs, FNS is not requiring State agencies to expend all of their required maintenance of effort funds before they begin spending their supplemental E&T grants. Instead, FNS is requiring those State agencies which plan to spend the supplemental allocation for which they are eligible in a fiscal year to provide in their annual State E&T plans good faith assurance that they will meet their maintenance of effort requirement. This rulemaking amends E&T State plan requirements at § 273.7(c)(4)(ii) to add this requirement. At the end of each fiscal year, FNS will review State expenditures for operating food stamp E&T programs to ensure that State agencies which noted in their E&T plans that they intended to meet their maintenance of effort (MOE) requirements did in fact do so.

In accordance with the requirements of section 1002 of the Balanced Budget Act, State funds that are expended to meet a State's MOE requirement are not subject to the use of funds requirement that at least 80 percent of a State agency's E&T grant be earmarked to serve individuals subject to the work requirement at section 6(o)(2) of the Food Stamp Act and to operate activities that meet the requirements of sections (6)(o)(2)(B) and (C).

State agencies may not count participant reimbursements as part of their maintenance of effort expenditure, as this is prohibited under section 16(h)(3) of the Food Stamp Act. The only exception is in the case of optional workfare programs in which reimbursements to participants for work-related expenses are counted as part of the State agency's administrative expenses. The only State agencies that operated optional workfare programs in FY 96 were Florida, North Carolina, Wisconsin, Arkansas, and Colorado. They are the only State agencies that may apply this exception.

This rulemaking amends food stamp regulations to add a new section that contains the maintenance of effort requirements established by the Balanced Budget Act. The new section will be designated § 273.7(d)(1)(iii) and titled ''Maintenance of Effort.'' Former § 273.7(d)(1)(iii), which provided for a 50 percent Federal match for administrative costs incurred by State agencies in operating E&T programs, will be redesignated § 273.7(d)(1)(vi).

Component Costs

Section 1002 of the Balanced Budget Act amended section 16(h)(1) of the Food Stamp Act to require FNS to monitor State expenditures of 100 percent Federal E&T funding, including the costs of individual components of State E&T programs. The Balanced Budget Act also provided FNS the discretion to set reimbursable costs for individual components of State E&T programs, making sure that the amount spent or planned to be spent on the components reflect the reasonable cost of efficiently and economically providing components appropriate to recipients' employment and training needs.

FNS has determined that setting reimbursement rates for E&T activities is necessary to promote the intent of the increased E&T funding, which was to create a sufficient number of work opportunities so that as many food stamp recipients as possible who are subject to the work requirement that wish to work can be given the opportunity to do so before losing eligibility for the program. Use of the reimbursement rates will help to ensure that the maximum number of work opportunities can be created with the available funds, thus potentially

keeping as many ABAWDs as possible eligible for the program.

FNS recognizes, however, that use of the reimbursement rates will significantly increase State administrative burdens. Therefore, FNS is operating a one-year demonstration to test an alternative to the reimbursement rates. Under the alternative, a State agency may spend its Federal 100 percent E&T allocation without consideration of per slot costs if the State agency commits to offering a work opportunity to every ABAWD applicant or recipient who has exhausted the food stamp time limit. The alternative to the reimbursement rates is discussed in more detail below.

The reimbursement rates represent FNS' estimate of the reasonable cost of efficiently and economically providing the work opportunities. The rates apply to all 100 percent Federal E&T funds which a State expends to provide work activities that meet the requirements of section 6(o)(2)(B) and (C) of the Food Stamp Act for food stamp recipients who are (1) subject to the work requirement at section 6(o)(2), exempt from the requirement because they reside in an area of a State granted a waiver under section 6(o)(4), or (3) granted an exemption from the requirement under section 6(o)(6) of the Act. The rates do not apply to expenditures of the 20 percent of a State's 100 percent E&T grant that is not earmarked for ABAWDs, unless those funds are used to create qualifying workfare and education and training slots for ABAWDs.

The reimbursement rates went into effect on October 1, 1998. For FY 1998, the reimbursement rates did not apply and State agencies were reimbursed for their actual costs in creating work slots. States were notified of the reimbursement rates by memorandum from FNS regional offices in February 1998. The amount of the reimbursement rates, which is discussed below, may be revised based on cost data submitted by State agencies. If the rates are revised, FNS will inform States of the new rates through a policy memorandum.

In determining the reimbursement rates, FNS utilized available information on the costs of providing E&T components that meet the requirements of section 6(o)(2)(B) and (C). Because State agencies have generally emphasized in their E&T programs activities such as job search and job club that are expressly prohibited as qualifying work programs under sections 6(o)(2)(B) and (C), FNS had little information that is directly applicable in establishing reimbursement rates for qualifying work activities. However, information from job search activities was used as a basis for extrapolating certain costs, such as for intake and monitoring, that are common to workfare and education and training programs. FNS, therefore, has been able to use the information it has available, in combination with information from other sources, including a study of workfare programs conducted by the Manpower Demonstration Research Corporation,[1] to establish what it believes to be a reasonable estimate of the maximum costs State agencies will need to spend to provide workfare and education and training slots for recipients not eligible for an exception under section 6(o)(3).

FNS has established one reimbursement rate for both workfare and 20-hour a week work program components. However, because FNS recognizes the uncertain level of compliance with various work requirements among the childless, able-bodied adult population subject to the work requirement at section 6(o)(2), it has set two levels for the reimbursement rate—one level for filled work slots and the other for unfilled or ''offered'' work slots. A slot is ''filled'' when a participant reports to a work or training site to begin his or her work activities. A slot is ''offered'' when a bona fide workfare or training opportunity is made available to a participant (i.e., the participant is told to report to a work site at a given date and time) but the participant either refuses the assignment or does not report. This two-tiered rate structure insures that a State agency is not denied reimbursement for costs it incurred in creating work opportunities when program participants choose not to comply with program work requirements.

It should be noted that under the reimbursement rate structure State agencies are reimbursed not for simply creating qualifying workfare or 20-hour-a week education/training slots but for placing, or offering to place, participants who are subject to the food stamp work requirement in those slots. A State agency that assigns two ABAWDs to the same work slot (one to work four hours in the morning, the other four hours in the afternoon), would claim reimbursement for two filled slots since two ABAWDs are retaining eligibility for the program. A State agency that assigns one ABAWD to two slots in one month, a workfare slot and a 20-hour-a-week education and training slot, may only claim reimbursement for one filled slot for that month because only one ABAWD is retaining eligibility for the program.

The reimbursement rates currently are as follows:

Offered Work Slot: $30
Filled Work Slot: $175

These rates represent the maximum amount of 100 percent Federal funds that FNS will reimburse State agencies for their expenditures in providing workfare and work program slots that meet the requirements of section 6(o)(2)(B) and (C). The rates represent a monthly average per slot cost, although reconciliation will be conducted on a yearly, not monthly, basis.

To apply the rates, FNS will sum the number of filled and unfilled slots a State agency reports at the end of a fiscal year and multiply each by the appropriate rate. FNS will add the two resulting sums and compare that against the State's actual expenditure of Federal E&T money for that year. If the amount spent is less than the amount allowed under the rates, the actual amount would be paid out of the E&T grant. If the amount spent by the State agency exceeds the amounts allowed under the rates, the State agency will be required to pay that excess amount out of their own funds (which would be eligible for the standard 50 percent administrative cost Federal match). This procedure allows State agencies to average the cost of creating slots—i.e., balance the cost of higher priced slots with lower costing slots—and still fall within the rate structure.

FNS is confident that State agencies will be able to create work opportunities within the fiscal constraints set by the rates. Not only will State agencies be able to average the costs of more expensive and less expensive work slots over a fiscal year, but the two-tiered rate structure enables State agencies to effectively claim reimbursement for more than the fixed rate for a filled slot. Although the reimbursement rate for a filled slot is $175, State agencies can claim an additional $30 reimbursement if the slot is turned down by one participant before being accepted by another. For example, if a work slot is refused by four participants before being accepted by a fifth, the State agency may claim reimbursement for offering the slot four times, or $120, in addition to claiming a $175 reimbursement for filling the slot. In other words, the State agency could claim $295 under this example for the cost of creating one work slot.

A State agency may not claim reimbursement for a filled slot for a participant who is satisfying the work

[1] Unpaid Work Experience for Welfare Recipients: Findings and Lessons from MDRC Research, 1993. Thomas Brock, David Butler, David Long.

requirement by working 20 hours or more a week. In this case, the State agency is incurring no reimbursable E&T cost (costs associated with monitoring the participant's employment would be included as certification costs).

As noted above, FNS may revise the amount of the reimbursement rates based on actual data on the cost of creating work slots compiled by State agencies. This information may be forwarded to FNS at the address noted earlier in this document. FNS would also be interested in obtaining from States examples of the types of E&T components that States would like to operate for ABAWDs which they are not currently operating, either because the components cannot be supported under the existing reimbursement rate structure or for some other reason. States should provide estimates of the costs of these components.

This rulemaking amends food stamp regulations to add a new section that contains requirements regarding E&T components costs. The new section will be designated § 273.7(d)(1)(iv) and titled ''Component Costs.'' Former § 273.7(d)(1)(iii), which provides that enhanced cost-sharing for placement of workfare participants in paid employment be available only for placements that occur through optional workfare programs funded under § 273.22(g), will be redesignated § 273.7(d)(1)(vii).

Reporting Requirements

Current regulations at § 273.7(c)(6) contain requirements for State agency reporting of monthly figures for E&T program participants. Current regulations at § 273.7(d)(3) contain the requirements for State agency reporting of expenditures on food stamp E&T programs.

Because of the new restrictions on the use of Federal 100 percent E&T funding imposed by the Balanced Budget Act and described in this rulemaking, FNS is increasing the reporting burden on State agencies with regard to E&T programs. Although increased reporting requirements impose increased administrative burdens on States, FNS concluded that increasing State reporting requirements for E&T activities was the simplest and most efficient means for monitoring State compliance with the 80–20 use of funds requirement and the component cost reimbursement rates, both described earlier in this memorandum.

In addition to submitting all the information previously required under § 273.7(c)(6) and § 273(d)(3), State agencies must report the number of workfare and 20-hour-a-week education and training slots they created to serve recipients subject to the work requirement at section 6(o) of the Food Stamp Act. This information must be broken out to show the number of slots that were filled and the number that were offered. State agencies must further break out the information to show the number of slots that were created in areas of a State that have received a waiver in accordance with section 6(o)(4) and in non-waived areas (this information will be used by FNS to evaluate the impact on participants subject to the work requirement of allowing State agencies to spend the 80 percent of their 100 percent Federal E&T grant on ABAWDs not in danger of losing eligibility). State agencies must also report the amount of Federal 100 percent E&T funding spent on workfare slots and on qualifying 20-hour-a-week work program slots that were created to serve recipients subject to the work requirement at section 6(o). This information must be included on the Employment and Training Program Report (FNS–583).

In this rulemaking we are amending food stamp regulations at § 273.7(c)(6) and § 273(d)(3) to incorporate the new reporting requirements.

Alternative to the Reimbursement Rates

Although FNS believes that the reimbursement rate structure will be effective in creating a sufficient number of work opportunities to insure that most ABAWDs who want to work will be provided the opportunity to do so before losing eligibility for the Food Stamp Program, we are also interested in exploring alternatives to the rate structure which will provide State agencies greater flexibility while at the same time satisfying the intent behind the increased funding provided under the Balanced Budget Act. To this end, FNS will operate in FY 1999 a one-year demonstration under which a State agency may spend its Federal 100 percent E&T allocation without consideration of per slot costs if the State agency commits to offering a work opportunity to every ABAWD applicant or recipient who has exhausted the time limit and does not reside in an area of a State that has a received a waiver in accordance with section 6(o)(4) or has not already received an exemption from the work requirement in accordance with section 6(o)(6).

FNS will monitor whether State agencies approved for this alternative are meeting their commitment to offer work opportunities to all ABAWDs that have exhausted the time limit. In addition, QC errors will be cited against a State agency operating under this alternative if it terminated an ABAWD from the program, denied his or her application because of the time limit without offering the ABAWD a work slot, or issued benefits to an individual that had exhausted his or her three months of eligibility but was not offered a slot. A State agency that does not appear to be meeting its commitment, or that has a significant number of such QC errors will be required to correct its operation or be denied this alternative if FNS allows it in future years.

The State agencies that operate under this alternative must still meet the requirement that not less than 80 percent of the 100 percent Federal funds the State agency expends in a fiscal year be spent on activities that meet the requirements of sections 6(o)(2)(B) and (C) of the Food Stamp Act.

The criteria FNS shall use to select the State agencies that may participate in the alternative shall include the following factors:

The size of a State agency's ABAWD caseload;

The State agency's ability to offer a work opportunity to every ABAWD applicant and participant that has exhausted the time limit;

The State agency's procedures for monitoring its compliance with the requirements of the demonstration; and

The State agency's plans for taking corrective action if compliance is not being met.

FNS welcomes comments from States on the alternative program. FNS would also be interested in obtaining from States other proposals for alternatives or modifications to the rate structure, such as providing States a temporary exemption from the rates to start new food stamp E&T programs in areas not previously served or to expand the capacity of existing programs so that all ABAWDs reaching the time limit can be provided with qualifying work opportunities.

Because FNS is operating the reimbursement rate alternative as a one year demonstration that began on October 1, 1998, we are not including in this interim rule regulations on the alternative program. However, depending on the comments received on this program and FNS' evaluation of the demonstration, FNS may elect to implement the reimbursement rate alternative as a permanent program available to all States. If a permanent program is implemented, regulations will be issued, possibly in the final version of this interim rule.

Report to Congress

Section 1002(b) of the Balanced Budget Act requires that not later than 30 months after the date of enactment of the Act, The Secretary of Agriculture must submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding whether the increased E&T funds provided under section 1002 of the Balanced Budget Act have been used by State agencies to increase the number of work slots for recipients subject to the food stamp time limit at section 6(o) of the Food Stamp Act (7 U.S.C. 2015(o)) in employment and training programs and workfare in the most efficient and effective manner practicable.

In order to complete the required report, the Department of Agriculture released a Request for Proposals in April 1998 in which it solicited bids from parties interested in conducting the study. In September 1998, the contract to complete the E&T study was awarded to Health Systems Research, an independent research group.

Implementation

State welfare agencies have been instructed through agency directive to implement the provisions of the BBA without waiting for formal regulations. Sections 1001 (15 percent exemption) and 1002 (increased E&T funding) were required to be implemented as of October 1, 1997. The changes in this rule are effective and must be implemented November 2, 1999. Any variances resulting from implementation of the provisions of this amendment shall be excluded from error analysis for 120 days from this required implementation date in accordance with § 275.12(d)(2)(vii).

List of Subjects

7 CFR Part 272

Alaska, Civil rights, food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food Stamps, Fraud, Grant Programs—social programs, Penalties, Reporting and recordkeeping requirements, Social Security, Students.

Accordingly, 7 CFR parts 272 and 273 are amended as follows:

1. The authority citation for 7 CFR parts 272 and 273 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, paragraph (g)(156) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(156) *Amendment No. 379.* The provision of *Amendment No.* 379 regarding the 15-percent exemption and additional funding for E&T is effective and must be implemented no later than November 2, 1999. Any variances resulting from implementation of the provisions of this amendment shall be excluded from error analysis for 120 days from this required implementation date in accordance with § 275.12(d)(2)(vii) of this chapter.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.7:

a. A fourth sentence is added to the end of paragraph (c)(4)(ii).

b. New paragraphs (c)(6)(vi) and (c)(6)(vii) are added;

c. Paragraph (d)(1)(i) is revised.

d. Paragraphs (d)(1)(ii), (d)(1)(iii), and (d)(1)(iv) are redesignated as (d)(1)(v), (d)(1)(vi) and (d)(1)(vii), respectively;

e. Newly redesignated paragraph (d)(1)(v) is amended by removing references to ''(d)(1)(ii)(A)'' and ''(d)(1)(ii)(B)'' wherever they appear, and by adding in their place references to ''(d)(1)(v)(A)'' and ''(d)(1)(v)(B)''.

f. New paragraphs (d)(1)(ii), (d)(1)(iii), and (d)(1)(iv) are added;

g. A fourth sentence is added to paragraph (d)(3).

The revisions and additions read as follows:

§ 273.7 Work requirements.

* * * * *

(c) *State agency responsibilities.*

* * *

(4) * * *

(ii) * * * A State agency which intends to spend the supplemental E&T grant allocation for which it is eligible in a fiscal year in accordance with paragraph (d)(1)(i)(B) of this section must declare its intention to maintain its level of expenditures for E&T and workfare at a level not less than the level of such expenditures in FY 1996.

* * * * *

(6) * * *

(vi) The number of filled and offered slots created under a workfare program as described in § 273.22 or a comparable program that are intended to serve recipients subject to the work requirement at section 6(o) of the Food Stamp Act. This information must be broken out to show the number of slots that were created in areas of the State that have received a waiver in accordance with section 6(o)(4) of the Food Stamp Act and in non-waived areas;

(vii) The number of filled and offered slots created under a 20-hour-a-week work program as described in paragraph (d)(1)(ii)(A) of this section that are intended to serve recipients subject to the work requirement at section 6(o) of the Food Stamp Act. This information must be broken out to show the number of slots that were created in areas of the State that have received a waiver in accordance with section 6(o)(4) of the Food Stamp Act and in non-waived areas;

* * * * *

(d) *Federal financial participation.* (1) *Employment and training grants.*—(i) *Allocation of grants.* Each State agency will receive an E&T program grant for each fiscal year to operate an E&T program. The grant will consist of a base amount that requires no State matching and a supplemental amount which will be available only to those State agencies that elect to meet their maintenance of effort requirements as described in paragraph (d)(1)(iii) of this section.

(A) In determining each State agency's base 100 percent Federal E&T grant amount for FYs 1998 through 2002, FNS will apply the percentage determined in accordance with paragraph (d)(1)(i)(C) of this section to the total amount of 100 percent Federal E&T grant provided under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for each fiscal year.

(B) In determining each State agency's supplemental 100 percent Federal E&T grant amount for FYs 1998 through 2002, FNS will apply the percentage determined in accordance with paragraph (d)(1)(i)(C) of this section to the total amount of 100 percent Federal E&T grant provided under the Balanced Budget Act of 1997 for each fiscal year.

(C) Except as otherwise provided in paragraph (d)(1)(i)(F) of this section, effective in FY 1998, Federal funding for E&T grants, including both the base and supplemental amounts, shall be allocated on the basis of food stamp recipients in each State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act as a percentage of such recipients nationwide. Effective in FY 1999, Federal funding for E&T grants shall be allocated on the basis of food stamp recipients in each State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act and who either do not reside in an area subject

to a waiver granted in accordance with section 6(o)(4) of the Food Stamp Act or do reside in an area subject to a waiver in which the State agency provides employment and training services to food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act as a percentage of such recipients nationwide.

(D) FNS shall determine each State's percentage of food stamp recipients not eligible for an exception under section 6(o)(3) of the Food Stamp Act using FY 1996 Quality Control survey data adjusted for changes in each State's caseload.

(E) Effective in FY 1998, no State agency shall receive less than $50,000 in Federal E&T funds. To insure that no State agency receives less than $50,000 in FY 1998, each State agency that is allocated to receive more than $50,000 shall have its grant reduced, if necessary, proportionate to the number of food stamp recipients in the State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act as compared to the total number of such recipients in all the State agencies receiving more than $50,000. The funds from the reduction shall be distributed to State agencies initially allocated to receive less than $50,000. To insure that no State agency receives less than $50,000 in FY 1999 and subsequent years, each State agency that is allocated to receive more than $50,000 shall have its grant reduced, if necessary, proportionate to the number of food stamp recipients in the State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act, and who do not reside in an area subject to a waiver granted in accordance with section 6(o)(4) of the Food Stamp Act or who do reside in an area subject to a waiver in which the State agency provides employment and training services to food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act as compared to the total number of such recipients in all the State agencies receiving more than $50,000. The funds from the reduction shall be distributed to State agencies initially allocated to receive less than $50,000 so that they receive the $50,000 minimum.

(F) If a State agency will not expend all of the funds allocated to it for a fiscal year under paragraph (d)(1)(i)(C) of this section, FNS shall reallocate the unexpended funds to other States during the fiscal year or the subsequent fiscal year as it considers appropriate and equitable.

(ii) *Use of funds.* (A) Not less than 80 percent of the funds a State agency receives in a fiscal year under paragraph (d)(1)(i) of this section shall be used to serve food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act and who are placed in and comply with either a workfare program as described in § 273.22 or a comparable program, or a work program for 20 hours or more per week. A qualifying work program is a program operated under the JTPA or, after July 1, 2000, a program that was previously operated under the JTPA that is now operated under the Workforce Investment Act, a program under section 236 of the Trade Act of 1974, *or* an E&T program operated or supervised by the State or a political subdivision that meets standards approved by the Governor of the State, including programs described in paragraphs (f)(1)(iv), (f)(1)(v), (f)(1)(vi) and (f)(1)(vii) of this section. Job search and job search training programs as described in paragraphs (f)(1)(i) and (f)(1)(ii) of this section do not meet the definition of qualifying work program.

(B) Funds which a State agency receives in a fiscal year under paragraph (d)(1)(i) of this section which are used to serve food stamp recipients who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act but who either reside in an area of a State granted a waiver under section 6(o)(4) of the Food Stamp Act or have been granted an exemption under section 6(o)(6) of that Act and which are expended on qualifying work activities as described in paragraph (d)(1)(ii)(A) of this section shall count toward a State's 80 percent expenditure.

(C) Not more than 20 percent of the funds a State agency receives in a fiscal year under paragraph (d)(1)(i) of this section may be used to serve households eligible for an exception under section 6(o)(3) of the Food Stamp Act or on work activities that do not meet the definition of qualifying work activities as described in paragraph (d)(1)(ii)(A) of this section. E&T funds expended in accordance with this paragraph (d)(1)(ii)(C) may be spent independent of whether or not the State agency expends any Federal funds that meet the requirements of paragraph (d)(1)(ii)(A) of this section. E&T funds expended in accordance with this paragraph (d)(1)(ii)(C) are not subject to the component cost reimbursement rates described in paragraph (d)(1)(iv) of this section.

(D) If at the end of a fiscal year, FNS determines that a State agency has spent more than 20 percent of the Federal E&T funds it receives for that fiscal year under paragraph (d)(1)(i) of this section to serve food stamp recipients who are eligible for an exception under section 6(o)(3) of the Food Stamp Act or on work activities that do not meet the definition of qualifying work activities as described in paragraph (d)(1)(ii)(A) of this section, it shall reimburse States for allowable costs incurred in excess of the 20 percent threshold at the normal administrative 50–50 match rate.

(E) State agencies must use E&T program grants to fund the administrative costs of planning, implementing and operating food stamp E&T programs in accordance with approved State agency E&T plans. E&T grants must not be used for the process of determining whether an individual must be work registered, the work registration process, or any further screening performed during the certification process, nor for sanction activity that takes place after the operator of an E&T component reports noncompliance without good cause. For purposes of this paragraph (d)(1)(ii)(E), the certification process is considered ended when an individual is referred to an E&T component for assessment or participation. E&T grants must also not be used to reimburse participants under paragraph (d)(1)(ii) of this section, since these reimbursements which include dependent care and job-related transportation costs are provided for in a separate 50:50 Federal/State matching grant. Lastly, E&T grants must not be used to subsidize the wages of participants, as reflected in current regulations, and in view of section 16(b) of the Food Stamp Act, added by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which provides authority for food stamp recipients who also participate in TANF and other public assistance programs to have their food stamp benefits paid directly to employers.

(F) A State agency's receipt of the E&T program grant as allocated under paragraph (d)(1)(i) of this section is contingent on FNS' approval of the State agency's E&T plan. If an adequate plan is not submitted, FNS may reallocate a State agency's grant among other State agencies with approved plans. Non-receipt of an E&T program grant does not release a State agency from its responsibility under paragraph (c)(3) of this section to operate an E&T program or from sanctions for insufficient performance.

(G) Federal funds made available to a State agency to operate a component under paragraph (f)(1)(vi) of this section must not be used to supplant nonfederal funds for existing educational services and activities that promote the purposes of this component. Education expenses are approvable to the extent that E&T

component costs exceed the normal cost of services provided to persons not participating in an E&T program.

(iii) *Maintenance of Effort.* (A) To be eligible for a grant derived from the supplemental level of E&T funding described in paragraph (d)(1)(i)(B) of this section, a State agency must maintain State expenditures on E&T programs and workfare at a level not less than the level of such expenditures in FY 1996. A State agency need not expend all of its required maintenance of effort funds before it begins spending its supplemental E&T grant. A State agency which intends to spend the supplemental allocation for which it is eligible in a fiscal year must, in accordance with paragraph (c)(4)(ii) of this section, declare in its State E&T plan for that fiscal year its intention to maintain its level of expenditures for E&T and workfare at a level not less than the level of such expenditures in FY 1996.

(B) State funds which a State agency expends in order to meet its maintenance of effort requirement are not subject to the requirements of paragraph (d)(1)(ii) of this section.

(C) Participant reimbursements paid through State funds shall not count toward a State agency's maintenance of effort requirement, except in the case of optional workfare programs in which reimbursements to participants for work-related expenses are counted as part of the State agency's administrative expenses in accordance with section 20(g)(1) of the Food Stamp Act.

(iv) *Component costs.* FNS shall monitor State agencies' expenditures of 100 percent Federal E&T funds, including the costs of individual components of State agencies' programs.

(A) Federal 100 percent E&T funds that State agencies expend in accordance with paragraph (d)(1)(ii)(A) of this section are subject to component cost reimbursement rates. The rates represent the maximum amount of 100 percent Federal funds that FNS will reimburse States on average each month for their expenditures in providing work opportunities or ''slots'' that meet the requirements of section (6)(o)(2)(B) and (C) of the Food Stamp Act.

(B) Separate reimbursement rates will apply for filled slots and for offered slots. A slot is ''filled'' when a participant reports to a work or training site to begin his or her work activities. A slot is ''offered'' when a bona fide workfare or training opportunity is made available to a participant (i.e., the participant is told to report to a work site at a given date and time) but the participant either refuses the assignment or does not report.

(C) A State agency may claim reimbursement for only one filled slot per participant per month. A State agency that assigns one participant to two slots in the same month, for example a workfare slot and a 20-hour-a-week training slot, may only claim reimbursement for one filled slot in that month.

(D) Reconciliation will be conducted on a yearly basis. When applying the rate, FNS will sum the number of filled and offered slots a State agency reports for a fiscal year and multiply each by the appropriate rate. FNS will add the two resulting sums and compare that against the State agency's actual expenditure of Federal 100 percent E&T money for that fiscal year. If the amount spent is less than the amount allowed under the rates, the actual amount would be paid out of the State agency's 100 percent Federal E&T grant for that fiscal year. If the amount spent by the State agency exceeds the amounts allowed under the rates, the State agency will be required to pay that excess amount. State funds used to cover any shortfalls will be eligible for the standard 50 percent Federal match in accordance with paragraph (d)(1)(vi) of this section and § 273.22(g).

* * * * *

(3) *Fiscal recordkeeping and reporting requirements.* * * * States shall include as footnotes to the FNS–269 the amount of Federal 100 percent E&T funding spent on slots created under a workfare program as described in § 273.22 or a comparable program, and the amount of Federal 100 percent E&T funding spent on slots created under a 20-hour-a-week work program as described in paragraph (d)(1)(ii)(A) of this section.

* * * * *

4. A new § 273.24 is added to read as follows:

§ 273.24 15 Percent exemption authority for able-bodied adults.

(a) *Definitions.* For purposes of the food stamp time limit, the terms below have the following meanings:

(1) *Caseload* means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

(2) *Covered individual* means a food stamp recipient, or an individual denied eligibility for food stamp benefits solely due to paragraph 6(o)(2) of the Food Stamp Act who:

(i) Is not exempt from the work requirements under paragraph 6(o)(3) of the Food Stamp Act,

(ii) Does not reside in an area covered by a waiver granted under paragraph 6(o)(4) of the Food Stamp Act,

(iii) Is not fulfilling the work requirements of 6(o)(2) of the Food Stamp Act by working 20 hours a week averaged monthly, participating and complying with the requirements of a work program for 20 hours or more per week, participating in and complying with the requirements of a program under section 20 or a comparative program established by a State or political subdivision of a State,

(iv) Is not receiving food stamp benefits during the 3 months of eligibility provided under paragraph 6(o)(2) of the Food Stamp Act, and

(v) Is not receiving food stamp benefits under paragraph 6(o)(5) of the Food Stamp Act.

(b) *General rule.* Subject to paragraphs (c) through (e) of this section, a State agency may provide an exemption from the time limits of paragraph 6(o)(2) of the Food Stamp Act for covered individuals. Exemptions do not count towards a State's allocation if they are provided to an individual who is otherwise exempt from the time limit during that month.

(1) *Fiscal year 1998.* A State agency may provide a number of exemptions such that the average monthly number of exemptions in effect during FY 1998 does not exceed 15 percent of the number of covered individuals in the State in FY 1998, as estimated by FNS, based on FY 1996 quality control data, and other factors FNS deems appropriate.

(2) *Subsequent fiscal years.* For FY 1999 and each subsequent fiscal year, a State agency may provide a number of exemptions such that the average monthly number of exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by FNS, and adjusted by FNS to reflect changes in:

(i) The State's caseload, and

(ii) FNS' estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph 6(o)(4) of the Food Stamp Act.

(c) *Adjustments* will be made as follows:

(1) *Caseload adjustments.* FNS shall adjust the number of covered individuals estimated for a State under paragraphs (c) and (d) of this section during a fiscal year if the number of food stamp recipients in the State varies from the State's caseload by more than 10 percent, as estimated by FNS.

(2) *Exemption adjustments.* During FY 1999 and each subsequent fiscal year, FNS shall adjust the number of exemptions allocated to a State agency based on the number of exemptions in

effect in the State for the preceding fiscal year.

(i) If the State agency does not use all of its exemptions by the end of the fiscal year, FNS shall increase the estimated number of exemptions allocated to the State agency for the subsequent fiscal year by the remaining balance.

(ii) If the State agency exceeds its exemptions by the end of the fiscal year, FNS shall reduce the estimated number of exemptions allocated to the State agency for the subsequent fiscal year by the corresponding number.

(d) *Reporting requirement.* The State agency shall track the number of exemptions used each month and report this number to the regional office on a quarterly basis as an addendum to the quarterly employment and training report (Form FNS–583) required by § 273.7(c)(6).

(e) *Other Program rules.* Nothing in this section shall make an individual eligible for benefits under the Food Stamp Act if the individual is not otherwise eligible for benefits under the other provisions of the Food Stamp Act.

Dated: August 23, 1999.

Julie Paradis,

Acting Under Secretary, Food, Nutrition and Consumer Services.

[FR Doc. 99–23017 Filed 9–2–99; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 98–055–2]

Horses From Morocco; Change in Disease Status

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of horses to remove Morocco from the list of regions the Animal and Plant Health Inspection Service considers affected with African horse sickness. This action is based on information received from Morocco and is in accordance with standards set by the Office International des Epizooties for recognizing a country as free of African horse sickness. This action will relieve restrictions on the importation of horses into the United States from Morocco.

DATES: Effective September 20, 1999 .

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Senior Staff Veterinarian, Products Program, National Center for Import and Export, VS, APHIS, 4700 River RoadUnit 40, Riverdale, MD 20737–1231; (301) 734–3399.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 (referred to below as the regulations) prescribe the conditions for the importation into the United States of specified animals to prevent the introduction of various animal diseases, including African horse sickness (AHS). AHS is a fatal viral equine disease that is not known to exist in the United States.

The regulations in § 93.308(a)(2) list regions that the Animal and Plant Health Inspection Service (APHIS) considers affected with AHS and sets forth specific quarantine requirements for horses that are imported from those regions. APHIS requires horses intended for importation from any of the regions listed, including horses that have stopped in or transited those regions, to enter the United States only at the port of New York and be quarantined at the New York Animal Import Center in Newburgh, NY, for at least 60 days. This precaution is necessary to help ensure that the horses are not affected with AHS.

On April 6, 1999, we published in the **Federal Register** (64 FR 16655–16656, Docket No. 98–055–1) a proposal to amend the regulations concerning the importation of horses to remove Morocco from the list of regions that APHIS considers affected with AHS. The proposed action was based on information received from Morocco and standards set by the Office International des Epizooties (OIE).

We solicited comments concerning our proposal for 60 days ending June 7, 1999. We received two comments by that date. They were from industry representatives. Neither opposed the rule but said that APHIS should have conducted a site visit to verify information submitted by Morocco.

The United States is a signatory to the North American Free Trade Agreement (NAFTA) and the General Agreement on Tariffs and Trade (GATT). Basic to NAFTA and GATT are the provisions to encourage countries to base their sanitary and phytosanitary measures on international standards whenever such standards exist. Animal health measures should be based on OIE standards. Based on the standards set forth by the OIE, a country may be recognized as free of AHS if the disease is mandatorily reportable. In addition, the country must not have vaccinated domestic horses or other equines against the disease during the past 12 months. The OIE also requires that the country have no clinical, serological (in nonvaccinated animals), or epidemiological evidence of AHS for the past 2 years. Morocco exceeds these requirements. Morocco has not had a case of AHS for over 7 years and has not vaccinated for the disease for 5 years.

In addition to OIE standards, APHIS considers Morocco's horse population, quarantine requirements, disease surveillance system, laboratory capabilities, and geography.

Morocco has approximately 180,000 horses, which are mainly used for transportation, beasts of burden, agricultural work, racing, and breeding. Morocco does not allow the importation of animals from known AHS-positive countries. Animals from AHS-negative countries must be tested twice, once in the country of origin and once during a 10-day quarantine in Morocco. The 10-day quarantine on all imported equines allows monitoring of imported animals for signs of disease. Morocco has 14 border service stations to prevent illegal movement of equines.

Morocco has 6 regional veterinary diagnostic and research laboratories qualified to perform required testing for veterinary certification and disease monitoring. In addition, there is a National Epidemiology and Zoonosis Laboratory, a National Veterinary Drugs Control Laboratory, and BIOPHARMA, a State-owned vaccine production company. Of these nine laboratories, four have facilities for virus isolation and typing. Morocco collaborates with the Community Reference Laboratory for AHS, Algete, Spain; the School of Veterinary Medicine, Maison Alfort, France; and the Institute for Animal Health, Pirbright, United Kingdom, for support and assistance with disease diagnosis. Also, in August 1997, Morocco sent 300 AHS reference sera to APHIS' Foreign Animal Disease Diagnostic Laboratory at Plum Island, NY. Tests of the sera by APHIS confirmed the accuracy of Morocco's laboratory results.

Morocco is surrounded by the Mediterranean Sea to the north, the Atlantic Ocean to the west, Algeria to the east, and Mauritania to the south. Spain, although not immediately adjacent, is separated from Morocco only by the Gibraltar Strait. None of these countries have reported AHS for 3 years or longer.

APHIS also evaluated Morocco's veterinary service infrastructure and its animal health policies and infrastructures for animal disease control. Our review of information submitted by Morocco indicates that

these infrastructures and policies are adequate for disease control.

The commenters also said that information supplied by foreign regions should be made available to the public for review.

Currently, when a region requests permission to export animals and animal products to the United States, the supporting documentation supplied by the region is published by APHIS on the Internet at http://www.aphis.usda.gov/vs/reg-request.html. This Internet address can be accessed by the public. To request additional information, the individual listed under **FOR FURTHER INFORMATION CONTACT** may be contacted.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule relieves restrictions that require horses imported from Morocco to enter the United States only at the port of New York and be quarantined at the New York Animal Import Center in Newburgh, NY, for at least 60 days. This rule allows horses from Morocco to be shipped to and quarantined at ports designated in § 93.303, and reduces the quarantine period to an average of 3 days to meet the quarantine and testing requirements specified in § 93.308. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after the date of publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule will recognize Morocco as free of AHS. This action will allow horses from Morocco to be shipped to and quarantined at ports designated in § 93.303 and will reduce the quarantine and testing period to an average of 3 days to meet quarantine requirements specified in § 93.308.

U.S. importers of competition and breeding horses from Morocco will be affected by this rule. These importers will no longer be required to quarantine horses from Morocco for 60 days at the New York Animal Import Center in Newburgh, NY, at a cost of approximately $5,296 per horse.

In 1998, the United States imported 41,876 horses, valued at $206 million; none of these horses were imported into the United States from Morocco. Removing the requirement for a 60-day quarantine for horses from Morocco will make the importation of horses less expensive and logistically easier. As a result, we anticipate that U.S. importers of competition and breeding horses might begin importing horses from Morocco. Since the value of Morocco's exports of purebred horses in 1997 was approximately $44,000, we do not expect that the number of horses exported to the United States will be significant. Furthermore, most horses imported from Morocco will probably be in the United States on a temporary basis for particular events, such as for races or breeding, and then transported back to Morocco. For these reasons, we anticipate the overall economic effect on U.S. entities will be minimal.

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

Executive Order 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 inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 93 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 93.308, paragraph (a)(2) is revised to read as follows:

§ 93.308 Quarantine requirements.

(a) * * *

(2) Horses intended for importation from regions APHIS considers to be affected with African horse sickness may enter the United States only at the port of New York, and must be quarantined at the New York Animal Import Center in Newburgh, New York, for at least 60 days. This restriction also applies to horses that have stopped in or transited a region considered affected with African horse sickness. APHIS considers the following regions to be affected with African horse sickness: All the regions on the continent of Africa, except Morocco; Oman; Qatar; Saudi Arabia; and the Yemen Arab Republic.

* * * * *

Done in Washington, DC, this 30th day of August 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–23010 Filed 9–2–99; 8:45 am]

BILLING CODE 3410–34–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG17

List of Approved Spent Fuel Storage Casks: (HI–STAR 100) Addition

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to add the Holtec International HI–STAR 100 cask system to the list of approved spent fuel storage casks. This amendment allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

EFFECTIVE DATE: This final rule is effective on October 4, 1999.

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415–6234, e-mail spt@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear reactor power sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license, publishing a final rule in 10 CFR Part 72 entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72 entitled ''Approval of Spent Fuel Storage Casks,'' containing procedures and criteria for obtaining NRC approval of dry storage cask designs.

Discussion

This rule will add the Holtec International HI–STAR 100 to the list of NRC approved casks for spent fuel storage in 10 CFR 72.214. Following the procedures specified in 10 CFR 72.230 of Subpart L, Holtec International submitted an application for NRC approval together with the Safety Analysis Report (SAR) entitled ''HI–STAR 100 Cask System Topical Safety Analysis Report (SAR), Revision 8.'' The NRC evaluated the Holtec International submittal and issued a preliminary Safety Evaluation Report (SER) and a proposed Certificate of Compliance (CoC) for the Holtec International HI–STAR 100 cask system. The NRC published a proposed rule in the **Federal Register** (64 FR 1542; January 11, 1999) to add the HI–STAR 100 cask system to the listing in 10 CFR 72.214. The comment period ended on March 29, 1999. Nine comment letters were received on the proposed rule.

Based on NRC review and analysis of public comments, the staff has modified, as appropriate, its proposed CoC, including its appendices, the Technical Specifications (TSs), and the Approved Contents and Design Features, for the Holtec International HI–STAR 100 cask system. The staff has also modified its preliminary SER and has revised the title of the SAR in the listing of this cask design in 10 CFR 72.214.

The title of the SAR has been revised to delete the revision number so that in the final rule the title of the SAR is ''HI–STAR 100 Cask System Topical Safety Analysis Report.'' This revision conforms the title to the requirements of new 10 CFR 72.248, recently approved by the Commission.

The proposed CoC has been revised to clarify the requirements for making changes to the CoC by specifying that the CoC holder must submit an application for an amendment to the certificate if a change to the CoC, including its appendices, is desired. This revision conforms the change process to that specified in 10 CFR 72.48, as recently approved by the Commission. The CoC has also been revised to delete the proposed exemption from the requirements of 10 CFR 72.124(b) because a recent amendment of this regulation makes the exemption unnecessary (64 FR 33178; June 22, 1999). In addition, other minor, nontechnical, changes have been made to CoC 1008 to ensure consistency with NRC's new standard format and content for CoCs. Finally, extensive comments were received from Holtec International and other industry organizations suggesting changes to the TSs and the Approved Contents and Design Features. Some of these were editorial in nature, others provided clarification and consistency, and some reflected final refinements in the cask design. Staff agrees with many of these suggested changes and has incorporated them into the final documents, as appropriate.

The NRC finds that the Holtec International HI–STAR 100 cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of 10 CFR Part 72. Thus, use of the Holtec International HI–STAR 100 cask system, as approved by the NRC, will provide adequate protection of public health and safety and the environment. With this final rule, the NRC is approving the use of the Holtec International HI–STAR 100 cask system under the general license in 10 CFR Part 72, Subpart K, by holders of power reactor operating licenses under 10 CFR Part 50. Simultaneously, the NRC is issuing a final SER and CoC that will be effective on October 4, 1999. Single copies of the CoC and SER are available for public inspection and/or copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Summary of Public Comments on the Proposed Rule

The NRC received nine comment letters on the proposed rule. The commenters included the applicant, the State of Utah, an individual member of the public, industry representatives, and several utilities. Copies of the public comments are available for review in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20003–1527.

Comments on Direct Final Rule

As part of the proposed rule, the NRC staff requested public comment on the use of a direct final rulemaking process for future amendments to the list of approved spent fuel storage casks in 10 CFR 72.214. The direct final rulemaking process is used by Federal agencies, including the Environmental Protection Agency (EPA) and the NRC, to expedite rulemaking where the agency believes that the rule is noncontroversial and significant adverse comments will not be received. Use of this technique in appropriate circumstances has been endorsed by the Administrative Conference of the United States (60 FR 43110; August 18, 1995). Under the direct final rulemaking procedure, the NRC would publish the proposed amendment to the 10 CFR 72.214 list as both a proposed and a final rule in the **Federal Register** simultaneously. A direct final rule normally becomes effective 75 days after publication in the **Federal Register** unless the NRC receives significant adverse comments on the direct final rule within 30 days after publication. If significant adverse comments are received, the NRC publishes a document that withdraws the direct final rule. The NRC then addresses the comments received as comments on the proposed rule and subsequently issues a final rule.

One commenter supported use of the direct final rule process for future revisions to the listing in 10 CFR 72.214, stating that it was imperative that the regulatory process be streamlined when there is no adverse safety concern. Two commenters were opposed to use of a direct final rule process stating that a direct final rule would diminish the public role in commenting on the approval of spent nuclear fuel casks and thereby the public's ability to affect the outcome of rulemaking procedures. One of these commenters believed that, given past problems with the casks, future approval should be subject to adequate and rigorous public scrutiny.

Those opposed also believed that 30 days (as would be allowed in a direct final rule process) is not sufficient time to prepare comments that may be significantly adverse so as to cause the NRC to withdraw the published final rule. The two commenters did not believe that an addition to or revision of the listing is likely to be either noncontroversial or routine as evidenced by the number of comments they had on the Holtec HI-STAR 100 proposed rule.

A number of significant adverse comments were received on the NRC's proposed listing of the Holtec International HI-STAR 100 cask system which are described in subsequent sections of this notice. Therefore, it does not appear that the direct final rule approach can be implemented at this time for additions to the cask listing. The NRC will reassess this issue in the future after experience with more new listings to 10 CFR 72.214 has been gained. However, with respect to amendments to existing CoCs, the NRC anticipates that, except in unusual cases, the direct final rulemaking process can be used because the cask design and analysis will have gone through the public comment process for the initial CoC listing and the revision will be limited to the subject of the amendment. Unless the NRC has reason to believe that a particular amendment will be controversial, the NRC plans to use a direct final rule for amendments to the cask systems in the 10 CFR 72.214 listing. The NRC disagrees that use of the direct final rulemaking procedure will limit the public's ability to affect the outcome of the rulemaking. Receipt of a significant adverse comment will cause the direct final rule to be withdrawn and the comment to be considered as though received in response to a proposed rule. Further, the NRC believes that 30 days is a sufficient amount of time in which to submit a comment on an amendment to the CoC for a listed cask since most issues related to the cask design will have been resolved in the rulemaking conducted to place the design on the 10 CFR 72.214 list.

Comments on the Holtec International HI–STAR 100 Cask System

The comments and responses have been grouped into five areas: general comments, cladding integrity, health impacts, sabotage events, thermal requirements, and miscellaneous items. Several of the commenters provided specific comments on the draft CoC, the NRC staff's preliminary SER, the TSs, and the applicant's Topical SAR. Some of the editorial comments have been grouped as well as some of the comments on the drawings in the SAR. To the extent possible, all of the comments on a particular subject are grouped together. The listing of the Holtec International HI–STAR 100 cask system within 10 CFR 72.214, ''List of approved spent fuel storage casks,'' has not been changed as a result of the public comments. A review of the comments and the NRC staff's responses follow:

General Comments

Comment No. 1: One commenter asked a number of questions about the process for review and approval of spent fuel storage cask designs, and suggested changes to the process.

Response: The NRC finds these comments to be beyond the scope of the current rulemaking which is focused solely on whether to place a particular cask design, the Holtec International HI–STAR 100 cask system, on the 10 CFR 72.214 list.

Comment No. 2: One commenter stated that the cask should be built and tested before use at reactors, including the loading and unloading procedures. The commenter objected to the use of computer modeling and analysis.

Response: The NRC disagrees with the comment. The HI–STAR 100 Storage Cask System Design has been reviewed by the NRC. The basis of the safety review and findings are clearly identified in the SER and CoC. Testing is normally required when the analytic methods have not been validated or assured to be appropriate and/or conservative. In place of testing, the NRC staff finds acceptable analytic conclusions that are based on sound engineering methods and practices. NRC accepts the use of computer modeling codes to analyze cask performance. The appropriateness of the computer codes and models used by Holtec are addressed in the SER and Topical SAR. The NRC staff has reviewed the analyses performed by HOLTEC and found them acceptable. No changes to the CoC, TSs, SER, or Topical SAR are recommended. These models are based on sound engineering sciences and processes.

Comment No. 3: One commenter requested that a troubleshooting manual be prepared that includes information on how many of what type cask are loaded, where and how long they have been loaded, and on problems that have occurred, and the solutions. The commenter is seeking basic information that is periodically updated.

Response: This comment is beyond the scope of this rulemaking.

Cladding Integrity

Comment No. 4: One commenter noted that Holtec's conclusion that fuel rod integrity will be maintained under all accident conditions is based on the fact that the HI–STAR 100 system is designed to withstand a maximum deceleration of 60 g, while a Lawrence Livermore National Laboratory Report (UCID–21246, *Dynamic Impact Effects on Spent Fuel Assemblies,* Chum, Witt, Schwartz (October 20, 1987)) (LLNL Report) shows that the most vulnerable fuel can withstand a deceleration of 63 g in the most adverse orientation (side drop). The commenter believes that Holtec and the NRC staff have not demonstrated a reasonable assurance that the cladding will maintain its integrity because Holtec's analysis does not take into account the possible increase in rate of oxidation of cladding of high burnup fuel, and oxidation may cause the cladding to become effectively thinner, decreasing its structural integrity and lowering the ''g'' impact force at which fuel cladding will shatter. With respect to a possible increase in rate of oxidation of cladding, Holtec has not factored the information in Information Notice (IN) 98–29, ''Predicted Increase in Fuel Rod Cladding Oxidation'' (August 3, 1998) into its calculations. The clear implication of IN 98–29, in the commenter's view, is that the lift height of the HI–STAR 100 cask must be reduced to lower the ''g'' impact forces on the cladding. Also, the commenter provided a table, ''Effects of Changing Variables in Dynamic Impact Effects on Spent Fuel Assemblies,'' which the commenter believes shows that the maximum ''g'' impact force, that high burnup fuel with oxidized cladding can withstand, approaches 45 g.

Response: The NRC disagrees with the comment. Information Notice 98–29 states that high burn-up conditions may increase fuel rod cladding oxidation. The increased rate of oxidation is a function of the fuel burn-up and will only affect cladding in high burn-up fuel applications. In general, fuel with a burn-up exceeding 45,000 MWD/MTU is considered to be a high burn-up fuel. However, the Holtec HI–STAR 100 Storage Cask System is not authorized to contain fuel with a burn-up exceeding 45,000 MWD/MTU. Fuel cooling and the average burn-up approved for the HI–STAR 100 Storage Cask System is: (a) for MPC–24 PWR assemblies, the fuel burn-up is limited to 42,100 MWD/MTU; and (b) for MPC–68 BWR assemblies, the fuel burn-up is limited to 37,600 MWD/MTU. Therefore, the potential for significant amounts of

oxidized cladding is not a concern for the HI–STAR 100 Storage Cask System, and the table provided by the commenter regarding the consequences of significantly oxidized fuel cladding is not relevant to the approved contents of this cask design.

Comment No. 5: The same commenter stated that Holtec's SAR for the HI–STAR 100 storage cask relies upon the LLNL report for its estimate of ''g'' impact force that will damage fuel cladding but that the LLNL report fails to take into account the increased brittleness of irradiated fuel assemblies. Because the irradiated fuel assemblies may have been embrittled, they would also be less resistant to impact. During the course of a fuel assembly's life, subatomic particle bombardment, including neutron flux, significantly decreases the assembly's ductility and increases the assembly's yield stress, thereby embrittling the fuel assembly.

The HI–STAR 100 design cannot rely on LLNL's analysis, in the commenter's view, because the LLNL analysis does not account for irradiation and embrittlement, which lower the impact resistance of the fuel assemblies. These facts are significant when coupled with the increased oxidation rate reported in IN 98–29 because increased oxidation could tangentially cause an increase in cladding embrittlement. Thus, IN 98–29 compounds the LLNL's error in disregarding the brittle characteristics of irradiated fuel cladding.

Response: The NRC disagrees with the comment. The LLNL Report, as referred to, considers the effects of irradiation on cladding. Table 3 of the report delineates irradiated cladding longitudinal tensile tests on coupon specimens. These test specimens were machined from the cladding. The effects of irradiation will increase the Young's modulus and yield stress but decrease the ductility of the cladding. Figure 5 of the report shows that the total elongation values for zircaloy do not change significantly with strain rate and that the ductility appears to be independent of the level of the g-loading. Further, Figure 5 of the report shows that the yield strength is consistently lower than the tensile strength which suggests that significant margin exists between yielding of the cladding and gross rupture. The allowable ''g'' impact force calculation in the report is based on the yield stress. Thus, the approach that is used in the LLNL Report and reflected in the SAR is conservative and acceptable.

Comment No. 6: The same commenter stated that Holtec's calculations rely upon the LLNL report's erroneous assumption that the fuel within the cladding behaves as a rigid rod. Thus, Holtec merely used a static calculation for impact analysis versus a dynamic calculation. This assumption is incorrect, in the view of the commenter. Instead of a homogenous, rigid rod, the fuel rod consists of fuel pellets stacked like coins within thin tubing. In any impact scenario, the fuel assembly acts as a dynamic system with the fuel impacting the inside of the cladding and creating a greater likelihood of cladding rupture. Holtec has not shown that the assumption of a rigid rod is conservative. The thinner cladding due to the increased oxidation serves to compound this effect because a smaller ''g'' force would be required to rupture the assembly.

Response: The NRC disagrees with the comment. The assertion that the fuel rod consists of fuel pellets stacked like coins within thin tubing is incorrect for irradiated fuels. The fuel pellets are densely packed inside the fuel tubing, and the effects of irradiation will bond the pellets to each other and to the fuel cladding. Samples of irradiated fuel rods have shown that it is indeed nearly impossible to separate the fuel pellets and the cladding.

It is incorrect to assume the fuel rod acts as a dynamic system with the fuel pellets impacting the inside of the fuel rod cladding during an accident drop event. The fuel pellets are densely packed inside the fuel tube and, for irradiated fuels, the fuel pellets are bonded together and to the cladding. The LLNL Report discussed above has conservatively neglected the contributions of the fuel pellets to fuel rod rigidity. Rather, the report only considers the cladding for calculating the allowable g-load. It is true that the LLNL Report used static calculations to derive the allowable g-load equivalent to the dynamic impact loading. During an accident drop event, the fuel assembly is subjected to dynamic impact loading and the equivalent static g-load is determined by a dynamic analysis. The equivalent static g-load is then shown to be lower than the allowable g-load to ensure the fuel cladding integrity is maintained. The approach is well established and acceptable. Therefore, the NRC staff has found Holtec's accident analysis to be conservative as reflected in SER Chapter 11 and is therefore acceptable.

Comment No. 7: One commenter stated that the calculated health impacts under hypothetical accident conditions discussed in Chapter 7 of Holtec's HI–STAR 100 SAR are not 100 percent conservative. Holtec's original hypothetical design basis accident condition assumed that 100 percent of the fuel rods are nonmechanically ruptured and that the gases and particulates in the fuel rod gap between the cladding and fuel pellet are released to the multi-purpose canister (MPC) cavity and then to the external environment. The accident analysis in the final version increased the amount of radioactivity to the MPC cavity by 5 orders of magnitude in accordance with NUREG–1536, and would have placed doses at 100 m over the EPA's limit of 5 rem. An assumed small leakage rate by the applicant reduced the amount released from the cask cavity to the environment by more than 5 orders of magnitude. This design basis accident no longer represents a loss-of-confinement-barrier accident as originally described.

Response: The NRC disagrees with the comment. The hypothetical accident dose calculation is appropriate. As discussed in Interim Staff Guidance (ISG)–5, Rev. 1, ''Normal, Off-Normal, and Hypothetical Accident Dose Estimate Calculations for the Whole Body, Thyroid, and Skin,'' the hypothetical accident assumes 100 percent fuel rod failure within the MPC cavity and release of radioactivity based on factors from NUREG/CR–6487. The applicant demonstrated that the HI–STAR 100 confinement boundary (MPC) remains intact from all credible accidents. Therefore, there is not a credible loss-of-confinement-barrier accident for the HI–STAR 100. The hypothetical accident leakage is conservatively assumed to be equal to that assumed for normal condition leakage with corrections for accident pressures and temperatures. The normal condition leak rate is specified in TS 2.1.1.

The NRC believes that there is reasonable assurance that the confinement design is adequately rigorous and will remain intact under the normal and accident conditions identified by the applicant. Therefore, the design basis change has been found to be conservative and meets applicable regulations.

Comment No. 8: One commenter requested the criteria for an intact fuel assembly, the number of pinhole leaks, blisters, hairline cracks, and crud. The commenter asked if a visual inspection is required and stated that just performing visual exam was inadequate.

Response: As proof that the fuel to be loaded is undamaged, the NRC will accept, as a minimum, a review of the records to verify that the fuel is undamaged, followed by an external visual examination of the fuel assembly before loading to identify any obvious damage. For fuel assemblies where

reactor records are not available, the level of proof will be evaluated on a case-by-case basis. The purpose of this demonstration is to provide reasonable assurance that the fuel is undamaged or that damaged fuel loaded in a storage or transportation cask is confined (canned). The criteria for intact assembly are defined in TS Section 1.1 as being fuel assemblies without known or suspected cladding defects greater than pinhole leaks or hairline cracks and which can be handled by normal means. Partial fuel assemblies (fuel assemblies from which fuel rods are missing) shall not be classified as intact fuel assemblies unless dummy fuel rods are used to displace an amount of water greater than or equal to that displaced by the original fuel rods.

Radiation Protection

Comment No. 9: One commenter stated that Holtec calculated the radiation dose to an adult 100 meters from the accident due solely to inhalation of the passing cloud without considering other relevant pathways, such as direct radiation from cesium and cobalt-60 deposited on the ground, resuspension of deposited radionuclides, ingestion of contaminated food and water, and incidental soil ingestion, and does not reflect 10 CFR 72.24(m).

Response: The NRC agrees that Holtec calculated the radiation dose to an adult 100 meters from the accident due solely to inhalation of the passing cloud and did not consider direct radiation and ingestion. The NRC staff considers inhalation to be the principal pathway for radiation dose to the public, and Holtec has followed NRC staff guidance in making conservative assumptions regarding the source term and duration of the release. In SER Chapter 10, the NRC staff found that the radiation shielding and confinement features of the cask design are sufficient to meet the radiation protection requirements of 10 CFR Part 20, 10 CFR 72.104, and 10 CFR 72.106. Section 72.106 addresses postaccident dose limits.

When a general licensee uses the cask design, it will review its emergency plan for effectiveness in accordance with 10 CFR 72.212. This review will consider interdiction and remedial actions to monitor releases and pathways based on the chosen site conditions and the location. Therefore, the pathways identified by the commenter will be addressed in the general licensee's site specific review.

Comment No. 10: One commenter stated that Holtec has not specifically calculated potential radiation dose to children, and this does not meet NRC regulations. Further, the commenter stated that NRC's methodology for calculating the potential dose to children is deficient.

Response: The NRC disagrees with the comments. While Holtec did not specifically calculate potential radiation dose to children, the international community and the Federal agencies (including EPA and the NRC) agree that the overall annual public dose limit, from all sources, should be 1 mSv (100 mrem) which is protective of all individuals. The purpose of the public dose limit is to limit the lifetime risk from radiation to a member of the general public. Variation of the sensitivity to radiation with age and gender is built into the standards which are based on a lifetime exposure. A lifetime exposure includes all stages of life, from birth to old age. For ease of implementation, the radiation standards, that are developed from the lifetime risk, limit the annual exposure that an individual may receive. Consequently, the unrestricted release limit of 0.25 mSv (25 mrem), a small fraction of the annual public dose limit, is protective of children as well as other age groups because the variation of sensitivity with age and gender was accounted for in the selection of the lifetime risk limit, from which the annual public dose limit was derived.

The NRC continues to believe that the existing regulations and approved methodologies adequately address public health and safety. The issue of dose rates to children was addressed in the May 21, 1991, **Federal Register** notice (56 FR 23387).

Comment No. 11: One commenter asked if the streaming dose rates have been measured and if not, will they be measured on the first cask loading?

Response: There is no NRC regulatory requirement to measure streaming dose rates at the first cask loading. Further, the applicant did not provide measured dose rates from cask streaming in its application because it was not required. The applicant did provide calculated streaming dose rates in the SAR shielding analysis. The HI–STAR 100 system is designed to eliminate significant streaming paths, and each user is required to operate the HI–STAR 100 under a 10 CFR Part 20 radiological program. NRC has reasonable assurance that the general licensee's radiological protection and ALARA program will detect and mitigate exposures from any significant or unexpected radiation fields for each cask loading.

Comment No. 12: One commenter stated that the applicant should have performed a specific analysis for off-normal conditions for confinement analysis and should have included an ''^{85}K'' (Kr-85) dose calculation to the skin.

Response: The NRC agrees. The applicant should have done an off-normal condition confinement analysis; however, the off-normal case dose is approximately a factor of 10 greater than normal dose. The Holtec normal condition results show acceptable doses when the factor of 10 is applied for off-normal conditions and have been found acceptable as reflected in the SER. No additional action is necessary to meet applicable NRC regulations.

Comment No. 13: One commenter stated that the licensees' report on specific site doses to the public should be included in the PDR.

Response: The dose for a site-specific location is beyond the scope of this rulemaking. Licensees are required to meet the dose restriction in 10 CFR Part 20.

Comment No. 14: One commenter asked for a definition of inflatable annulus seal. The commenter further questioned the checks and criteria for surface contamination.

Response: The inflatable annulus seal, which is discussed in Sections 1.2.2.1, 8.1, and 10.1.4 of the SAR, is designed to prevent radionuclide contamination of the exterior MPC while the cask is submerged in a contaminated spent fuel pool. The space between the MPC and overpack is filled with clean water and is sealed at the top of the MPC with the inflatable annulus seal. After the seal is removed, the upper accessible portion of the MPC is examined for contamination to verify that the seal remained intact during underwater loading. NRC found the seal description and operation to be acceptable. Each general licensee will develop site-specific operating procedures that address the use of the inflatable annulus seal. Each general licensee will also operate the HI–STAR 100 under a 10 CFR Part 20 radiological protection program.

Comment No. 15: One commenter suggested that there should be criteria for the distance of dose measuring mechanism from the cask and personnel during loading and unloading.

Response: NRC disagrees with this suggestion because NRC regulations do not specifically require these criteria for dose measurement. Each general licensee is required to operate the HI–STAR 100 under a 10 CFR Part 20 radiological program and must develop site-specific operating procedures that include radiological protection dose surveys that must be conducted during loading and unloading operations.

Sabotage Events

Comment No. 16: One commenter stated that the current sabotage design basis is not a bounding accident and that the NRC should consider the effect of a sabotage event with an anti-tank missile. There is a lack of a comprehensive assessment of the risks of sabotage and terrorism against nuclear waste facilities and shipments. The NRC staff could impose additional conditions on dry storage casks and Independent Spent Fuel Storage Installations (ISFSIs), e.g., the CoC could require that an ISFSI be designed with an earthen berm to remove the line-of-sight.

The commenter stated that since the early 1980s, the NRC has relied on and poorly interpreted an outdated set of experiments carried out by Sandia National Laboratory and Battelle Columbus Laboratories that measured the release of radioactive materials as a result of cask sabotage. The NRC has never estimated the economic and safety implications of a sabotage event at a fixed storage facility. Following the publication of these Sandia study results, the NRC proposed elimination of a number of safety requirements for shipments of spent fuel. At least 32 parties submitted more than 100 pages of comments in response to the notice, to which the NRC never publicly responded. The NRC suspended action on the rulemaking but inappropriately continues to use the unrevised conclusions in the proposed rule as a basis for its policies on terrorism and sabotage of nuclear shipments.

Response: The NRC disagrees with the comment. The NRC reviewed potential issues related to possible radiological sabotage of storage casks at reactor site ISFSIs in the 1990 rulemaking that added subparts K and L to 10 CFR Part 72 (55 FR 29181; July 18,1990). NRC regulations in 10 CFR Part 72 establish physical protection requirements for an ISFSI located within the owner-controlled area of a licensed power reactor site. Spent fuel in the ISFSI is required to be protected against radiological sabotage using provisions and requirements as specified in 10 CFR 72.212(b)(5). Further, specific performance criteria are specified in 10 CFR Part 73. Each utility licensed to have an ISFSI at its reactor site is required to develop physical protection plans and install systems that provide high assurance against unauthorized activities that could constitute an unreasonable risk to the public health and safety.

The physical protection systems at an ISFSI and its associated reactor are similar in design features to ensure the detection and assessment of unauthorized activities. Alarm annunciations at the general license ISFSI are monitored by the alarm stations at the reactor site. Response to intrusion alarms is required. Each ISFSI is periodically inspected by NRC, and the licensee conducts periodic patrols and surveillances to ensure that the physical protection systems are operating within their design limits. It is the ISFSI licensee who is responsible for protecting spent fuel in the casks from sabotage rather than the certificate holder. Comments on the specific transportation aspects of the cask system and existing regulations specifying what type of sabotage events must be considered are beyond the scope of this rulemaking.

Comment No. 17: One commenter asked whether an evaluation for a truck bomb sabotage event has been conducted.

Response: The staff has evaluated the effects of a truck bomb located adjacent to storage casks. Spent fuel in the ISFSI is required to be protected against radiological sabotage using provisions and requirements as specified in 10 CFR 72.212(b)(5). Each utility licensed to have an ISFSI at its reactor site is required to develop physical protection plans and install a physical protection system that provides high assurance against unauthorized activities that could constitute an unreasonable risk to the public health and safety. The physical protection systems at an ISFSI and its associated reactor are similar in design to ensure the detection and assessment of unauthorized activities. Response to intrusion alarms is required. Each ISFSI is periodically inspected by NRC, and the licensee conducts periodic patrols and surveillances to ensure that security systems are operating within their design limits. The NRC believes that the inherent nature of the spent fuel and the spent fuel storage cask provides adequate protection against a vehicle bomb, and has concluded that there are no safety concerns outside the controlled area.

Thermal Requirements

Comment No. 18: One commenter stated that the CoC temperature limits for the storage cask are deficient because they do not take into account a minimum pitch or center-to-center distance between casks to be stored in the ISFSI. Further, Holtec has not performed rigorous calculations to support the assigned pitch of 12-foot or 4-foot spacing between casks based on the amount of detail in its nonproprietary version of its analyses.

Response: The NRC disagrees with the comment. In Section 4.4.1.1.7 of the SAR, Holtec addressed the heat transfer interaction between the overpacks for a cask array at an ISFSI site. No forced convection was assumed (e.g. stagnant ambient conditions which would maximize the interaction heat effect). The applicant further adjusted the heat transfer in accordance with ANSYS methodology and applied it in the calculations. Further, in SER Section 4.5.2.1, the NRC staff noted that the applicant considered in its temperature calculations that multi-purpose cask baskets were loaded at design basis maximum heat loads, and systems were considered to be arranged in an ISFSI array and subjected to design basis normal ambient conditions with insulation. The NRC staff concluded in the SER that it has reasonable assurance that the spent fuel cladding will be protected against degradation by maintaining the clad temperature below maximum allowable limits.

Miscellaneous Items

Comment No. 19: One commenter asked why a coating without zinc was not required for the VSC–24 cask design. The commenter further questioned why NRC allowed coatings to be applied to casks because it will create problems for future DOE waste disposal.

Response: NRC regulations do not prohibit the use of coatings in a cask design. An applicant must provide information in its safety analysis report to support use of coatings. The applicant should describe the near and long term effects of the coatings on systems important to safety including the benefits and potential impacts of coating use. Based on the applicant's analysis, the NRC reviews and assesses the use and adequacy of the coatings. Specific comments relating directly to VSC–24 are beyond the scope of this rulemaking.

Comment No. 20: One commenter asked why the current HI-STAR 100 is not an ASME stamped component.

Response: NRC regulations do not require an ASME stamp for a cask. The design and fabrication requirements for a certified dry cask storage system are described in 10 CFR Part 72 and the NRC staff's Standard Review Plan, NUREG 1536, ''Standard Review Plan for Dry Cask Storage Systems.'' Applicant submittals are reviewed to the criteria in the Standard Review Plan. Cask fabrication activities are inspected by the licensees and the NRC staff to

ensure that components are fabricated as designed.

Comment No. 21: One commenter asked a number of questions related to the Boral and NS–4–FR concerning (1) Whether it has been used ''over time'' in a cask, (2) the amount of ''creep or slump'' that has occurred over time, (3) how the testing is conducted, and (4) how the Boral content is tested in the panels. The commenter further asked if fabrication is inspected and why no surveillance or monitoring program is required to check the Boral content.

Response: The questions and comments on the Boral neutron absorber are addressed in Sections 6.4.2 and 9.1.4 of the SER and Sections 1.2.1.3.1, 6.3.2, and 9.1.5.3 of the SAR. The NRC routinely accepts the use of Boral as a neutron absorber for storage cask applications, and it has been used in casks. NRC has approved both storage and transportation cask designs that use Boral. Section 1.2.1.3.1 of the SAR describes the historical applications and service experience of Boral. This information indicates that Boral has been used since the 1950's and used in baskets since the1960's. Several utilities have also used Boral for nuclear applications such as spent fuel storage racks. Based on industry experience, no credible mechanism for ''creep or slump'' of Boral in the cask has been identified.

Sections 1.2.1.3.1 and 9.1.5.3 of the SAR describe the testing procedures for Boral. Boral will be manufactured and tested under the control and surveillance of a quality assurance and quality control program that conforms to the requirements of 10 CFR Part 72, Subpart G. A statistical sample of each manufactured lot of Boral is tested by the manufacturer using wet chemistry procedures and/or neutron attenuation techniques.

The Boral is designed to remain effective in the HI–STAR 100 system for a storage period greater than 20 years and there are no credible means to lose the Boral. Further, the NRC accepts the use of NS–4–FR as a neutron absorber for storage cask applications, and it has been used in other casks. Therefore, surveillance and monitoring are not needed.

Comment No. 22: One commenter provided a discussion on the VSC–24 design. The issues included materials, the use of coatings, the use of March Metalfab as a fabricator, calculations being performed when problems are being solved, testing of soils and pads, and cask handling temperatures.

Response: These comments are beyond the scope of the current rulemaking.

Comment No. 23: One commenter asked how the prepossession or anodization of aluminum surfaces is checked and what the criteria were for the inspection.

Response: The NRC disagrees that an inspection is necessary. The only aluminum used in the MPC–24 or MPC–68 is for the Boral neutron absorbers. Aluminum forms a very thin, adherent film of aluminum oxide whenever a fresh cut surface is exposed to air or water, becoming thicker with increasing temperatures and in the presence of water (Source: ''Corrosion Resistance of Aluminum and Aluminum Alloys,'' Metals Handbook, Desk Edition, American Society for Metals, 1985). Thus, no inspection or acceptance criteria are necessary.

Comment No. 24: One commenter requested clarification on whether the helium will be pure and not mixed with krypton or xenon that would have an effect on internal pressure or temperature. The commenter also asked whether the helium had to be dry.

Response: Only pure helium will be used to backfill the cask; no krypton or xenon gasses will be added during backfill. Technical Specification Table 2–1, Footnote 1, specifies that helium used for backfill of MPC shall have a purity of ≥99.995%. Acceptable helium purity for dry spent fuel storage was defined by R. W. Knoll et al. at Pacific Northwest Laboratory (PNL) in ''Evaluation of Cover Gas Impurities and Their Effects on the Dry Storage of LWR Spent Fuel,'' PNL–6365, November 1987. Helium purity is addressed in SAR Section 8.1.4, MPC Fuel Loading, Step 28, and SER Section 8.1.3.

Comment No. 25: One commenter asked whether leakage of gases, volatiles, fuel fines, and crud was considered credible and whether the analysis addressed this concern.

Response: The applicant has calculated the postulated annual dose at 100 meters assuming a realistic leakage rate consistent with ANSI N14.5 Standard ''Leakage Tests on Packages for Shipment for Radioactive Materials'' (1997) and has reflected the results in SAR Chapter 7. The applicant's analysis addresses the commenter's concern, and the calculated dose had been found to be within regulatory guidelines (limits) and acceptable to the NRC staff.

Comment No. 26: One commenter was concerned that the cask could drop or tip over in the loading area of the plant and whether this has been evaluated. The commenter was also concerned about a drop or tip over during transfer from the pad or during transport and that all of the analysis seemed to be for the pad.

Response: The tipover, end drops, and horizontal drop analyses form part of the structural design basis for the HI-STAR 100 cask design. Holtec described drops and tipover analyses in SAR Section 3.4.9. The NRC's evaluation of the vendor's analyses is described in SER Sections 3.2.3.1 and 3.2.3.2. The NRC found the results of these analyses to be satisfactory in that the calculated stresses were within the allowable criteria of the American Society of Mechanical Engineers (ASME) Code. Before using the HI-STAR 100 casks, the general licensee must evaluate the foundation materials to ensure that the site characteristics are encompassed by the design bases of the approved cask. The events listed in the comment are among the site-specific considerations that must be evaluated by the licensee using the cask.

Comment No. 27: One commenter asked whether the design has been evaluated for a seismic event during loading and unloading.

Response: The HI-STAR 100 casks can only be wet loaded and unloaded inside the fuel handling facility. Generally, these activities take place in a segregated under-water cask loading pit which would limit cask movement during a seismic event. The cask will be supported for a seismic event during loading and unloading. General procedure descriptions for these operations are summarized in Sections 8.1 and 8.3 of the SAR. Detailed loading and unloading procedures are developed and evaluated on a site-specific basis by the licensee using the cask.

Comment No. 28: One commenter questioned whether the method for cooling has been tested with a real cask.

Response: The NRC regulations and guidance in the Standard Review Plan require the review and approval of the design criteria. No testing is required for approval of the design under this current rule. The cask user is required to perform preoperational testing to determine the effectiveness of the cooling methods.

Comment No. 29: One commenter questioned whether the manufacturer's literature for the ''high emissivity'' paint on the overpack had been evaluated and tested, how the testing was done, and what the results were. The commenter also questioned whether/how the painted components were safely stored. The commenter further stated that the paint on the surfaces of the overpack should be a specified paint, not just a requirement of ''an emissivity of no less than 0.85.''

Response: The manufacture and application of high-emissivity paints is

not a new technology. Several manufacturers provide paints with specified emissivity ratings. Thermal tests are required to confirm the heat transfer capabilities of the inner and intermediate shells and radial channels. Annual cask inspection will check the exterior surface conditions at which time the paint will be examined and touched up in local areas as necessary. The NRC does not believe that identifying a specific brand name of paint is required. There are several suppliers who manufacture paints with the specified emissivity. The NRC has reviewed the applicant's analysis and found that paints with an emissivity greater than 0.85 are acceptable.

Comment No. 30: One commenter questioned the drain down time and asked how frequently the water is checked. The commenter requested information on what happens if the MPC can't be vacuum dried successfully and when the fuel needs to be put back in the spent fuel pool.

Response: The drain down time is not specified in the TSs but is part of the vacuum drying procedure. The TSs state that the vacuum drying must be completed within 7 days. There is not a specific procedure in the application to monitor the water content; however, that will be addressed by the cask user on a site-specific basis and is beyond the scope of this rulemaking. If the drying process is unsuccessful and the TS requirements cannot be met within 30 days, the fuel assemblies must be moved from the cask and be placed in the spent fuel pool.

Comment No. 31: One commenter requested information on the cask storage array on the pad and the radiation affect from other casks in a full cask array. The commenter further requested information on how the applicant/certificate holder/licensee will examine and/or test the HI STAR 100 and who was actually responsible for the test. The commenter questioned whether a domed cask cover would be better for runoff and sky shine concerns.

Response: The applicant performed a shielding analysis that included a three-by-three cask array (square) model to simulate the average dose contribution from the center cask, which is partially shielded by the surrounding periphery casks. This value is applied in an offsite dose formula used to estimate offsite doses from every cask in the array. The center-to-center cask pitch was assumed to be 12 feet in the shielding analyses. Testing of the actual as-installed configuration will be performed by the cask user and will be evaluated at that time. Offsite dose estimates for a typical ISFSI array, including the affects of multiple casks and skyshine, are discussed in Sections 5.4.3 and 10.4.1 of the SAR. NRC found the dose estimates to be acceptable. As required in 10 CFR 72.212, each general licensee will perform a site-specific dose evaluation to demonstrate compliance with Part 72 radiological requirements. The general licensee will identify an ISFSI configuration and may elect to use additional engineered features of its choosing, such as shield walls, a domed cover, or berms, to ensure compliance with radiological requirements. Section 1.4.7 of Appendix B to the CoC requires that any such engineered feature be considered important to safety and evaluated to determine the applicable quality assurance category.

Comment No. 32: One commenter questioned what the criteria were for the polyester resin ''poured'' into radial channels, how they were tested, handled and inspected, and whether they had been tested in a real cask. The commenter questioned whether a ''poured'' neutron shield was really safe and whether uncontrolled voids caused a problem with occupational dose requirements. The commenter stated that poured neutron shields should not be used.

Response: The NRC has reviewed Holtec's application that described the neutron shielding to be used to meet the requirements of 10 CFR 72.104 and 72.106. The NRC found the Holtec approach acceptable. The methods for testing, handling, and inspecting installation of the shielding are beyond the scope of this rulemaking. However, poured neutron shielding has been successfully used in other cask designs.

Comment No. 33: One commenter stated that appropriate limits for burnup should be specified in the CoC. The commenter is concerned that the SAR analysis assumed significantly higher burnups than allowed and significantly higher initial uranium loading than specified in the table.

Response: Burnup, cooling time, initial uranium loading, and initial enrichment are parameters that affect the total source term (radioactivity) of spent fuel. The applicant's source term analysis assumed higher uranium loadings and higher burnups than those specified in TSs of the CoC. Therefore, the radiological source term is conservative relative to the allowed burnups and uranium loadings.

As discussed in Section 5.2.1 of the preliminary SER, for the same level of burnup, neutron source terms typically increase as initial enrichment decreases. Therefore, the source term analysis employed lower-than-average enrichment values. Based on the SAR analyses, conditions of the CoC, and other requirements in Parts 20 and 72, the NRC has determined that minimum enrichment is not warranted as an additional operating control for the HI–STAR 100. Specific reasons for this determination include the following: (1) the enrichments bound a significant portion of spent fuel, and the source terms are calculated for burnups significantly higher than those allowed in the CoC; (2) the radiological source terms are adequately controlled in the CoC by limits on maximum burnup, minimum cooling time, maximum initial uranium loading, and maximum decay heat; (3) dose rates are controlled in the CoC by specific dose limits for the top and side of the cask that are based on values calculated in the shielding analysis; (4) each general licensee will perform a site-specific dose evaluation to demonstrate compliance with Part 72 radiological requirements; and (5) each general licensee will operate the ISFSI under a Part 20 radiological protection program.

NRC agrees with the comment that the preliminary SER term of ''low probability'' may not provide definite criteria for general license cask users regarding limitations on minimum enrichment. Therefore, Chapter 5 of the SER has been revised to clarify that minimum enrichment is not an operating control for the HI–STAR 100.

Comment No. 34: One commenter asked what has been considered as credible ways to lose the fixed neutron poisons.

Response: The NRC staff does not consider the loss of fixed neutron poisons to be credible after they are installed into the cask because the poisons are fixed in place and contained.

Comment No. 35: A commenter questioned how the welds of the MPC lid and closure ring are tested and asked for the acceptance criteria.

Response: Information on the welds is contained in SAR Tables 9.1.1, 9.1.2, and 9.1.3.

Comment No. 36: One commenter asked whether shims are used and stated that shims or gaps were not acceptable.

Response: There are no shims used in the closure weld of the HI–STAR 100 casks. The only shims used are located between the canister and the overpack at basket support locations to provide additional support for the basket supports. The actual thickness of the shim will depend on the gaps between the cask and the inside cavity of the overpack at the basket support locations. Gaps between separate components such as the cask and the

overpack are unavoidable and are necessary to ensure that there will be no physical interferences and to allow free thermal expansions.

Comment No. 37: One commenter stated that all welds should be monitored unless they have been tested.

Response: NRC accepts welded closure of casks. The regulations do not require monitoring or testing of welds because there are no expected degradation mechanisms identified during the cask usage life. However, both the fabricator and cask user will examine and inspect all welds as appropriate.

Comment No. 38: One commenter stated that the detailed loading and unloading procedures developed by each cask user should be put in the PDR.

Response: Loading and unloading procedures are site-specific issues not required for design approval and are beyond the scope of this rulemaking.

Comment No. 39: One commenter asked how long before an ultrasonic testing examination is conducted should the equipment be calibrated.

Response: Comments on the site-specific examination techniques and associated calibration are beyond the scope of rulemaking for the HI–STAR 100 system.

Comment No. 40: One commenter was concerned over the possibility that the bolts could rust and crack over time or become brittle and crack because water, ice, and frost could get into the bolt holes over the years.

Response: The NRC disagrees with this concern over the integrity of the bolting material. The 54, 1⅝-inch-diameter, closure plate bolts are made from ASME SB–637–N07718 material per SAR BM–1476. N07718, a nickel-chromium alloy, does not become brittle at colder temperatures. N07718 is a high strength, corrosion resistant material used in applications with a temperature range from −423 °F (−253 °C) to 1300 °F (704 °C) (Source: Inconel Alloy 718, Inco Alloys International, fourth edition, 1985). This material will not rust, unlike carbon steels in corrosive environments. In addition, the material retains significant ductility down to −320 °F (−196 °C) as shown by impact test results (Source: Inconel Alloy 718, Table 27). Therefore, the NRC has no concerns about the bolting material.

Comment No. 41: One commenter asked what type of radiographic exam is applicable and where it would be conducted.

Response: SAR Tables 9.1.1, 9.1.2, and 9.1.3 describe which radiographic exams are to be performed and when they are required to be performed.

Comment No. 42: One commenter disagreed with allowing the use of a penetrant test in lieu of volumetric examination on austenitic stainless steels because flaws in these are ''not expected'' to exceed the thickness of the weld head. The commenter believes that volumetric welds should be required because if you don't know for sure the real size of the actual weld, how can you accept a certain flaw size? The commenter asked how the permanent record is kept and stated that black and white photographs should be used as a permanent record.

Response: NRC disagrees with this comment. The NRC position on inspection of closure welds is contained in ISG–4, ''Cask Closure Weld Inspections.'' Actual cask welds are examined in accordance with site-specific procedures that are beyond the scope of rulemaking for the HI–STAR 100 system. Nondestructive Examination (NDE) methods are specified in accordance with Section III ''Rules for Construction of Nuclear Power Plant Components,'' and Section V ''Nondestructive Examination,'' of the ASME Code and are already described in SAR Tables 9.1.1, 9.1.2, and 9.1.3. A permanent record of completed welds will be made using video, photographic, or other means that can provide a retrievable record of weld integrity. As per accepted industry practice, the record is typically in color format, in order to capture the red dye typically used for PT examinations.

Comment No. 43: One commenter believed that the marking material for the casks should be designated and that the mark needed to be permanent.

Response: NRC agrees with the comment. The storage marking nameplate is made from a 4-inch by 10-inch, 14-gauge Type 304 stainless steel sheet and welded to the outside of the HI–STAR 100 Overpack. Lettering will be etched or stamped on the plate. Details are shown in SAR Drawing 1397, Sheet 4 of 7, and described in SER Section 9.1.6. The nameplate will provide appropriate cask identification that will last well beyond the design life of the HI–STAR 100 system. No nonpermanent marking will be used.

Comment No. 44: One commenter requested information on ''rupture disc replacements,'' how they are tested for replacement, what the time criteria are, and what is considered a rupture.

Response: The rupture disc is located in the neutron shield tank of the HI–STAR 100 casks. The purpose of the rupture disc is to limit pressure build-ups to a precalculated level within the neutron shield tank during the fire accident condition. When the pressure build-up exceeds the precalculated design pressure, the disc will rupture to relieve the pressure. The rupture disc is tested and certified by the manufacturer. There is no regulatory requirement for the replacement of rupture discs. The SAR has arbitrarily set a replacement schedule for every 5 years to assure functionality.

Comment No. 45: One commenter asked if the casks are checked in winter for ice and snow loads or ice around the base and if the pads will be kept clean.

Response: Casks are designed for the worst ice and snow loads possible. Ice build-ups around the cask base are not allowed, and the pad will be kept clean. Site-specific procedures will address these items.

Comment No. 46: One commenter questioned if there was an evaluation for a plane crash, with a fuel fire, into a cask or full cask array conducted and whether there is a stipulation as to putting a pad in an area where planes regularly fly.

Response: Before using the HI–STAR 100 casks, the general licensee must evaluate the site to determine whether or not the chosen site parameters are enveloped by the design bases of the approved cask as required by 10 CFR 72.212(b)(3). The licensee's site evaluation should consider the effects of nearby transportation and military activities. Generally, a cask's inherent design will withstand tornado missiles and collision forces imposed by light general aviation aircraft (i.e., 1500–2000 pounds) that constitute the majority of aircraft in operation today. The events listed in the comment are among the site-specific considerations that must be evaluated and are beyond the scope of this rulemaking.

Comment No. 47: One commenter questioned why Holtec stated that the HI–STAR 100 could be part of the final geologic disposal system.

Response: The NRC is not reviewing this design for use in a final geologic disposal system, but only for interim storage under Part 72.

Comment No. 48: One commenter asked where the MPC shell weld is located and if the pocket trunnions at the bottom of the overpack have been analyzed specifically for tipovers and falls.

Response: The MPC shell has multiple welds located both longitudinally on the side of the MPC and circumferentially on the top and bottom of the MPC. The pocket trunnions at the bottom overpack have been analyzed by the applicant for tipovers and falls. The NRC reviewed the design for normal, off-normal, and

accident conditions, and found it acceptable.

Comment No. 49: One commenter stated that the lifting and pocket trunnions should be checked over the years for cracking or brittleness and for debris accumulation and should be kept ready for use over the years.

Response: The NRC agrees with this comment. As shown in SAR Table 9.2.1, lifting trunnion and pocket trunnion recesses are visually inspected before the next handling operation after HI–STAR 100 casks are placed on the ISFSI pad. The trunnion material has been evaluated for brittle fracture and found to be satisfactory for the operating temperature range. In addition, the trunnions are load tested in accordance with ANSI N14.6, ''American National Standard for Radioactive Materials—Special Lifting Devices for Shipping Containers Weighing 10000 Pounds (4500 kg) or More.'' Thus, there is no credible reason to suspect undetected cracking or brittleness. The pocket trunnion recess is closed by a pocket trunnion plug during storage. There is no possibility of animal and bird access and nesting in the recess.

Comment No. 50: One commenter requested information on the criteria for the critical flaw size.

Response: The criteria for critical flaw size are included in ISG No. 4, ''Cask Closure Weld Inspections.'' The NRC review determined that Holtec's proposed methodology is consistent with this ISG.

Comment No. 51: One commenter asked how subcontractors are to be audited and inspected.

Response: This comment is beyond the scope of this rulemaking.

Comment No. 52: One commenter believed that the first cask for each utility should be tested at a full heat load and asked what is meant by the ''First System In Place'' requirement.

Response: The heat transfer characteristics of the cask system will be recorded by temperature measurements for the first HI-STAR 100 systems (MPC–24 and MPC–68) placed into service with a heatload greater than or equal to 10 kW. An analysis shall be performed by the cask user that demonstrates that the temperature measurements validate the analytical methods and the predicted thermal behavior described in Chapter 4 of the SAR.

The cask user will perform validation tests for each subsequent cask system that has a heat load that exceeds a previously validated heat load by more than 2 kW (e.g., if the initial test was conducted at 10 kW, then no additional testing is needed until the heat load exceeds 12 kW). No additional testing is required for a system after it has been tested at a heat load greater than or equal to 16 kW.

The cask user will provide a letter report to the NRC in accordance with 10 CFR 72.4 summarizing the results of each of these validation tests. Cask users may also satisfy these testing and reporting requirements by referencing validation test reports submitted to the NRC by other cask users with identical designs and heat loads.

Comment No. 53: One commenter asked how much water is to be drained under the MPC lid before welding and how the temperature enters into the calculations.

Response: Chapter 8 of the SAR directs the operators to pump approximately 120 gallons of water from the MPC before commencing welding operations. The water level is lowered to keep moisture away from the weld region. Under these conditions, ample water remains inside the MCP to maintain cladding temperatures well below their short term limits. This operating condition has been evaluated by the NRC. The resulting temperature increase is much less than any previously analyzed accident condition might produce.

Comment No. 54: One commenter asked how lifting height should be verified and stated that the height should be recorded.

Response: The maximum lifting height maintains the operating conditions of the Spent Fuel Storage Cask (SFSC) within the design and analysis basis. It is the general licensee's responsibility to limit the SFSC lifting height to allowable values. The lift height requirements are specified in TS LCO 2.1.7 for the vertical and horizontal orientations. Surveillance requirements require verification that SFSC lifting requirements are met after the SFSC is either suspended or secured in the transporter and prior to moving the SFSC within the ISFSI.

Comment No. 55: One commenter questioned how the MPC closure ring, lid, vent, and drain covers are removed during unloading and what precautions are taken.

Response: The specific procedures for removal of the closure ring, lid, vent, and drain covers are to be developed by the cask user. These procedures will be evaluated by the licensee and by the NRC during inspections to address adequacy and implementation and, therefore, are beyond the scope of this rulemaking.

Comment No. 56: One commenter questioned that if the MPC gas temperature is not met, what additional actions are required and have they been evaluated (TS B3.1.8–3)?

Response: The NRC staff has evaluated this condition. The TSs require that if the MPC gas temperature is exceeded during unloading, no additional operational actions may be conducted until the temperature is restored to below the TS limit.

Comment No. 57: One commenter asked if ''dry'' unloading operations are considered.

Response: A dry unloading operation was not requested or explicitly described in the SAR and thus is not currently allowed for the HI–STAR 100 system and is beyond the scope of this rulemaking.

Comment No. 58: One commenter questioned if crud disposal is a problem and how it can be mitigated.

Response: Dispersal of crud is beyond the scope of this rulemaking and is a site-specific issue. Experience with wet unloading of some fuel types after transportation has involved handling significant amounts of crud. However, the NRC notes that the HI–STAR generic unloading procedures mitigate crud dispersal. As discussed in Section 8.3.1 of the SAR, these procedures include gas sampling of the MPC internal atmosphere and specific cool-down steps. Each cask user will develop additional site-specific unloading procedures based on its radiological protection program to further address and mitigate crud dispersal.

Comment No. 59: The applicant made comments relevant to the helium backfill pressure of the cask. After discussions with the NRC staff, Holtec withdrew this comment during a telephone conversation on 5/7/99.

Response: Not applicable.

Comments on Proposed TSs

Upon review of the public comments received on the proposed TSs for the HI–STAR–100 Storage Cask, particularly comments received from EXCEL Corporation and the Holtec Users Group, the NRC staff has determined that several structural changes to the TSs were in order. These changes result in a clearer set of TSs and move the TSs from the new generation of dual-purpose cask systems toward a standardized format.

Comment No. 60: It was suggested that controlling the bases for the TSs as part of the CoC would result in administrative burdens to all involved. These bases are not controlled as part of power reactor licenses.

Response: The NRC staff agrees. Therefore, the bases have been relocated to an appendix to the SAR.

Comment No. 61: A number of commenters also raised concerns with the inclusion of the extensive fuel specifications (formerly Section 2.0) and a very lengthy design specification section (formerly Section 4.0).

Response: The NRC staff agrees that placement of much of this information in the TSs is unwarranted. Therefore, much of the information regarding fuel specifications and some of the design and codes information were moved from the TSs to a separate appendix to the CoC. However, the NRC staff did maintain some of the information regarding requirements for bases controls by adding it to a revised Section 3.0, ''Administrative Controls and Programs,'' of the TSs.

Upon consideration of public comments and further consideration within the NRC, the NRC staff has determined that the structure of TS Section 2.1, ''SFSC INTEGRITY,'' did not provide appropriately clear guidance. Therefore, the NRC staff has revised this section of the TSs to reflect a more logical and focused approach. The number of limiting conditions for operations (LCOs) in this section has been reduced to four. The NRC staff believes that this will enhance the usefulness of the TSs.

Comment No. 62: One commenter stated that if surface contamination exceeds 2200 dpm/100 cm2 from gamma and beta emitting sources, and smearable contamination limits cannot be reduced to acceptable levels, the TSs require actions up to and including removal of the MPC from the HI–STAR 100 overpack after removing the spent fuel from the MPC. The commenter stated that the proposed Skull Valley ISFSI in Utah does not have facilities for decontaminating casks and, therefore, these TSs could not be met.

Response: The NRC agrees in part. The revised version of the TSs (TS 2.2.2) requires verification that removable contamination is within limits during loading operations and provides up to 7 days to restore the contamination within limits. The specifications no longer list MPC or spent fuel removal actions. Further, comments on the proposed site-specific Skull Valley ISFSI currently under review are beyond the scope of this rulemaking. Decontamination requirements will be reviewed as part of the site-specific licensing provisions under Part 72 Subpart B for the Skull Valley ISFSI.

Comment No. 63: One commenter stated that the definition of ''TRANSPORT OPERATIONS'' needs to be revised to reflect that the drop analysis is not limited to drops from the transporter, and that lifting of a cask with other devices is not prohibited. The commenter recommended similar changes to the definition of ''LOADING OPERATIONS'' and ''UNLOADING OPERATIONS.''

Response: The NRC disagrees. The definitions of the three terms in question do not prohibit lifting of a cask with other devices (the revised note in TS 2.1.3 clarifies this issue), nor do the definitions affect the lifting requirements contained in TS 2.1.3.

Comment No. 64: One commenter stated that it would increase the standardization of the TSs by relocating the explanatory information of the defined terms in TS Section 1.0 to the TS Bases.

Response: The NRC disagrees with the comment. The terms defined in TS Section 1.0 are important in the understanding of the TS requirements. These definitions need to be contained within the TSs. This practice is consistent with the standard TSs developed for the U.S. nuclear power reactors.

Comment No. 65: One commenter stated that in Examples 1.3–2 and 1.3–3, the word ''action'' should be capitalized.

Response: The NRC agrees. The word ''action'' has been capitalized.

Comment No. 66: One commenter recommended the removal of portions of Table 2.1–1 and all of Table 2.1–2 and Table 2.1–3 from the TSs.

Response: The NRC agrees, in part, that this information should be moved. This design information is crucial to the conclusions reached by the NRC staff in its SER; therefore, the design information contained in these tables has been relocated (and renumbered) to a separate appendix to the CoC, along with other critical design information.

Comment No. 67: One commenter recommended a change to the format of the Titles of Tables 2.1–1, 2.1–2, 2.1–3, and 2.1–4.

Response: The NRC agrees with the comment. The format has been changed.

Comment No. 68: One commenter recommended a wording change in TS Section 3.0 from ''not applicable to an SFSC'' to ''not applicable.''

Response: The NRC agrees with this comment and has made the indicated change.

Comment No. 69: One commenter stated that there is no need to create two specifications for TS 3.1.1, MPC Cavity Vacuum Drying Pressure, and TS 3.1.2, OVERPACK Annulus Vacuum Drying Pressure. In addition, the commenter indicated there is no need to create two specifications for TS 3.1.5, MPC Helium Leak Rate, and TS 3.1.6, OVERPACK Helium Leak Rate.

Response: The NRC agrees with the comment. Section 2.1 of the TSs has been revised based on these and similar comments received to combine these TSs.

Comment No. 70: One commenter stated that the frequency of SR 3.1.7.1 should be revised because, as written, the frequency would apply only when a cask is being moved to or from the ISFSI and would not apply at other times, such as when moving casks within the ISFSI. However, the drop analysis applies any time the cask is suspended. The frequency should be revised similar to ''Prior to movement of an SFSC.''

Response: The NRC agrees with the comment. The frequency of SR 3.1.7.1 has been revised.

Comment No. 71: One commenter recommended that TS Sections 4.1 and 4.2 be eliminated because they contain no unique information.

Response: NRC agrees with the comment. Sections 4.1 and 4.2 have been eliminated.

Comment No. 72: One commenter recommended relocating the information contained in TS Sections 4.3 and 4.5 to the SAR, and recommended eliminating TS Section 4.4, stating that this section is a duplication of existing regulatory requirements.

Response: The NRC agrees in part. The NRC staff agrees that these sections do not belong in the TSs. This design information has been relocated to Appendix B to the CoC. The NRC staff disagrees with the commenter's proposal to eliminate or relocate these sections to the SAR. The NRC has relocated these sections to Appendix B to the CoC due to the importance of the design information contained in these sections. The NRC staff also disagrees with the comment that TS Section 4.4 is a duplicate of existing regulations, since this section contains the acceptance criteria for the site-specific design parameters.

Comment No. 73: A commenter recommended relocating the information contained in TS Sections 4.6 and 4.8 to an Administrative Controls chapter due to their content and relocating Section 4.7 to the SAR because it is a one-time administrative task.

Response: The NRC agrees in part. The NRC staff agrees that these sections belong in the administrative section of the TSs and has placed this information in a new TS Chapter 3.0, ''Administrative Controls and Programs.'' The NRC staff disagrees with the commenter on the proper location of Section 4.7 (now TS Section 3.2), because it is established NRC staff

practice to place important administrative requirements, even one-time requirements, in the TSs.

Comment No. 74: A commenter stated that TS 3.1.8 contains conflicts because the APPLICABILITY statement, and the COMPLETION TIME when the condition is not met, are the same statement. The commenter further recommended that because of its complexity and rarity of its use, this specification be eliminated and the information specified in the SAR.

Response: The NRC agrees in part. The NRC agrees with the first point. TS 2.1.4 has been rewritten to remove this conflict. The NRC staff disagrees with the second point and considers this information important to the proper operation of the cask system. Further, the changes made to this section resolve concerns regarding its complexity.

Comment No. 75: One commenter recommended relocating the figure attached to TS 3.2.1 to the TS Bases, because the purpose of the figure is to show where dose measurements should be taken.

Response: The NRC disagrees with this comment. This figure, now attached to TS 2.2.1, is an integral part of the proper implementation of this TS and assures that the dose measurements will be taken at the proper locations.

Comment No. 76: The commenter stated that the TSs do not comply with 10 CFR 72.44(d) that requires TSs on radioactive effluents.

Response: The NRC agrees with this comment. TS Section 3.0 has been revised to incorporate the requirements of 10 CFR 72.44(b).

Comment No. 77: One commenter recommended that within TS Section 1.1, the definition for ''Intact Fuel Assembly'' should be revised to state ''* * * an amount of water greater than or equal to * * *,'' adding the term ''greater than or'' to allow greater flexibility with respect to dummy rod sizing.

Response: The NRC agrees with the comment and has revised the definition.

Comment No. 78: One commenter recommended that within TS Table 2.1–1, Item II.B should be reworded for clarification because the current wording could be misinterpreted by users that intact fuel assemblies are required to be loaded into damaged fuel containers.

Response: The NRC agrees with the comment. The table, which has been relocated to Appendix B, has been revised.

Comment No. 79: One commenter requested clarification of TS Section 4. As written, the text does not require a written report of the results of the first measurements, only ''each cask subsequently loaded with a higher heat load.'' NRC's intent to require a written report for the first temperature measurements is not clear. The commenter further stated that it is not clear what ''calculation'' is being referred to in the last two sentences, whether it is the original design calculation or a new calculation generated from the test. The commenter further recommended the addition of ''decay heat'' after ''lesser'' and before ''loads'' in the last line.

Response: The NRC agrees with these comments, except for the recommendation to add the phrase ''decay heat,'' which the NRC considers unnecessary. TS Section 3.3 has been revised to clarify the reporting requirements and the calculational comparison required by this TS condition.

Comment No. 80: One commenter recommended some editorial changes to revise TS Bases 2.2.2 and 2.2.3 to clarify that 10 CFR 72.75 has additional reporting requirements that may need to be met independent of these TS requirements.

Response: The NRC agrees with the comment. A reference to 10 CFR 72.75 has been added to Appendix B to the CoC.

Comment No. 81: One commenter recommended adding a new definition for fuel building to the TSs.

Response: The NRC agrees with the comment. A definition for fuel building has been added to the TSs.

Comment No. 82: One commenter recommended editorially revising TS LCO 3.1.7, ''SFSC Lifting Requirements'' and the related bases to clarify the applicability. The revision is necessary because the LCO is not intended to be applicable while the transport vehicle is in the fuel building or when the cask is secured on a railcar or heavy haul trailer because the cask is not being lifted.

Response: The NRC agrees with the comment. TS 2.1.3 has been revised accordingly.

Comment No. 83: One commenter recommended a revision to TS Tables 2.1–2 and 2.1–3, Note 1, for the purposes of clarification and to allow for manufacturer tolerances.

Response: The NRC agrees with the comment. The recommended changes to the tables have been made. The table has been relocated to Appendix B of the CoC.

Comment No. 84: One commenter recommended the revision of TS Table 3–1, Item 1.c, to change the lower helium tolerance to 10 percent because the smaller tolerances were associated with convection heat transfer, for which no credit is taken in the application.

Response: The NRC agrees with the comment and has revised renumbered TS Table 2–1.

Comment No. 85: One commenter recommended that TS 4.3.1 be revised to allow for changes to codes and standards because it would provide both the vendor and the NRC the flexibility to add exceptions/alternatives to the code without amending the certificate.

Response: The NRC agrees with the comment. Section 1.3.2 of Appendix B has been revised accordingly.

Comment No. 86: The applicant recommended in TS Section 4.4.6, the revision of the soil effective modulus of elasticity from ''≤6,000psi'' to ''≤28,000 psi.'' In addition, the commenter recommended an acceptable method for licensees to comply with the soil modulus limit.

Response: The NRC agrees with the comment. The information has been added to Appendix B to the CoC.

Comment No. 87: One commenter recommended the addition of a third option to TS LCO 3.1.7 and Bases B3.1.7 (or elsewhere in the TSs) that allows general licensees to calculate site-specific lifting requirements based on the site-specific pad design and associated drop/tipover analyses.

Response: The NRC agrees with the comment. TS LCO 2.1.3 has been revised to add this option.

Comment No. 88: One commenter believed that the 48-hour time limit within TSs 3.1.1 through 3.1.6 is overly restrictive.

Response: The NRC agrees with this comment in part. Accordingly, the NRC has reviewed the time limit in each applicable TS. Some of the time limits have been extended to provide for a controlled, deliberate response to the LCO condition.

Comment No. 89: One commenter recommended the deletion of the Design Features, Section 4.6, Training Module, and Section 4.7, Pre-Operational Testing and Training Exercise because the review of the training program is required by 10 CFR 72.212(b)(6) and the TS duplicates the requirement in the regulation.

Response: The NRC agrees in part. The NRC agrees that there is duplication in the TSs and the regulatory requirements. Accordingly, TS 3.1 (previously Section 4.6) has been modified to reference the general licensee's systematic approach to training. However, the NRC staff believes that listing the training exercises as a specific requirement for proper cask operation is appropriate to

be included in the TSs, and it has been maintained.

Comment No. 90: One commenter recommended adding ''diesel'' before ''fuel'' in TS Section 4.4.5 and in SER Sections 3.1.2.1.8, 4.3.4, and 4.4.3.4 for clarification.

Response: The NRC agrees conceptually with the comment. TS Section 4.4.5 (now 1.4.5 of Appendix B) and SER Sections 3.1.2.1.8, 4.3.4, and 4.4.3.4 have been revised to refer to combustible transporter fuel.

Comments on the Draft CoC

Comment No. 91: Two commenters recommended that CoC Condition 10 be revised to be consistent with 10 CFR 72.48 for the cask design and operating procedures. Another commenter stated that Condition 10 was not clear.

Response: The NRC agrees with the comments. The applicable CoC condition has been revised to delete the prescriptive controls for making changes to the cask design and operating procedures. The condition now reflects 10 CFR 72.48 as recently approved by the Commission.

Comment No. 92: Two commenters recommended that a Bases Control Program be added to the TSs or CoC.

Response: The NRC disagrees with the comment. The proposed TS bases are part of the SAR. Because 10 CFR 72.48 provides a change process for the SAR for control of the bases, there is no need to incorporate this program into the CoC or TSs.

Comment No. 93: One commenter requested information on the status of a petition for rulemaking on the change process in 10 CFR 72.48.

Response: This comment is beyond the scope of this rulemaking.

Comment No. 94: One commenter stated that the description of the attachment to the CoC was in error.

Response: The NRC agrees with this comment. The description has been corrected.

Comments on the NRC Staff's SER

Comment No. 95: One commenter asked a question about what is meant by the statement included in the NRC SER in Section 9.3 related to the examination and/or testing of the HI–STAR 100 by the applicant/certification holder/licensee.

Response: The SER refers to Section 9.1 of the applicant's SAR. This section summarizes the scope and acceptance criteria for the HI–STAR 100 test program. It includes fabrication and nondestructive examinations, weld inspecting, structural and pressure tests, leakage tests, component tests, and shielding and integrity testing and controls. The SAR or SER does not specify which entity must perform each test. This is because some tests are performed during fabrication, while others can only be performed after installation. The quality assurance programs implemented by the fabricator, certificate holder, or applicant with appropriate oversight will ensure that these SAR specified tests are completed and are effective. Further, the NRC inspection program also verifies on a sampling basis that tests and surveillances are conducted as required.

Comment No. 96: One commenter recommended revising the last sentence of the first paragraph of SER Section 3.1.2.1.6 to read: ''The design-basis earthquake accelerations are assumed to be applied at the top of the ISFSI concrete pad with the resulting inertia forces applied at the HI–STAR 100 mass center.''

Response: The NRC agrees with the comment. The SER has been revised.

Comment No. 97: One commenter recommended in SER Section 3.1.4.4, in the first paragraph, the replacement of ''* * * the fabricator is an accredited facility by the ASME for nuclear fabrication work holding ''N'' and ''NPT'' stamps, * * *'' with ''* * * the HI–STAR 100 System is designed in accordance with the ASME Code, as clarified by the exceptions to the Code listed in TS Table 4–1.''

Response: The NRC agrees with the comment. The SER has been revised. Note that the table is now in Appendix B.

Comment No. 98: One commenter recommended that in SER Section 6.3, the word ''minimum'' be replaced with ''maximum'' in the third sentence of the first full paragraph to match the analysis.

Response: The NRC agrees with the comment. The SER has been revised to correct the error.

Comment No. 99: One commenter stated that SER Section 8.1.4, which discusses the evaluation of welding and sealing procedures, should be revised to recognize the option of performing manual welding of the MPC lid closure weld in accordance with a user's as low as reasonably achievable (ALARA) practices.

Response: The NRC disagrees with the comment. As discussed in Sections 8.1 and 10.1 of the SAR, the use of the Automated Weld System provides justification that the HI–STAR 100 is designed in accordance with Part 72 radiological requirements and ALARA objectives consistent with Part 20. However, the intent of the proposed SER revision is already implied in Section 8.1.2 of the SER that states: ''Each cask user will need to develop detailed loading procedures that incorporate the ALARA objectives of their site-specific radiation protection program.'' Therefore, each user can develop site-specific operating procedures based on ALARA objectives that would include the use of manual welding and make changes to the SAR in accordance with 10 CFR 72.48.

Comment No. 100: One commenter recommended that SER Section 8.3.1, which discusses the evaluation of cooling, venting, and reflooding during cask unloading operations, should be revised to allow the option of a once-through purge in lieu of the closed-loop cooling system.

Response: The NRC disagrees with this comment. An amendment application with a specific design and supporting analysis for a once-through helium cooling system would be required for NRC review and is beyond the scope of this rulemaking.

Comment No. 101: One commenter noted that a more appropriate method to implement the thermal test for the overpack had been accepted by the NRC for the HI–STAR 100 transportation cask and recommended this method be used for this cask design. Appropriate changes were recommended to be made to the SER and SAR.

Response: The NRC agrees that this method should be included in the SAR for the HI–STAR 100 storage cask. Appropriate changes have been made to Section 9.1.6 of the SAR and Chapter 9 of the SER.

Comment No. 102: The applicant submitted numerous editorial comments on the SAR, SER, and CoC. Comments were intended as clarification, restoration of deleted information, grammatical corrections, corrections to text, to maintain consistency between documents, typographical corrections, format changes, and to correct terminology. These editorial changes do not change the design of the cask or supporting analysis.

Response: The NRC agrees with many of the editorial comments suggested by Holtec International. The SAR, SER, and CoC have been revised to address the comments as appropriate.

Comments on the Applicant's Topical SAR

Note: In response to comments received, a number of changes to the SAR were made by Holtec International, as discussed below.

Comment No. 103: One commenter proposed a revision to the language in Section 8.0 of the SAR to clarify that users will have some flexibility to use

procedures and equipment suitable for site-specific needs and capabilities.

Response: The NRC agrees with the suggested editorial changes. The changes to the SAR have been made.

Comment No. 104: One commenter recommended some editorial changes within SAR Section 4.4, because the wording in Subsection 4.1.1.15 may be erroneously interpreted to mean that the chilled helium delivered to the MPC cavity to cool the internals prior to flooding the cavity with water must be at 100 °F. The commenter stated that the text of the SAR requires clarification to permit each cask user's cooldown system to be engineered with the flexibility to cool MPCs containing fuel with varying levels of decay heat production.

Response: The NRC agrees with the comment. The SAR has been revised.

Comment No. 105: In SAR Section 1.5, Drawings 1399, Sheet 3, and BM–1476, and in Drawing Section ''N–N,'' one commenter recommended the addition of four threaded holes spaced 90 degrees apart as a personnel dose reduction enhancement. The new holes would allow the personnel attaching the shield to work in an area of lesser exposure to radiation within the same time frame. The effect of the shield attachment will remain the same.

Response: The NRC agrees with the comment. Drawings 1399 and BM–1476 have been revised to reflect the change.

Comment No. 106: One commenter suggested that in SAR Revision 10, the drawings in Chapter 1 be revised to match those approved by the NRC in the transportation SAR.

Response: The NRC agrees with the comment. Seven drawings in SAR Section 1 have been revised to match those in the transportation SAR. Although four drawings have not been revised to match the transportation SAR, this is acceptable to the NRC staff because they reflect storage design features.

Comment No. 107: In the SAR, one commenter (the applicant) recommended changing Section 6.1 by replacing ''(20 °C–100 °)'' with ''(i.e., water density of 1.000 g/cc)'' and delete ''(20 °C assumed)'' to more accurately describe the assumption made in the analyses.

Response: The NRC agrees. The SAR has been revised as suggested by the commenter.

Comment No. 108: The applicant suggested a number of changes to the drawings for the HI–STAR 100 Storage Cask. These changes did not require a change to the supporting design analyses.

Response: The NRC agrees that the changes to the drawings were appropriate and do not result in any changes to the supporting design analyses. The SAR drawings have been revised in accordance with the suggested changes.

Comment No. 109: The applicant suggested using Magnetic Particle Examination in lieu of Liquid Penetrant Examination for the overpack weld examination and recommended changes to the associated drawing notes.

Response: The NRC agrees with this suggested change. The NRC agrees that resolution of this comment will involve a change to the drawings which will mean that drawings referencing this examination shall be different for the storage and transportation certificates. These differences are not significant because the staff finds Magnetic Particle Examination to be equally acceptable to Liquid Penetrant Examination. Appropriate changes to the drawings have been made.

Comment No. 110: The applicant suggested a clarification for the sequence for the hydrostatic testing and helium leakage testing during fabrication of the overpack.

Response: The NRC agrees with the suggested change. The SAR has been revised accordingly.

Comment No. 111: As it relates to the Radiography and Heat Treatment requirements for the containment boundary of the HI–STAR overpack, the applicant requested that post weld heat treatment (PWHT), after completing nondestructive examination, be used for all overpack containment boundary welds which require an exception from the ASME code.

Response: The NRC agrees. The SAR and Appendix B to the CoC have been modified appropriately.

Comment No. 112: The applicant suggested a revision to the drawings in the SAR to reflect the localized thinning tolerance in the containment shell.

Response: The NRC staff agrees with the suggested revision. However, the applicant did not provide the suggested changes in its final revisions to the SAR. The initial drawings remain acceptable.

Comment No. 113: One commenter (the applicant) recommended that changes to Technical Specification Table 4–1, MPC Enclosure Vessel and Lid, should be made to replace ''and sufficient intermediate layers to detect critical wild flaws'' with ''and at least one intermediate PT after approximately ⅜ inch weld depth.'' The commenter also recommended the deletion of ''Flaws in austenitic stainless are not expected to exceed the bead''. The commenter further recommended several changes to the SER as follows: SER Section 8.1.4 should be changed to add ''(or optional multi-layer PT examination),'' after ''ultrasonic examination (UT)''; the SER should recognize that users may choose to perform the MPC void-to-shell weld manually; and SER Section 11.4.1.3.1 should be reworded to read ''examined using UT or multi-layer PT techniques,'' instead of ''volumetrically examined using UT.''

Response: The NRC agrees and notes that the applicant's comments with respect to TS Table 4–1 have been superseded by its latest revision to the SAR. Changes have been made to Table 1–3 to Appendix B. The SER has been revised as recommended.

Summary of Final Revisions

The NRC staff modified the listing for the Holtec International HI–STAR 100 cask system within 10 CFR 72.214, ''List of approved spent fuel storage casks,'' with respect to the title of the SAR as well as the CoC and its two appendices, the TSs, and the Approved Contents and Design Features. The NRC staff has also modified its SER.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR part 51, the NRC has determined that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. This final rule adds an additional cask to the list of

approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites without additional site-specific approvals from the Commission. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Stan Turel, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6234, e-mail spt@nrc.gov.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 USC 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is adding the Holtec International HI–STAR 100 cask system to the list of NRC-approved cask systems for spent fuel storage in 10 CFR 72.214. This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the Commission issued an amendment to 10 CFR part 72. The amendment provided for the storage of spent nuclear fuel in cask systems with designs approved by the NRC under a general license. Any nuclear power reactor licensee can use cask systems with designs approved by the NRC to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. In that rule, four spent fuel storage casks were approved for use at reactor sites and were listed in 10 CFR 72.214. That rule envisioned that storage casks certified in the future could be routinely added to the listing in 10 CFR 72.214 through the rulemaking process. Procedures and criteria for obtaining NRC approval of new spent fuel storage cask designs were provided in 10 CFR part 72, subpart L.

The alternative to this action is to withhold approval of this new design and issue a site-specific license to each utility that proposes to use the casks. This alternative would cost both the NRC and utilities more time and money for each site-specific license. Conducting site-specific reviews would ignore the procedures and criteria currently in place for the addition of new cask designs that can be used under a general license, and would be in conflict with NWPA direction to the Commission to approve technologies for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site reviews. This alternative also would tend to exclude new vendors from the business market without cause and would arbitrarily limit the choice of cask designs available to power reactor licensees. This final rulemaking will eliminate the above problems and is consistent with previous Commission actions. Further, the rule will have no adverse effect on public health and safety.

The benefit of this rule to nuclear power reactor licensees is to make available a greater choice of spent fuel storage cask designs that can be used under a general license. The new cask vendors with casks to be listed in 10 CFR 72.214 benefit by having to obtain NRC certificates only once for a design that can then be used by more than one power reactor licensee. The NRC also benefits because it will need to certify a cask design only once for use by multiple licensees. Casks approved through rulemaking are to be suitable for use under a range of environmental conditions sufficiently broad to encompass multiple nuclear power plants in the United States without the need for further site-specific approval by NRC. Vendors with cask designs already listed may be adversely impacted because power reactor licensees may choose a newly listed design over an existing one. However, the NRC is required by its regulations and NWPA direction to certify and list approved casks. This rule has no significant identifiable impact or benefit on other Government agencies.

Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the final rule are commensurate with the Commission's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Holtec International. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this rule because this amendment does not involve any provisions that would impose backfits as defined in the backfit rule. Therefore, a backfit analysis is not required.

List of Subjects in 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d–48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In Section 72.214, Certificate of Compliance 1008 is added to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1008
SAR Submitted by: Holtec International
SAR Title: HI–STAR 100 Cask System Topical Safety Analysis Report
Docket Number: 72–1008
Certification Expiration Date: (20 years after final rule effective date)
Model Number: HI–STAR 100

Dated at Rockville, Maryland, this 23rd day of August, 1999.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 99–23075 Filed 9–2–99; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A on Extensions of Credit by Federal Reserve Banks to reflect its approval of an increase in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

EFFECTIVE DATE: The amendments to part 201 (Regulation A) were effective August 24, 1999. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, (202) 452–3259; for users of Telecommunications Device for the Deaf (TDD), contact Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The ''basic discount rate'' is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit. In increasing the basic discount rate from 4.5 percent to 4.75 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below.

With financial markets functioning more normally, and with persistent strength in domestic demand, foreign economies firming, and labor markets remaining very tight, the degree of monetary ease required to address the global financial market turmoil of last fall is no longer consistent with sustained, non-inflationary, economic expansion. The 25-basis-point increase in the discount rate was associated with a similar increase in the federal funds rate announced at the same time.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

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

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

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

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

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	4.75	August 24, 1999.
New York	4.75	August 24, 1999.
Philadelphia	4.75	August 24, 1999.
Cleveland	4.75	August 24, 1999.

Federal Reserve Bank	Rate	Effective
Richmond	4.75	August 24, 1999.
Atlanta	4.75	August 24, 1999.
Chicago	4.75	August 24, 1999.
St. Louis	4.75	August 24, 1999.
Minneapolis	4.75	August 25, 1999.
Kansas City	4.75	August 24, 1999.
Dallas	4.75	August 26, 1999.
San Francisco ...	4.75	August 24, 1999.

By order of the Board of Governors of the Federal Reserve System, August 30, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–22958 Filed 9–2–99; 8:45 am]

BILLING CODE 6210–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 123

Pre-Disaster Mitigation Loans

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: With this rule, SBA amends its disaster loan program regulations to implement a pilot program authorized by Congress in 1999. The authorization covers five fiscal years (from 2000 to 2004) and will allow SBA to make low interest, fixed rate loans to small businesses to use mitigation measures in support of Project Impact, a formal mitigation program established by the Federal Emergency Management Agency (FEMA).

DATES: This rule is effective October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Associate Administrator, Office of Disaster Assistance, 202–205–6734.

SUPPLEMENTARY INFORMATION: SBA amends part 123 of its regulations regarding disaster loans, based upon a proposed rule which was published on July 7, 1999 (64 FR 36617). Comments were due by August 6, 1999.

The final rule allows small businesses to obtain low interest, fixed rate loans for mitigation measures in support of Project Impact. In response to the problems of increasing costs and personal devastation caused by disasters, Congress authorized a pilot program for 5 fiscal years from 2000 through 2004. The Administration launched an effort to substitute preparedness for the current reliance on response and recovery in emergency management.

SBA supports this effort and wants to offer pre-disaster mitigation loans to assist with disaster preparedness. This final rule will allow SBA to provide such loans to small businesses within Project Impact communities identified by FEMA. Currently, SBA disaster loans may be used only to repair or replace what was destroyed or damaged by disaster and to provide an additional 20 percent for mitigation measures after a disaster. To promote preparedness, this final rule will amend SBA's regulations to provide pre-disaster mitigation loans for small businesses. Such pre-disaster mitigation loans will allow small businesses to install mitigation devices that may prevent future damage.

SBA received several comments on the proposed rule. One comment requested that SBA modify its definition of mitigation in § 123.107 to include ''any action taken to reduce or eliminate the long-term risk to human life and property from natural hazards'' as defined by the Federal Emergency Management Agency in 44 CFR 206.401. SBA did not adopt this suggestion due to the difference in statutory language which authorizes the assistance provided by SBA and FEMA. However, SBA has included some of the mitigation examples suggested by the commenter in § 123.107. SBA also clarifies in § 123.107 that § 123.400 through § 123.407 address pre-disaster mitigation, while the last two sentences of § 123.107 address the amount of money that can be borrowed for mitigation after a disaster.

Another comment suggested that SBA establish a date for when size status is determined. SBA has adopted the suggestion in § 123.402, requiring that the applicant be a small business as of the date SBA accepts the application for processing. To clarify the conditions for eligibility, SBA moved portions of § 123.403 and § 123.406 in the proposed rule to § 123.402 in the final rule so that eligibility conditions are all in one section.

One of the conditions for eligibility is that a business, together with its affiliates, must be small as defined in part 121 of this Chapter. Section 121.302 sets forth criteria for when size status is determined for each of SBA's loan programs. Since the Pre-disaster Mitigation Loan Program will be a new pilot, § 121.302 does not include it. Although SBA did not propose to amend this section, it is necessary to amend § 121.302(c) to designate a date for determining size status for this pilot program.

One comment proposed that SBA include homeowners. SBA did not adopt this suggestion because the authorizing legislation for this pilot program limits the assistance to small businesses.

Another comment suggested that SBA require that a small business must have been in the Project Impact community for at least one year, under the same ownership, at the location where mitigation was proposed prior to submitting a loan application. SBA has not adopted this suggestion because it would unnecessarily limit assistance under the pilot.

One comment suggested that SBA begin funding all approved loans on December 31, in the order that the applications were initially received. SBA did not adopt this suggestion because SBA is uncertain of the demand and does not want to limit the time period for approving and funding loans. SBA revised the text of § 123.404 to clarify that a business may borrow up to $50,000 per year, and that approved loans will be funded in the order that SBA accepted the applications for processing. SBA also clarifies that it will consider projects that cost more than $50,000 per year if the business can identify sources that will fund the amount above $50,000.

Another commenter asked that SBA clarify in § 123.401 whether residential rental properties were eligible. The section has been changed to make it clear that SBA will accept applications from owners of commercial real estate (property primarily leased to business for commercial use). Owners of property held and leased primarily for residential use will not be eligible.

One commenter was concerned that SBA's verification of a project might subject SBA to potential liability if a mitigation project failed to perform as expected. In response to this suggestion, SBA revised § 123.401 to make it clear that SBA only verifies that the cost estimate is reasonable to accomplish the stated desired mitigation result, and that SBA does not guarantee that the mitigation measure will prevent damages from future disasters.

Also, SBA amended § 123.406 to clarify how and when it will provide notice of the availability of pre-disaster mitigation loans. Finally, SBA simplified language in subparagraph (c) of that section and § 123.407 regarding application processing, loan funding, and the process for reconsideration or appeal.

Compliance With Executive Orders 12612, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this final rule is not a significant rule within the meaning of

Executive Order 12866, since it is not likely to have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy.

SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

SBA certifies that this final rule does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., chapter 35.

For purposes of Executive Order 12612, SBA certifies that this final rule has no federalism implications warranting preparation of a Federalism Assessment.

For purposes of Executive Order 12988, SBA certifies that this final rule is drafted, to the extent practicable, to accord with the standards set forth in section 3 of that Order.

List of Subjects

13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

13 CFR Part 123

Disaster assistance, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, SBA amends 13 CFR parts 121 and 123 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: Pub. L. 105–135 Sec. 601 *et. seq.*, 111 Stat. 2592; 15 U.S.C. 632(a), 634(b)(6), 637(a), and 644(c); and Pub. L. 102–486, 106 Stat. 2776, 3133.

2. Revise § 121.302 to add a sentence at the end of paragraph (c) to read as follows:

§ 121.302 When does SBA determine the size status of an applicant?

* * * * *

(c) * * * For pre-disaster mitigation loans, size status is determined as of the date SBA accepts the application for processing.

* * * * *

PART 123—DISASTER LOAN PROGRAM

1. The authority citation for part 123 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(b), 636(c) and 636(f); Pub. L. 102–395, 106 Stat. 1828, 1864; and Pub. L. 103–75, 107 Stat. 739.

2. In § 123.107, revise the second sentence and add a sentence at the end to read as follows:

§ 123.107 What is mitigation?

* * * Examples include elevation of flood prone structures, retaining walls, sea walls, grading and contouring land, relocating utilities, and retrofitting and strengthening structures to protect against high winds, earthquake, flood, wildfire, or other natural hazards. * * * Sections 123.400 through 123.407 address pre-disaster mitigation.

3. Add an undesignated centerheading and §§ 123.400 through 123.407 to read as follows:

Pre-disaster Mitigation Loans

Sec.

123.400 What is a pre-disaster mitigation loan?
123.401 What types of mitigating measures are eligible for a pre-disaster mitigation loan?
123.402 What businesses are eligible to apply for pre-disaster mitigation loans?
123.403 When would my business not be eligible to apply for a pre-disaster mitigation loan?
123.404 How much can my business borrow with a pre-disaster mitigation loan?
123.405 What is the interest rate on a pre-disaster mitigation loan?
123.406 How do I apply for a pre-disaster mitigation loan and which loans will be funded?
123.407 What happens if SBA denies or withdraws my pre-disaster mitigation loan application?

Pre-disaster Mitigation Loans

§ 123.400 What is a pre-disaster mitigation loan?

Congress has authorized a pilot program for 5 fiscal years from 2000 through 2004 for SBA to make low interest, fixed rate loans to small businesses to use mitigation measures in support of Project Impact, a formal mitigation program established by the Federal Emergency Management Agency (FEMA).

§ 123.401 What types of mitigating measures are eligible for a pre-disaster mitigation loan?

Mitigation means specific measures taken by you to protect your real property or leasehold improvements from future disasters in Project Impact communities. If you are a landlord, the measures must be for protection of property leased primarily for commercial rather than residential purposes, to be determined on a comparative square footage basis. Additionally, SBA will consider providing a pre-disaster mitigation loan for relocation if your commercial real property is located in a SFHA (Special Flood Hazard Area) and you relocate outside the SFHA but remain in the same Project Impact community. If the mitigation measures protect against a flood hazard, the applicant small business must be located in an existing structure in a SFHA. The local Project Impact coordinator will confirm that your proposed project is in accordance with specific Project Impact priorities and goals of that community. SBA will verify that the cost estimate is reasonable to accomplish each project to determine if the project is likely to accomplish the stated desired mitigation results. SBA verification and subsequent loan approval are not a guarantee that the project will prevent damages in future disasters.

§ 123.402 What businesses are eligible to apply for pre-disaster mitigation loans?

Each State, the District of Columbia, Puerto Rico, and the Virgin Islands have at least one FEMA Project Impact community. Only those small businesses located in Project Impact communities are eligible to apply for a pre-disaster mitigation loan. Your small business may be a sole proprietorship, partnership, corporation, limited liability company, or other legal entity recognized under State law. Your small business must have been in existence for at least one year prior to submitting an application for this loan. Your business (together with its affiliates) must be small (as defined in part 121 of this chapter) as of the date SBA accepts the application for processing, and SBA must also determine that the business, its affiliates and its owners do not have the financial resources to fund the mitigation measures without undue hardship.

§ 123.403 When would my business not be eligible to apply for a pre-disaster mitigation loan?

Your business is not eligible for a pre-disaster mitigation loan if it, together with its affiliates, fits into any of the categories in §§ 123.101, 123.201, and 123.301.

§ 123.404 How much can my business borrow with a pre-disaster mitigation loan?

Each borrower, together with its affiliates, may borrow up to $50,000 per year. SBA will fund approved loans in the order in which SBA accepted the application for processing. SBA will consider mitigation measures that cost more than $50,000 per year if the

business can identify sources that will fund the cost above $50,000.

§ 123.405 What is the interest rate on a pre-disaster mitigation loan?

Your pre-disaster mitigation loan will have an interest rate of 4 percent per annum or less.

§ 123.406 How do I apply for a pre-disaster mitigation loan and which loans will be funded?

(a) At the beginning of each fiscal year commencing October 1st 1999, SBA will publish a declaration in the **Federal Register** announcing the availability of pre-disaster mitigation loans. The declaration will designate at least a 30 day application filing period in the first six months of the fiscal year, the application filing deadline, and the locations for obtaining and filing loan applications. Additional application periods may be announced each year depending on the availability of funds. In addition to the **Federal Register**, SBA will use FEMA and the local media to inform potential loan applicants where to obtain loan applications. SBA will not accept any applications after the announced deadline unless SBA reopens the application filing period.

(b) Complete an SBA pre-disaster mitigation loan application package which includes a written statement from the local Project Impact coordinator that the project is in accordance with the specific priorities and goals of the local community. The application must be filed during the announced filing period.

(c) An SBA Disaster Area Office will notify the Office of Disaster Assistance (ODA) when it has accepted a complete application for processing. The Area Office will approve, decline, or withdraw (stop processing) the application if the applicant does not give SBA required information. The Area Office will notify ODA of its decision. ODA will then direct the Area Office to make the loan based on availability of loan funds and the date SBA accepted the complete application package.

§ 123.407 What happens if SBA denies or withdraws my pre-disaster mitigation loan application?

(a) If SBA denies your loan application, SBA will notify you in writing and give you the specific reasons for the denial. If you disagree with SBA's decision, you may respond under § 123.13. If SBA approves your application after reconsideration or appeal, SBA will use the date the Area Office received the request for reconsideration or appeal to determine the order of funding.

(b) If SBA withdraws your loan application and you later submit the missing information, and SBA approves the loan, SBA will use the date it reaccepts the application to determine the order of funding.

Dated: August 27, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–23051 Filed 9–2–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–41–AD; Amendment 39–11285; AD 99–18–19]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80A1/A3 and CF6–80C2A Series Turbofan Engines, Installed on Airbus Industrie A300–600 and A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company CF6–80A1/A3 and CF6–80C2A series turbofan engines, installed on Airbus Industrie A300–600 and A310 series airplanes. This action requires, prior to further flight, one of the following: performing a DPV pressure check for leakage, and, if necessary, replacing the DPV assembly with a serviceable assembly and performing an operational check of the thrust reverser, or deactivating the thrust reverser; or replacing the directional pilot valve (DPV) assembly with a serviceable assembly and performing an operational check of the thrust reverser. Thereafter, this AD requires one of these actions on a repetitive basis. If a thrust reverser is deactivated, this action requires, prior to further flight, revising the FAA-approved airplane flight manual (AFM) to require performance penalties to be applied for certain takeoff conditions. The AD also requires a revision to the Emergency Procedures Section of the FAA approved AFM to include a flightcrew operational procedure in the event of any indication of an in-flight thrust reverser deployment. This amendment is prompted by review of thrust reverser safety analyses following a report of inadvertent thrust reverser deployment on another make and model engine. The actions specified in this AD are intended to prevent inadvertent thrust reverser deployment, which, if it occurred in-flight, could result in loss of control of the airplane.

DATES: Effective September 24, 1999.

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

Comments for inclusion in the Rules Docket must be received on or before November 2, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–41–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Middle River Aircraft Systems, Mail Point 46, 103 Chesapeake Park Plaza, Baltimore, MD 21220–4295, attn: Product Support Engineering; telephone (410) 682–0093, fax (410) 682–0100; and Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone (33) 05.61.93.31.81, fax (33) 05.61.93.45.80. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William S. Ricci, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7742, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) received a report of inadvertent thrust reverser deployment on a Pratt & Whitney powered Airbus Industrie A300–600 series aircraft. Following that event, the FAA reviewed thrust reverser safety analyses on other make and model engines, including General Electric Company (GE) CF6–80A1/A3 and CF6–80C2A series turbofan engines. A review of thrust reverser actuation system (TRAS) shop findings and component failure rate data, test data, and system safety analyses revealed that a hidden failure mode involving the directional pilot valve (DPV) exists. The DPV controls the direction of the

operation of the center drive unit when the TRAS is activated. If high pressure downstream of the pressure regulating and shutoff valve (PRSOV) exists in combination with a leaking DPV, an inadvertent deployment could occur. High pressure downstream of the PRSOV can be caused by auto restow, PRSOV open failures, or significant PRSOV leakage. PRSOV open failures and significant PRSOV leakage are detected by the DPV pressure switch. DPV open failures and significant DPV leakage are detected by the inability to stow the reverser. However, there exists a range of DPV leakage rates from a closed DPV which are not detectable during normal operation. This undetectable failure mode of the DPV, concurrent with high pressure downstream of the PRSOV, can result in an inadvertent thrust reverser deployment. This condition, if not corrected, could result in inadvertent thrust reverser deployment, which, if it occurred in-flight, could result in loss of control of the airplane.

Service Information

The FAA has reviewed and approved the technical contents of Middle River Aircraft Systems Alert Service Bulletin (ASB) No. 78A4022, applicable to GE CF6–80A1/A3 series engines, and ASB No. 78A1081, applicable to GE CF6–80C2A series engines, both dated June 4, 1999, that describe procedures for DPV pressure checks for leakage and operational checks of the thrust reverser, and refer to applicable manuals in the necessity of replacing the DPV assembly or deactivating the reverser.

Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent inadvertent thrust reverser deployment. This AD requires, prior to further flight, one of the following: (1) performing a DPV pressure check for leakage, and, if necessary, replacing the DPV assembly with a serviceable assembly and performing an operational check of the thrust reverser, or deactivating the thrust reverser; or (2) replacing the DPV assembly with a serviceable assembly and performing an operational check of the thrust reverser. Thereafter, this AD requires one of these actions at intervals not to exceed 700 hours time-in-service. The FAA has determined that whereas deactivation of the thrust reverser(s) addresses the unsafe condition of this AD, the resultant decrease in airplane stopping performance is acceptable only on a time-limited basis. For this reason, deactivation of the thrust reverser(s) is only allowed after a DPV pressure check has been performed and established the need for the DPV to be replaced with a serviceable DPV and none is available. The FAA has determined that the necessary replacement of the DPV shall be accomplished not later than 10 calendar days from the time of deactivation. If a thrust reverser is deactivated, this action requires, prior to further flight, a revision of the FAA-approved airplane flight manual (AFM) for airplanes equipped with these engines to require performance penalties to be applied for certain takeoff conditions. The actions are required to be accomplished in accordance with the service documents described previously.

AFM Changes

The FAA has determined that in the event of an in-flight thrust reverser deployment, airplane controllability may not be adequately maintained with the existing ''ENG REV UNLK'' procedure of the ''Procedures Following Failure'' Section of the FAA approved AFM. The AD includes an ''Indicated In-flight Thrust Reverser Deployment Procedure,'' with certain steps recalled from memory by the flightcrew, for inclusion in the AFM Emergency Procedures section of the FAA approved AFM. This new procedure supersedes the existing ''ENG REV UNLK'' procedure. The FAA finds that this new procedure to be used in the event of any indication of an in-flight thrust reverser deployment provides for more expeditious shutdown of a suspected engine and slowing of the airplane if airplane buffet or bank is experienced. The changes to the AFM required by this AD have been coordinated with the FAA Transport Airplane Directorate.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NE–41–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–18–19 General Electric Company: Amendment 39–11285. Docket 99–NE–41–AD.

Applicability: General Electric Company (GE) CF6–80A1/A3 and CF6–80C2A series turbofan engines, installed on Airbus Industrie A300–600 and A310 series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent thrust reverser deployment, which, if it occurred in-flight, could result in loss of control of the airplane, accomplish the following:

GE CF6–80A1/A3 Series Engines

(a) Prior to further flight, for GE CF6–80A1/A3 series engines, perform one of the following, in accordance with Paragraphs 2.B and 2.C. of the Accomplishment Instructions of Middle River Aircraft Systems Alert Service Bulletin (ASB) No. 78A4022, dated June 4, 1999:

(1) Perform a DPV pressure check for leakage, and, if necessary, either

(i) Replace the directional pilot valve (DPV) assembly with a serviceable assembly and then perform an operational check of the thrust reverser, or

(ii) Deactivate the thrust reverser in accordance with paragraph 2(B)(8)(a) of the Accomplishment Instructions of Middle River Aircraft Systems ASB No. 78A4022, dated June 4, 1999, provided, however, that within 10 days after deactivation the DPV is replaced with a serviceable assembly and an operational check of the thrust reverser is then performed.

(2) Replace the DPV assembly with a serviceable assembly and then perform an operational check of the thrust reverser.

(b) Thereafter, at intervals not to exceed 700 hours time-in-service (TIS) since the last check or replacement of the DPV, for GE CF6–80A1/A3 series engines, perform one of the following, in accordance with Paragraphs 2.B and 2.C. of the Accomplishment Instructions of Middle River AircraftSystems ASB No. 78A4022, dated June 4, 1999:

(1) Perform a DPV pressure check for leakage, and, if necessary, either

(i) Replace the DPV assembly with a serviceable assembly and then perform an operational check of the thrust reverser, or

(ii) Deactivate the thrust reverser in accordance with paragraph 2(B)(8)(a) of the Accomplishment Instructions of Middle River Aircraft Systems ASB No. 78A4022, dated June 4, 1999, provided, however, that within 10 days after deactivation the DPV is replaced with a serviceable assembly and an operational check of the thrust reverser is then performed.

(2) Replace the DPV assembly with a serviceable assembly and then perform an operational check of the thrust reverser.

GE CF6–80C2A Series Engines

(c) Prior to further flight, for GE CF6–80C2A series engines, perform one of the following, in accordance with Paragraphs 2.B and 2.C. of the Accomplishment Instructions of Middle River Aircraft Systems ASB No. 78A1081, dated June 4, 1999:

(1) Perform a DPV pressure check for leakage, and, if necessary, either

(i) Replace the DPV assembly with a serviceable assembly and then perform an operational check of the thrust reverser, or

(ii) Deactivate the thrust reverser in accordance with paragraph 2(B)(8)(a) of the Accomplishment Instructions of Middle River Aircraft Systems ASB No. 78A1081, dated June 4, 1999, provided, however, that within 10 days after deactivation the DPV is replaced with a serviceable assembly and an operational check of the thrust reverser is then performed.

(2) Replace the DPV assembly with a serviceable assembly and then perform an operational check of the thrust reverser.

(d) Thereafter, at intervals not to exceed 700 hours TIS since the last check or replacement of the DPV, for GE CF6–80C2A series engines, perform one of the following, in accordance with Paragraphs 2.B and 2.C. of the Accomplishment Instructions of Middle River Aircraft Systems ASB No. 78A1081, dated June 4, 1999:

(1) Perform a DPV pressure check for leakage, and, if necessary, either

(i) Replace the DPV assembly with a serviceable assembly and then perform an operational check of the thrust reverser, or

(ii) Deactivate the thrust reverser in accordance with paragraph 2(B)(8)(a) of the Accomplishment Instructions of Middle River Aircraft Systems ASB No. 78A1081, dated June 4, 1999, provided, however, that within 10 days after deactivation the DPV is replaced with a serviceable assembly and an operational check of the thrust reverser is then performed.

(2) Replace the DPV assembly with a serviceable assembly and then perform an operational check of the thrust reverser.

Serviceable DPV Assembly

(e) For the purpose of this AD, a serviceable DPV assembly is an assembly that has accumulated zero time in service, or an assembly that has accumulated zero time in service after having passed the tests in the Middle River Aircraft Systems Component Maintenance Manual GEK 85007 (78–31–51), Revision No. 6 or later, Directional Pilot Solenoid Valve, Page Block 101, Testing and Troubleshooting, or an assembly that has been successfully leak checked in accordance with Paragraph 2.B. of the Accomplishment Instructions of Middle River Aircraft Systems ASB No. 78A4022 or ASB No. 78A1081, both dated June 4, 1999, as applicable, immediately prior to installation on the airplane.

Airplane Flight Manual (AFM) Changes

(f) If one or both thrust reversers are deactivated, then prior to further flight, revise the Limitations Section of the FAA-approved AFM to include the following:

''The takeoff performance on wet and contaminated runways with a thrust reverser(s) deactivated shall be determined in accordance with Airbus Flight Operations Telex (FOT) 999.0066/99, dated June 9, 1999, as follows:

''For takeoff on wet runways, use performance data in accordance with paragraph 4.1.1 of the FOT.

''For takeoff on contaminated runways, use performance data in accordance with paragraph 4.1.2 of the FOT.''

(1) Notwithstanding the provisions of the FAA approved A300–600 and A310 Master Minimum Equipment List (MMEL), dispatch with both thrust reversers deactivated, for the purposes of complying with this AD, is approved.

(2) Notwithstanding the provisions of the FAA Approved A300–600 and A310 MMEL, airplanes which have deactivated one or both thrust reversers in compliance with this AD, may not conduct operation on contaminated runways, as defined in Airbus Flight Crew Operating Manual Section 2.18.50, unless all components of the Main Wheel Brakes, Green and Yellow Brake Systems, Antiskid System, Ground Spoiler System, and all Spoiler and Speed Brake Surfaces, operate normally.

Note 2: The ''FCOM'' referenced in Airbus FOT 999.0066/99, dated June 9, 1999, is Airbus Industrie Flight Crew Operating Manual (FCOM), Revision 27 for Airbus Model A310 series airplanes and Revision 22 for A300–600 series airplanes. [The revision number is indicated on the List of Effective Pages (LEP) of the FCOM.]

(g) Prior to further flight, revise the Emergency Procedures Section of the FAA-approved AFM for Airbus Model A310 and A300–600 airplanes to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM. In the event of any indication of an in-flight thrust reverser deployment or a ''ENG REV UNLK'' ECAM caution message triggered in flight, this procedure must be applied.

''Indicated In-flight Thrust Reverser Deployment Procedure:

1. THROTTLE (Affected Engine)—IDLE IF BUFFET OR BANK
2. FUEL LEVER (Affected Engine)—OFF
3. MAX SPEED—240 KIAS

Note: Item 1 of the procedure, and if buffet or bank is detected, items 2 and 3, should be accomplished immediately from memory.

Note: Use recommended single engine landing configuration and 1.3Vs approach speed plus 10kt.

IF NO BUFFET OR BANK

4. THROTTLE (Affected Engine)—KEEP AT IDLE
5. MAX SPEED—300 KIAS

The ''Indicated In-flight Thrust Reverser Deployment Procedure'' listed above supersedes the ''ENG REV UNLK'' procedure of the ''Procedures Following Failure'' Section of the FAA approved AFM, section number 4.02.00, page 1.''

Note 3: Notwithstanding procedures in the Procedures Following Failure Section of the FAA approved AFM, displayed on the on-board ECAM computer screen, published in the Airbus FCOM, or QRH, or contained in FAA approved company checklists and/or procedures, flightcrews operating A300–600 or A310 airplanes with one of more thrust reverser activated, must follow the procedure of paragraph (g) in the event of any indication of an in-flight thrust reverser deployment triggered in flight.

Note 4: An in-flight thrust reverser deployment may be indicated by master caution aural and visual warnings, and/or a REV UNLK light, and/or an ''ENG REV UNLK'' ECAM caution message, and/or airplane buffet or bank.

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

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the ECO.

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

Incorporation by Reference

(j) The actions required by this AD shall be done in accordance with the following service documents:

Document No.	Pages	Date
Middle River Aircraft Systems CF6–80A1/A3 ASB 78A4022 ..... Total pages: 16.	1–16	June 4, 1999.
Middle River Aircraft Systems CF6–80C2A ASB 78A1081 ..... Total pages: 15.	1–15	June 4, 1999.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Middle River Aircraft Systems, Mail Point 46, 103 Chesapeake Park Plaza, Baltimore, MD, 21220–4295, attn: Product Support Engineering; telephone (410) 682–0093, fax (410) 682–0100; and Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(k) This amendment becomes effective on September 24, 1999.

Issued in Burlington, Massachusetts, on October 26, 1999.

Jorge A. Fernandez,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–22851 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–364–AD; Amendment 39–11288; AD 99–18–22]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Series Airplanes Equipped With Rolls-Royce 532–7 ''Dart 7'' (RDa–7) Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F27 series airplanes, that requires revising the Airplane Flight Manual (AFM) to provide the flightcrew with modified operational procedures to ensure continuous operation with the high pressure cock (HPC) levers in the lockout position. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent burnout of the engines during flight by ensuring that the HPC levers are in a permanent lockout position.

DATES: Effective October 8, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 8, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, The Netherlands. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F27 series airplanes was published in the **Federal Register** on April 23, 1999 (64 FR 19940). That action proposed to require a revision to the Airplane Flight Manual (AFM) to provide the flightcrew with modified operational procedures to ensure continuous operation with the high pressure cock (HPC) levers in the lockout position.

Comments Received

Interested persons have been afforded an opportunity to participate in the

making of this amendment. Due consideration has been given to the comments received.

Request To Mandate Rolls-Royce Modifications

Two commenters request that the FAA reconsider its position not to require accomplishment of the engine modifications described in two Rolls-Royce Service Bulletins DA72–198 (Modification 1232) and DA72–348 (Modification 1550) in this proposed AD. The commenters state that these modifications are necessary for engines installed on the affected airplanes, and should be required prior to inflight operation with the HPC levers in the lockout position (i.e., with permanent cruise pitch lock-out).

Modification 1550 enables the propeller to be feathered automatically in the event of a gearbox disconnect. One commenter states that, with the advent of Fokker Service Bulletin F27/61–40 and the related Dutch airworthiness directive, the safety feature incurred by the cruise pitch lock (in relation to potential gearbox disconnect) is now proposed to be inhibited in order to prevent cruise pitch lock ''hang-ups''. The commenter considers that, under these circumstances, Modification 1550 in particular is now an extremely important safety feature for engine and propeller integrity. The commenter notes that this view was accepted by the Civil Aviation Authority (CAA) of the United Kingdom (with Modification 1550 now mandatory for all Dart installations), and by the Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands.

The FAA infers that the commenters are requesting that the referenced Rolls-Royce modifications be mandated and be included in this AD; the FAA partially concurs. Although the original intent of the modifications was to auto-feather the propeller in the event of an annulus gear failure and thereby limit secondary damage to the engine, the FAA acknowledges that the Rolls-Royce engine modifications are considered to be an additional safety feature relative to the actions required by this AD.

After further discussions with the RLD, the manufacturer, and the FAA Engine and Propeller Directorate, the FAA will consider rulemaking to require these modifications. However, since these engine modifications are not intended to address the identified unsafe condition of this AD, and to prevent further delay in the issuance of this final rule, any such requirement will be addressed in separate rulemaking action, rather than under the auspices of this AD. No change to the final rule is made in this regard.

Statement of Unsafe Condition

One commenter, the manufacturer, notes that the proposed AD incorrectly states that malfunctions of the automatic and manual cruise lock withdrawal system can cause engine ''overspeed and burnout''; the commenter requests that this statement be corrected. The commenter states that such a malfunction will not cause an engine overspeed condition, but will only cause an engine turbine burnout. Additionally, the actions required by the proposed AD (operation with the HPC levers in the lockout position) will only prevent an engine turbine burnout. The FAA acknowledges that the information provided by the commenter is correct and has revised the final rule accordingly.

Correction of Manufacturer's Address

One commenter, the manufacturer, informs the FAA that its address has been changed and requests that the proposed AD be revised to provide the correct address for obtaining service information. The FAA has made this change in the final rule.

Conclusion

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

Cost Impact

The FAA estimates that 34 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required AFM revision, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,040, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–18–22 Fokker: Amendment 39–11288. Docket 98–NM–364–AD.

Applicability: Model F27 series airplanes, as listed in Fokker F27 Service Bulletin F27/61–40, Revision 1, dated August 1, 1997; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent turbine burnout of the engines during flight by ensuring that the high pressure cock (HPC) levers are in a permanent lockout position, accomplish the following:

AFM Revision

(a) Within 6 months after the effective date of this AD: Revise the Emergency, Normal, and Abnormal Procedures Sections, as applicable, of the FAA-approved Airplane Flight Manual (AFM) by incorporation of Fokker F27 Service Bulletin F27/61–40,

Revision 1, dated August 1, 1997; including Fokker F27 Manual Change Notification (MCNO) F27–001, dated June 30, 1997. [MCNO F27–001 specifies procedures for placing the HPC levers in a permanent lockout position (with the cruise lock withdrawal system disabled) during operation of the airplane.] This action may be accomplished by inserting a copy of the MCNO into the AFM.

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 Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 1: 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.

Incorporation by Reference

(d) The actions shall be done in accordance with Fokker F27 Service Bulletin F27/61–40, Revision 1, dated August 1, 1997; including Fokker F27 Manual Change Notification (MCNO) F27–001, dated June 30, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, The Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Dutch airworthiness directive 1996–130 (A), dated October 31, 1996.

(e) This amendment becomes effective on October 8, 1999.

Issued in Renton, Washington, on August 27, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–22920 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–112–AD; Amendment 39–11287; AD 99–18–21]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that requires a one-time inspection of the propeller de-ice system to verify the proper functioning of the engine indication and crew alert system (EICAS) for the de-ice system; and corrective action, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the EICAS to provide a warning to the flightcrew in the event of failure of the propeller de-ice system, which could result in damage to the airplane and consequent loss of controllability of the airplane.

DATES: Effective October 8, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 8, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Dornier Model 328–100 series airplanes was published in the **Federal Register** on May 28, 1998 (63 FR 29150). That action proposed to require a one-time inspection of the propeller de-ice system to verify the proper functioning of the engine indication and crew alert system (EICAS) for the de-ice system; and corrective action, if necessary.

Comments Received

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

Request To Revise Applicability of Proposed AD

The manufacturer requests that the applicability statement of the proposed AD be limited only to airplanes on which Dornier Alert Service Bulletin ASB–328–30–013, Revision 1, dated February 21, 1997 has not been accomplished. This service bulletin was referenced in the proposed AD as the appropriate source of service information for accomplishment of the inspection. The manufacturer provides a compliance record of those airplanes on which the alert service bulletin has been accomplished, stating that 46 of 50 affected U.S.-registered airplanes are in full compliance with the referenced alert service bulletin, and that the remaining airplanes are scheduled to comply soon. The manufacturer notes that it continually strives to encourage compliance of manufacturer-recommended service bulletins. However, limiting the applicability as stated would encourage operators to follow its recommendations in the future.

The FAA concurs with the commenter's request. The FAA notes that such a change to the applicability is not strictly necessary, since the Compliance portion of the AD states ''Required as indicated, unless accomplished previously''. However, if the actions required by this AD have been accomplished on an airplane, that airplane is no longer subject to the unsafe condition that these requirements are intended to prevent, and does not need to be included in the applicability of this AD. The FAA has limited the applicability of the final rule to exclude airplanes on which Dornier Alert Service Bulletin ASB–328–30–013, Revision 1, dated February 21, 1997, has been accomplished.

Request To Include Manufacturer's Approved Repairs

One commenter states that the wording in paragraph (b) of the proposed AD places the FAA into an active role of participating in the

inspection task, and requests that the FAA revise the paragraph to specifically reference or incorporate troubleshooting instructions that respond to a finding of a ''typical malfunction.'' Paragraph (b) of the proposed AD requires, ''prior to further flight, repair of the EICAS in accordance with a method approved by the FAA''. Since operators routinely schedule AD-related tasks on weekends or overnights, it is most likely that an operator who finds a discrepancy or has an unconfirmed discrepancy will incur a sizable delay or cancellation, because the responsible FAA staff cannot be contacted in time. The commenter suggests that the FAA obtain the additional repair instructions by coordinating this request with the airplane manufacturer prior to issuance of the final rule.

The FAA does not concur with the commenter's request. Specific repair instructions were not included in the referenced service bulletin, and were not made available by the manufacturer following issuance of the NPRM, so cannot be included in this AD. However, in light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements with Germany, the FAA has determined that, for this AD, repairs may also be approved by the Luftfahrt-Bundesamt (LBA) (or its delegated agent), which is the airworthiness authority for Germany. Allowing repairs to be approved by the LBA will provide operators with additional means to quickly obtain an approved repair. Paragraph (b) of the final rule has been revised accordingly.

Conclusion

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

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,000, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–18–21 Dornier Luftfahrt GmbH: Amendment 39–11287. Docket 98–NM–112–AD.

Applicability: Model 328–100 series airplanes, except those on which Dornier Alert Service Bulletin ASB–328–30–013, Revision 1, dated February 21, 1997, 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 failure of the engine indication and crew alert system (EICAS) to provide a warning to the flightcrew in the event of failure of the propeller de-ice system, which could result in damage to the airplane and consequent loss of controllability of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time inspection of the propeller de-ice system to verify the proper functioning of the EICAS for the de-ice system, in accordance with Dornier Alert Service Bulletin ASB–328–30–013, Revision 1, dated February 21, 1997.

(b) If the inspection required by paragraph (a) of this AD indicates that the EICAS is malfunctioning, prior to further flight, repair the EICAS in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Luftfahrt-Bundesamt (or its delegated agent).

(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. 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.

(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.

(e) The inspection shall be done in accordance with Dornier Alert Service Bulletin ASB–328–30–013, Revision 1, dated February 21, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal

Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directive 97–066, dated March 13, 1997.

(f) This amendment becomes effective on October 8, 1999.

Issued in Renton, Washington, on August 27, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–22923 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–69–AD; Amendment 39–11289; AD 99–18–23]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas MD–90–30 series airplanes, that requires revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness [MD–90–30 Airworthiness Limitations Instructions (ALI)] to incorporate certain replacement times for safe-life limited parts. This amendment is prompted by analysis of data that identified reduced replacement times for certain safe-life limited parts. The actions specified by this AD are intended to prevent fatigue cracking of various safe-life limited parts; such fatigue cracking could adversely affect the structural integrity of these airplanes.

DATES: Effective October 8, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 8, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from The Boeing Company, Douglas Products 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5237; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas MD–90–30 series airplanes was published in the **Federal Register** on March 2, 1999 (64 FR 10113). That action proposed to require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness [MD–90–30 Airworthiness Limitations Instructions (ALI)] to incorporate certain replacement times for safe-life limited parts.

Comments

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

Support for the Proposal

One commenter supports the proposed rule.

Request To Withdraw Proposed AD

One commenter states that timely incorporation of revisions to the ALI may be secured by processes other than the issuance of an AD. The commenter contends that the proposed AD places an unnecessary burden on engineering and maintenance personnel and defeats the regulatory mandates that are currently in place by standing Federal Aviation Regulations (FAR). The ALI is currently monitored and revised as new revisions are issued and made available by the manufacturer. This practice is duplicated with other similar maintenance and operational documents, including, but not limited to, aircraft maintenance manuals, flight manuals, pilot's operating handbooks, and aircraft service bulletins. The commenter also states that Model MD–90 series airplanes are operated in accordance with the Type Certificate (TC) of the aircraft. In order to adhere to operation of the aircraft in accordance with the TC, the commenter asserts that it is clear to operators that the ALI and its subsequent revisions must be considered and accomplished concurrent with any other requirement specified within the parameters of the TC.

From this comment, the FAA infers that the commenter is requesting that the proposed AD be withdrawn. The FAA does not concur. In accordance with the airworthiness standards requiring ''damage tolerance assessments'' (current Section 1529 of 14 CFR parts 23, 25, 27, and 29; Section 4 of 14 CFR parts 33 and 35; Section 82 of 14 CFR part 31; and the Appendices referenced in those sections), all products certificated to comply with those sections must have Instructions for Continued Airworthiness (or, for some products, maintenance manuals), that include an Airworthiness Limitations Section (ALS).

Based on in-service data or post certification testing and evaluation, the manufacturer may revise the ALS to include new or more restrictive life limits and inspections, or it may become necessary for the FAA to impose new or more restrictive life limits and structural inspections, in order to ensure continued structural integrity and continued compliance with damage tolerance requirements. However, in order to require compliance with these new inspection requirements and life limits for previously certificated airplanes, the FAA must engage in rulemaking. Because loss of structural integrity would constitute an unsafe condition, it is appropriate to impose these requirements through the AD process. Although prudent operators may already have incorporated the latest revisions of the ALI, issuance of this AD ensures that all operators take appropriate action to correct the identified unsafe condition. It should be noted that, simultaneously with the issuance of the AD, the responsible Aircraft Certification Office (ACO) will revise the TC data sheet for the product to indicate the change in the airworthiness limitations.

The practice of mandating ALS revisions has been used for several years and is not a novel or unique procedure. The FAA finds that requiring ALS revisions has the advantage of keeping all airworthiness limitations, whether imposed by original certification or by AD, in one place within the operator's maintenance program, thereby reducing the risk of non-compliance because of oversight or confusion. In some cases where there is a large fleet of airplanes with several small operators, it is possible that operators may not receive

revisions to the ALS documents. The AD process ensures that these operators are aware of the revisions to the ALS.

Request To Delete Paragraph (b) of the Proposed AD

One commenter states that the restriction imposed by paragraph (b) of the proposed AD does not take into consideration: (1) Any individual part with safe-life limits imposed by special analysis and approved by the manufacturer on an individual basis; or (2) future revision of the safe-life limits section of the ALI. The commenter also states that the proposed AD would ultimately requires that each part be analyzed by the manufacturer (and subsequently approved with a safe-life limit deviation from the ALI) and submitted to the FAA for approval as an alternative method of compliance (AMOC).

From this comment, the FAA infers that the commenter is requesting that paragraph (b) of the proposed AD be deleted. The FAA does not concur. Paragraph (b) is necessary because section 91.403 of the FAR would otherwise permit operation in accordance with alternative inspection intervals set forth in approved operations specifications or inspection programs, which might conflict with the intervals referenced in this AD. However, under the provisions of paragraph (c) of the final rule, the FAA may approve requests for AMOC's or adjustments to the compliance time if data are submitted to substantiate that such a method or adjustment would provide an acceptable level of safety.

In addition, the FAA agrees with the commenter that any reduction or expansion to the safe-life limits has to be coordinated between the operator, manufacturer, and the FAA. However, the FAA finds that this will not impose a significant burden because such changes must already be FAA-approved.

Conclusion

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

Cost Impact

There are approximately 150 airplanes of the affected design in the worldwide fleet. The FAA estimates that 100 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $6,000, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–18–23 McDonnell Douglas: Amendment 39–11289. Docket 98–NM–69–AD.

Applicability: All Model MD–90–30 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 fatigue cracking of various safe-life limited parts, which could adversely affect the structural integrity of these airplanes, accomplish the following:

(a) Within 180 days after the effective date of this AD, revise the Airworthiness Limitations Section of the Instructions for Continued Airworthiness [Airworthiness Limitations Instructions (ALI), McDonnell Douglas Report No. MDC–94K9000, dated November 1994] to incorporate the Part Number, Item, and Mandatory Replacement Time of certain safe-life limited parts by inserting a copy of Revision 3, dated November 1997, into the ALI.

(b) Except as provided by paragraph (c) of this AD: After the actions specified in paragraph (a) of this AD have been accomplished, no alternative replacement times may be approved for the safe-life limited parts specified in McDonnell Douglas ALI Report No. MDC–94K9000, Revision 3, dated November 1997.

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, the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: 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

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

Incorporation by Reference

(e) The ALI revision shall be done in accordance with McDonnell Douglas Airworthiness Limitations Instructions Report No. MDC–94K9000, Revision 3, dated November 1997, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
List of Effective Pages	Not Shown	November 1997.

(Note: The revision level is indicated only on the Title page; no other page contains this information.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 8, 1999.

Issued in Renton, Washington, on August 27, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–22922 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–54–AD; Amendment 39–11286; AD 99–18–20]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–50, –80A1/A3, and –80C2A Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to General Electric Company (GE) CF6–50, –80A1/A3, and –80C2A series turbofan engines installed on Airbus A300 and A310 series airplanes, that requires initial and repetitive thrust reverser inspections and checks, and allows extended repetitive inspection intervals if an optional double p-seal configuration is installed. This amendment is prompted by the report of a higher than anticipated center drive unit (CDU) cone brake failure rate which reduces the overall thrust reverser system protection against inadvertent deployment. The actions specified by this AD are intended to prevent inadvertent in-flight thrust reverser deployment, which can result in loss of control of the airplane.

DATES: Effective November 2, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 2, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Middle River Aircraft Systems, Mail Point 46, 103 Chesapeake Park Plaza, Baltimore, MD, 21220–4295, attn: Warranty Support, telephone: (410) 682–0094, fax: (410) 682–0100. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William S. Ricci, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7742, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–50, –80A1/A3, and –80C2A series turbofan engines installed on Airbus A300 and A310 series airplanes was published in the **Federal Register** on February 23, 1999 (64 FR 8762). That action proposed to require initial and repetitive thrust reverser inspections and checks, and allow extended repetitive inspection intervals if an optional double p-seal configuration is installed.

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

One commenter requests an initial inspection interval of at least 860 hours time-in-service (TIS). The commenter states that it performs B-checks at intervals of 430 hours TIS and opens the fan reverser at every other B-check (at intervals of 860 hours TIS) for engine accessibility. The FAA does not concur. The thrust reverser system safety analysis indicates that extending the initial compliance interval would increase the probability of an inadvertent deployment of the thrust reverser in-flight and provide an unacceptable level of safety. The FAA determined the need to establish system integrity in the fleet, and the 600 hour TIS initial compliance interval for CF6–80C2A series engines provides that level of safety. The desire to conform inspections to an operator's scheduled maintenance, by itself, is not sufficient to change the initial inspection interval.

One commenter requests inspections performed in accordance with Revision 1 of Middle River Aircraft Systems CF6–80A1/A3 Service Bulletin (SB) No. 78–1002 be accepted for compliance with the proposed rule. The FAA does not concur. Revision 3 of SB No. 78–1002 includes inspections of electrical cables, the aft frame, and the ball screw housing that are not included in earlier revisions.

One commenter states that airplanes that have not had components removed, replaced, or modified which could alter the actuation system rigging, or that have undergone previous health check inspections, should not be required to have the fan reverser operational check portion of the initial inspection performed. The FAA does not concur. The purpose of a fan reverser operational check is to ensure that the system has been restored to operational status after inspections have been completed.

One commenter requests that the reporting requirement, contained in the Accomplishment Instructions of the SB, should be omitted from the proposed rule. The FAA does not concur. The instruction to report inspection results is to the manufacturer, not the FAA. The FAA did not impose a specific reporting requirement in the proposed rule. However, the FAA recommends reporting inspection results to the manufacturer in accordance with the SB, as reporting inspection results is important to ensure that the failure rate data used in the risk analysis to establish inspection requirements and intervals remain valid.

One commenter believes it is not necessary to start the engine to perform the operational check. The FAA concurs. Connection of an external pneumatic power source to the airplane ground connection, or auxiliary power unit (APU), in accordance with the

applicable aircraft maintenance manual, is allowed for fan reverser operational checks.

One commenter requests that specific revision numbers and part numbers be omitted from the proposed rule and that the phrase ''current or later revision'' be added. The FAA does not concur. It is the FAA's policy not to issue blanket approvals for documents that have not been published yet. Each document is reviewed individually to make sure it fulfills all requirements. Operators may request an alternate method of compliance (AMOC) to utilize later revisions of SBs in accordance with paragraph (b) of this final rule.

One commenter (the manufacturer of the thrust reverser system) requests that the mail stop and telephone number for its technical publications department be changed. The FAA concurs and the information has been changed in this final rule.

One commenter (the engine manufacturer) requests that the engine model designation of the GE CF6–80C2 engine be changed to –80C2A. The FAA concurs and this final rule has been corrected.

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

There are approximately 849 engines of the affected design in the worldwide fleet. The FAA estimates that 193 engines installed on aircraft of US registry will be affected by this AD, that it will take approximately 5 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on US operators is estimated to be $57,900.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–18–20 General Electric Company: Amendment 39–11286. Docket 98–ANE–54–AD.

Applicability: General Electric Company (GE) CF6–50, –80A1/A3, and –80C2A series turbofan engines, installed on Airbus A300 and A310 series airplanes.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 inadvertent in-flight thrust reverser deployment, which can result in loss of control of the airplane, accomplish the following:

(a) Perform initial and repetitive thrust reverser inspections and checks as follows:

(1) For GE CF6–50 series engines, perform inspections and checks in accordance with paragraph 2, Accomplishment Instructions, of Middle River Aircraft Systems CF6–50 Service Bulletin (SB) No. 78–3001, Revision 2, dated December 18, 1997, as follows:

(i) Perform the initial inspections and checks within 1,500 hours time-in-service (TIS) after the effective date of this AD.

(ii) Thereafter, perform inspections and checks at intervals not to exceed 6,000 hours TIS since last check.

(2) For CF6–80A1/A3 series engines, perform inspections and checks in accordance with paragraph 2, Accomplishment Instructions, of Middle River Aircraft Systems CF6–80A1/A3 SB No. 78–1002, Revision 3, dated January 21, 1999, as follows:

(i) Perform the initial inspections and checks within 1,500 hours TIS after the effective date of this AD.

(ii) Thereafter, perform inspections and checks at intervals not to exceed 7,000 hours TIS since last check.

(3) For CF6–80C2A series engines, perform inspections and checks in accordance with paragraph 2, Accomplishment Instructions, of Middle River Aircraft Systems CF6–80C2 Alert Service Bulletin (ASB) No. 78A1015, Revision 5, dated January 21, 1999, as follows:

(i) Perform the initial inspections and checks within 600 hours TIS after the effective date of this AD.

(ii) Thereafter, perform repetitive inspections and checks as follows:

(A) For engines with a double p-seal configuration, having translating cowl part numbers 491B1613000–109 or D52B1000–9, perform repetitive inspections and checks at intervals not to exceed 7,000 hours TIS since last inspection.

(B) For all other engines, perform repetitive inspections and checks at intervals not to exceed 600 hours TIS since last inspection.

(4) Perform corrective actions or deactivate the fan reverser in accordance with paragraph 2, Accomplishment Instructions, of the applicable SB or ASB prior to further flight.

(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, Engine Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(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 aircraft to a location where the requirements of this AD can be accomplished.

(d) The actions required by this AD shall be done in accordance with the following Middle River Aircraft Systems service documents:

Document No.	Pages	Revision	Date
CF6–50 SB 78–3001 ..... Total Pages: 43.	1–43	2	December 18, 1997.
CF6–80A1/A3 SB 78–1002 ..... Total Pages: 31.	1–31	3	January 21, 1999.
CF6–80C2 ASB 78A1015 ..... Total Pages: 32.	1–32	5	January 21, 1999.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Middle River Aircraft Systems, Mail Point 46, 103 Chesapeake Park Plaza, Baltimore, MD, 21220–4295, attn: Warranty Support, telephone: (410) 682–0094, fax: (410) 682–0100. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(e) This amendment becomes effective on November 2, 1999.

Issued in Burlington, Massachusetts, on August 26, 1999.

Jorge A. Fernandez,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–22967 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 92C–0348]

Listing of Color Additives for Coloring Bone Cement; FD&C Blue No. 2–Aluminum Lake on Alumina

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of FD&C Blue No. 2–Aluminum Lake on alumina to color bone cement. This action responds to a petition filed by Biomet, Inc. The agency also is transferring the listing for FD&C Blue No. 2 in sutures to reflect the suture in which this color additive is used are devices not drugs.

DATES: This regulation is effective October 5, 1999; except as to any provisions that may be stayed by the filing of proper objections; written objections and requests for a hearing by October 4, 1999.

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

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS–215), 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of November 19, 1992 (57 FR 54598), FDA announced that a color additive petition (CAP 2C0239) had been filed by Biomet, Inc., P.O. Box 587, Warsaw, IN 46581–0587. The petition proposed to amend the color additive regulations to provide for the safe use of FD&C Blue No. 2–Aluminum Lake to color bone cement. The petition was filed under section 706(d)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376(d)(1)), presently designated as 721(d)(1) of the act (21 U.S.C. 379e(d)(1)).

The agency is changing the name of the color additive used in the filing notice to FD&C Blue No. 2–Aluminum Lake on alumina to make it conform to the nomenclature proposed for the permanent listing of color additive lakes (61 FR 8372, March 4, 1996). To reflect that sutures in which this color additive is used are devices, not drugs, the agency also is transferring the listing for the use of FD&C Blue No. 2 in sutures from § 74.1102 *FD&C Blue No. 2* (21 CFR 74.1102) under subpart B—Drugs to new § 74.3102 *FD&C Blue No. 2* (21 CFR 74.3102) under subpart D—Medical Devices and is making nonsubstantive amendments to § 74.1102. This transfer will provide for all medical device uses of FD&C Blue No. 2 and its lake to be listed uniformly and more correctly under subpart D—Medical Devices. Section 74.1102(c)(1)(iv) is being removed because it is no longer applicable.

The Medical Device Amendments (Public Law 94–295) (the amendments) were enacted into law on May 28, 1976, to provide a comprehensive system of regulation for devices. These amendments (21 U.S.C. 321, *et seq.*) expanded the definition of device, under section 201(h) of the act (21 U.S.C. 321(h)), to include many products that were previously regarded as drugs. These products are known as ''transitional'' devices and are subject to regulation under section 520(l) of the act (21 U.S. C. 360j(l)). In the **Federal Register** of December 16, 1977 (42 FR 63472), FDA published a notice listing those products that had previously been considered to be drugs that FDA now considered to be devices under the amendments. FDA listed nonabsorbable surgical sutures, and absorbable surgical sutures as transitional devices in the December 1977 notice (42 FR 63472 at 63474). Various types of surgical sutures are classified as devices in 21 CFR 878.4493, 878.4830, 878.5000, 878.5010, 878.5020, and 878.5030. Because all surgical sutures are regulated as devices, FDA is redesignating its listing of FD&C Blue No. 2 in sutures from § 74.1102 under subpart B—Drugs to new § 74.3102 under subpart D—Medical Devices.

II. Regulatory History and Current Listings

In a final rule published in the **Federal Register** on February 13, 1971 (36 FR 2967), FDA added 21 CFR 8.4022 (presently § 74.1102) to list FD&C Blue No. 2 for use to color nylon sutures for general surgery. In this final rule, FDA also added specifications for FD&C Blue No. 2 for use to color sutures.

In the **Federal Register** of February 4, 1983 (48 FR 5252), FDA issued a final rule adding § 74.102 and amending § 74.1102 to permanently list the color additive FD&C Blue No. 2 for use in food and ingested drugs, respectively. In the February 4, 1983, final rule, FDA also added new specifications for FD&C Blue No. 2 for use in food and ingested drugs that identified the color additive more precisely than those specifications that had previously been included in the provisional listing for FD&C Blue No. 2 in 21 CFR part 82. Further, to provide adequate assurance of safety, the agency specified in the February 4, 1983, final rule (48 FR 5252 at 5259–5260), through a general description, the manufacturing process for FD&C Blue No. 2.

III. Applicability of the Act

With the passage of the Medical Device Amendments of 1976 (Public

Law 94–295), Congress mandated the listing of color additives for use in medical devices when the color additive in the device comes into direct contact with the body for a significant period of time (section 721(a) of the act). The color additive FD&C Blue No. 2–Aluminum Lake on alumina is added to bone cement in such a way that at least some of the color additive will come into contact with the body for a significant period of time when the bone cement is in place. In addition, the bone cement may be used in permanent joint replacements. Thus, for both of these uses, the color additive FD&C Blue No. 2–Aluminum Lake on alumina will be in direct contact with the body for a significant period of time. Consequently, the petitioned use of the color additive is subject to the statutory listing requirement.

IV. The Color Additive

The color additive that is the subject of this rule, FD&C Blue No. 2–Aluminum Lake on alumina (CAS Reg. No. 16521–38–3), is the aluminum salt of the color additive FD&C Blue No. 2, extended on a substratum of alumina. The aluminum salt is formed when FD&C Blue No. 2 is mixed with aluminum sulfite, sodium carbonate, and water. The color additive FD&C Blue No. 2 is identified in § 74.102(a)(1).

V. Safety Evaluation

FDA estimates that the petitioned use of the additive, FD&C Blue No. 2–Aluminum Lake on alumina, at a level not to exceed 0.1 percent by weight of the bone cement, would result in exposure no greater than 90 micrograms per person over a 70-year lifetime or an ''estimated daily intake'' of 3 nanograms per person per day. Actual exposure to the subject color additive from the proposed use is expected to be significantly lower, because lakes are deliberately formulated to be insoluble and the petitioner submitted data to demonstrate that FD&C Blue No. 2–Aluminum Lake on alumina does not leach from cured bone cement in detectable quantities under simulated conditions of use.

To establish the safety of FD&C Blue No. 2–Aluminum Lake on alumina, the petitioner has submitted data from muscle implantation tests on the bone cement in rabbits, intraperitoneal toxicity studies of the cement in dogs, intracutaneous testing of cement extracts in rabbits, and cytotoxicity tests. No adverse effects attributable to FD&C Blue No. 2–Aluminum Lake on alumina were reported in these studies. Feeding studies available in agency files with the straight color, FD&C Blue No. 2, also demonstrated no adverse effects. The dietary route of exposure utilized in these studies with FD&C Blue No. 2 is not comparable to the route of exposure from the proposed use of FD&C Blue No. 2–Aluminum Lake on alumina in bone cement, but the absence of adverse effects associated with exposure to FD&C Blue No. 2 helps to mitigate concern for systemic toxicity from the use of FD&C Blue No. 2–Aluminum Lake on alumina in bone cement. Based on review of all available toxicological data on FD&C Blue No. 2 and FD&C Blue No. 2–Aluminum Lake on alumina, the agency concludes that the limited exposure resulting from the proposed use of FD&C Blue No. 2–Aluminum Lake on alumina in bone cement is safe.

VI. Conclusions

FDA has evaluated the data and information in the petition and other relevant material. Based on this information the agency concludes that: (1) The proposed use of FD&C Blue No. 2–Aluminum Lake on alumina, at a level not to exceed 0.1 percent by weight of the bone cement, to color bone cement is safe; and (2) the color additive will achieve its intended coloring effect, and thus, is suitable for this use. Further, the agency concludes that the color additive regulations in part 74 (21 CFR part 74) should be amended as set forth below.

To reflect that sutures in which this color additive is used are devices, not drugs, the agency is redesignating the current listing for the use of the color additive FD&C Blue No. 2 in sutures from § 74.1102, subpart B—Drugs to new § 74.3102, subpart D—Medical Devices and is making nonsubstantive amendments to § 74.1102.

VII. Inspection of Documents

In accordance with § 71.15 (21 CFR 71.15), 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 § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VIII. Environmental Impact

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.

IX. Paperwork Reduction Act of 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.

X. Objections

Any person who will be adversely affected by this regulation may at any time on or before October 4, 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 particularity 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 a 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. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 74 is amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1.The authority citation for 21 CFR part 74 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

§ 74.1102 [Amended]

2. Section 74.1102 *FD&C Blue No. 2* is amended by removing paragraphs (b)(1) and (c)(1); and by redesignating paragraphs (b)(2) and (c)(2) as paragraphs (b) and (c) respectively.

3. Section 74.3102 is added to subpart D to read as follows:

§ 74.3102 FD&C Blue No. 2.

(a) *Identity.* The color additive FD&C Blue No. 2 shall conform in identity to the requirements of § 74.102(a)(1).

(b) *Specifications.* (1) The color additive FD&C Blue No. 2 for use in coloring surgical sutures shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Sum of volatile matter at 135 °C (275 °F) and chlorides and sulfates (calculated as sodium salts), not more than 15 percent.

Water insoluble matter, not more than 0.4 percent.

Isatin-5-sulfonic acid, not more than 0.4 percent.

Isomeric colors, not more than 18 percent.

Lower sulfonated subsidiary colors, not more than 5 percent.

Lead (as Pb), not more than 10 parts per million.

Arsenic (as As), not more than 3 parts per million.

Total color, not less than 85 percent.

(2) The color additive FD&C Blue No. 2–Aluminum Lake on alumina for use in bone cement shall be prepared in accordance with the requirements of § 82.51 of this chapter.

(c) *Uses and restrictions.* (1) The color additive FD&C Blue No. 2 may be safely used for coloring nylon (the copolymer of adipic acid and hexamethylene diamine) surgical sutures for use in general surgery subject to the following restrictions:

(i) The quantity of color additive does not exceed 1 percent by weight of the suture;

(ii) The dyed suture shall conform in all respects to the requirements of the United States Pharmacopeia XX (1980); and

(iii) When the sutures are used for the purposes specified in their labeling, the color additive does not migrate to the surrounding tissues.

(2) The color additive FD&C Blue No. 2–Aluminum Lake on alumina may be safely used for coloring bone cement at a level not to exceed 0.1 percent by weight of the bone cement.

(3) Authorization and compliance with these uses shall not be construed as waiving any of the requirements of sections 510(k), 515, and 520(g) of the Federal Food, Drug, and Cosmetic Act with respect to the medical device in which the color additive FD&C Blue No. 2 and the color additive FD&C Blue No. 2–Aluminum Lake on alumina are used.

(d) *Labeling.* The labels of the color additive FD&C Blue No. 2 and the color additive FD&C Blue No. 2–Aluminum Lake on alumina shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of FD&C Blue No. 2 and its lake shall be certified in accordance with regulations in part 80 of this chapter.

Dated: August 25, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–22994 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 99F–1420]

Indirect Food Additives: Adhesives and Components of Coatings

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 butylated reaction product of *p*-cresol and dicyclopentadiene as an antioxidant in pressure-sensitive adhesives intended for use in contact with food. This action responds to a petition filed by Goodyear Tire and Rubber Co.

DATES: This regulation is effective September 3, 1999. Submit written objections and requests for a hearing by October 4, 1999.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** May 26, 1999 (64 FR 28500), FDA announced that a food additive petition (FAP 9B4663) had been filed by Goodyear Tire and Rubber Co., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 175.125 *Pressure-sensitive adhesives* (21 CFR 175.125) to provide for the safe use of butylated reaction product of *p*-cresol and dicyclopentadiene as an antioxidant in pressure-sensitive adhesives intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) the regulations in § 175.125 should be amended as set forth below.

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.

The agency has previously considered the environmental effects of this final rule as announced in the Notice of Filing for FAP 9B4663 (64 FR 28500). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

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.

Any person who will be adversely affected by this regulation may at any time on or before October 4, 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 particularity 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 a 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.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

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

2. Section 175.125 is amended in paragraph (b)(2) by alphabetically adding an entry to read as follows:

§ 175.125 Pressure-sensitive adhesives.

* * * * *

(b) * * *

(2) * * *

Butylated reaction product of *p*-cresol and dicyclopentadiene produced by reacting *p*-cresol and dicyclopentadiene in an approximate mole ratio of 1.5 to 1.0, respectively, followed by alkylation with isobutylene so that the butyl content of the final product is not less than 18 percent, for use at levels not to exceed 1.0 percent by weight of the adhesive formulation.

* * * * *

Dated: August 26, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–22996 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 98F–1122]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

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 dimethylolpropionic acid as a pigment dispersant for pigments used as components of food-contact articles. This action is in response to a petition filed by Geo Specialty Chemicals.

DATES: This regulation is effective September 3, 1999. Submit written objections and requests for a hearing October 4, 1999.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December, 14, 1998 (63 FR 68777), FDA announced that a food additive petition (FAP 9B4637) had been filed by Geo Specialty Chemicals, c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 178.3725 *Pigment dispersants* (21 CFR 178.3725) to provide for the safe use of dimethylolpropionic acid as a dispersant for pigments used as components of food-contact articles.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) the regulations in § 178.3725 should be amended as set forth below.

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.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 9B4637 (63 FR 68778). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

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

Any person who will be adversely affected by this regulation may at any time on or before October 4, 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 particularity 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 a 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.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

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

2. Section 178.3725 is amended in the table by alphabetically adding an entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 178.3725 Pigment dispersants.

* * * * *

Substances	Limitations
Dimethylolpropionic acid (CAS Reg. No. 4767–03–7).	For use only at levels not to exceed 0.45 percent by weight of the pigment. The pigmented articles may contact all foods under conditions of use A through H as described in Table 2 of § 176.170(c) of this chapter.
* * * * * * *	

Dated: August 26, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–23001 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 98F–0893]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

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 siloxanes and silicones, methyl hydrogen, reaction products with 2,2,6,6-tetramethyl-4-(2-propenyloxy)piperidine as an ultraviolet (UV) stabilizer for polypropylene intended for use in contact with food. This action responds to a petition filed by Great Lakes Chemical Corp.

DATES: This regulation is effective September 3, 1999. Submit written objections and requests for a hearing by October 4, 1999.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 21, 1998 (63 FR 56197), FDA announced that a food additive petition (FAP 8B4633) had been filed by Great Lakes Chemical Corp., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of siloxanes and silicones, methyl hydrogen, reaction products with 2,2,6,6-tetramethyl-4-(2-propenyloxy)piperidine as a UV stabilizer for high density polyethylene and polypropylene intended for use in contact with food.

The petition was subsequently amended to request the use of the additive only in polypropylene, at a maximum level of use of 0.33 percent by weight of the polymer. Because the request to amend the petition is for a use that is within the scope of the filing notice of October 21, 1998, the agency determined that an amended filing notice was not required. Accordingly, the regulation in this document provides for the amended clearance sought by the petitioner.

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) the proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) the regulations in § 178.2010 should be amended as set forth below.

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.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 8B4633 (63 FR 56197). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

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.

Any person who will be adversely affected by this regulation may at any time on or before October 4, 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 particularity 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 a 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.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS.

1. The authority citation for 21 CFR part 178 continues to read as follows:

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

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding an entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * * *
Siloxanes and silicones, methyl hydrogen, reaction products with 2,2,6,6-tetramethyl-4-(2-propenyloxy)piperidine (CAS Reg. No. 182635–99–0).	For use as an ultraviolet (UV) stabilizer only at levels not to exceed 0.33 percent by weight of polypropylene complying with § 177.1520(c) of this chapter, items 1.1a, 1.1b, 1.2, and 1.3, under conditions of use D, E, F, and G, as described in Table 2 of § 176.170 of this chapter.
* * *	* * * *

Dated: August 26, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–23000 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

Implantation or Injectable Dosage Form New Animal Drugs; Estradiol and Testosterone, Progesterone and Estradiol, Trenbolone, and Trenbolone and Estradiol, With Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of four supplemental applications filed by Ivy Laboratories, Div. of Ivy Animal Health, Inc., two supplemental new animal drug applications (NADA's) and two supplemental abbreviated new animal drug applications (ANADA's). The supplemental applications provide for addition of tylosin as a local antibacterial to estradiol/testosterone, progesterone/estradiol, trenbolone, and trenbolone/estradiol cattle ear implants. The products are subcutaneous implants for cattle for weight gain and/or feed efficiency.

EFFECTIVE DATE: SEPTEMBER 3, 1999.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0217.

SUPPLEMENTARY INFORMATION: Ivy Laboratories, Div. of Ivy Animal Health, Inc., 8857 Bond St., Overland Park, KS 66214, filed the following applications:

Supplemental NADA 110–315 for Component® E–S with Tylan® implant (200 milligrams (mg) progesterone and 20 mg estradiol benzoate in eight pellets with 29 mg tylosin tartrate in one pellet) for increased rate of weight gain and improved feed efficiency in steers weighing 400 pounds (lb) or more, and Component E–C® with Tylan® implant (100 mg progesterone and 10 mg estradiol benzoate in four pellets with 29 mg tylosin tartrate in one pellet) for increased rate of weight gain in suckling beef calves up to 400 lb of body weight.

Supplemental NADA 135–906 for Component® E–H with Tylan® implant (20 mg estradiol benzoate and 200 mg testosterone propionate in eight pellets with 29 mg tylosin tartrate in one pellet) for growth promotion and improved feed efficiency in heifers weighing 400 lb or more.

Supplemental ANADA 200–221 for Component® TE–S with Tylan® implant (120 mg trenbolone acetate and 24 mg estradiol in six pellets with 29 mg tylosin tartrate in one pellet) for increased rate of weight gain and improved feed efficiency in feedlot steers.

Supplemental ANADA 200–224 for Component® T–S with Tylan® implant and Component® T–H with Tylan® implant. Component® T–S with Tylan® implant contains 140 mg trenbolone acetate in seven pellets and 29 mg tylosin tartrate in one pellet. It is used for improved feed efficiency in growing-finishing feedlot steers. It should be reimplanted once after 63 days. Component® T–H with Tylan® implant contains 200 mg trenbolone acetate in 10 pellets and 29 mg tylosin tartrate in 1 pellet. It is used for increased rate of weight gain and improved feed efficiency in growing-finishing feedlot heifers. It should be used in feedlot heifers only, during approximately the last 63 days prior to slaughter.

The supplements are approved as of July 20, 1999, and the regulations are amended in § 522.842 (21 CFR 522.842) and 21 CFR 522.1940, 522.2476, and 522.2477 to reflect the approvals. The basis of approval is discussed in the freedom of information summaries.

Also, § 522.842 is amended to remove several outdated paragraphs.

In addition, the sponsor has informed FDA of the change of corporate name to Ivy Laboratories, Div. of Ivy Animal Health, Inc. FDA is amending 21 CFR 510.600(c) to reflect the new name.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of each supplement 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.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), these approvals for food producing animals qualify for 3 years of marketing exclusivity beginning July 20, 1999, because the supplemental applications contain substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for the approvals and conducted or sponsored by the applicant. The 3 years of marketing exclusivity apply only to the addition of tylosin tartrate to the implants as a local antibacterial.

FDA has carefully considered the potential environmental effects of these actions. FDA has concluded that the actions 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.

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

List of Subjects

21 CFR Part 510

Administrative practices and procedures, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) in the entry for ''Ivy Laboratories, Inc.'' and in paragraph (c)(2) in the entry for ''021641'' by removing the sponsor name and adding in its place ''Ivy Laboratories, Div. of Ivy Animal Health, Inc.''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

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

4. Section 522.842 is amended by removing and reserving paragraph (a) and removing paragraph (e), by revising paragraph (b) and the introductory text of paragraph (d), by redesignating paragraph (d)(1) as paragraph (d)(1)(i) and by adding paragraph (d)(1)(ii) to read as follows:

§ 522.842 Estradiol benzoate and testosterone propionate in combination.

(a) [Reserved]

(b) *Sponsors.* See 000856 in § 510.600(c) of this chapter for use as in paragraph (d)(1)(i), (d)(2), and (d)(3) of this section. See 021641 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

* * * * *

(d) *Conditions of use—Heifers.* For implantation as follows:

(1) *Amount.* (i) 20 milligrams estradiol benzoate and 200 milligrams testosterone propionate in eight pellets per implant dose.

(ii) 20 milligrams estradiol benzoate and 200 milligrams testosterone propionate in eight pellets with 29 milligrams tylosin tartrate as a local antibacterial in one pellet, per implant dose.

* * * * *

5. Section 522.1940 is amended by revising paragraph (b); by redesignating paragraphs (d)(1)(i) and (d)(2)(i) as paragraphs (d)(1)(i)(A) and (d)(2)(i)(A); by revising newly redesignated (d)(1)(i)(A) and (d)(2)(i)(A); and by adding paragraphs (d)(1)(i)(B), and (d)(2)(i)(B) to read as follows:

§ 522.1940 Progesterone and estradiol benzoate in combination.

* * * * *

(b) *Sponsors.* See 000856 in § 510.600(c) of this chapter for use as in paragraphs (d)(1)(i)(A), (d)(1)(ii), (d)(1)(iii), (d)(2)(i)(A), (d)(2)(ii), (d)(2)(iii), and (d)(3) of this section. See 021641 in § 510.600(c) of this chapter for use as in paragraphs (d)(1) and (d)(2)(i) through (d)(2)(iii)(A) of this section.

* * * * *

(d) * * *

(1) *Suckling beef calves*—(i) *Amount.* (A) 100 milligrams of progesterone and 10 milligrams of estradiol benzoate in four pellets per implant dose.

(B) 100 milligrams of progesterone and 10 milligrams of estradiol benzoate in four pellets with 29 milligrams of tylosin tartrate as a local antibacterial in one pellet per implant dose.

* * * * *

(2) *Steers*—(i) *Amount*—(A) 200 milligrams of progesterone and 20 milligrams estradiol benzoate in eight pellets per implant dose.

(B) 200 milligrams progesterone and 20 milligrams estradiol benzoate in eight pellets with 29 milligrams tylosin tartrate as a local antibacterial in one pellet per implant dose.

* * * * *

6. Section 522.2476 is amended by revising paragraph (b), by redesignating the text of paragraphs (d)(1) and (d)(2) as paragraphs (d)(1)(i) and (d)(2)(i), and by adding paragraphs (d)(1)(ii) and (d)(2)(ii) to read as follows:

§ 522.2476 Trenbolone acetate.

* * * * *

(b) *Sponsors.* See 012579 in § 510.600(c) of this chapter for use as in paragraphs (d)(1)(i), (d)(2)(i), and (d)(3) of this section. See 021641 in § 510.600(c) of this chapter for use as in paragraphs (d)(1), (d)(2), and (d)(3) of this section.

* * * * *

(d) * * *

(1) * * *

(ii) 200 milligrams trenbolone acetate (10 pellets of 20 milligrams each) with 29 milligrams tylosin tartrate as a local antibacterial (1 pellet) per implant dose, for increased rate of weight gain and improved feed efficiency in growing-finishing feedlot heifers. Use last 63 days prior to slaughter.

(2) * * *

(ii) 140 milligrams trenbolone acetate (seven pellets of 20 milligrams each) with 29 milligrams tylosin tartrate as a local antibacterial (one pellet) per implant dose, for improved feed efficiency in growing-finishing feedlot steers. Use 126 days prior to slaughter. Should be reimplanted once 63 days prior to slaughter.

* * * * *

7. Section 522.2477 is amended by redesignating paragraphs (a), (b), (c), and (c)(1)(i) as paragraphs (b), (c), (d), and (d)(1)(i)(A); by reserving paragraph (a); by revising newly redesignated paragraph (b); and by adding paragraph (d)(1)(i)(B) to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

(a) [Reserved]

(b) *Sponsors.* See 012579 in § 510.600(c) of this chapter for use as in paragraphs (d)(1)(i)(A), (d)(1)(ii), (d)(1)(iii), (d)(2), and (d)(3) of this section. See 021641 in § 510.600(c) of this chapter for use as in paragraph (d)(1) of this section.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(B) 120 milligrams trenbolone acetate and 24 milligrams estradiol in 6 pellets with 29 milligrams tylosin tartrate as a local antibacterial in 1 pellet per implant dose.

* * * * *

Dated: August 24, 1999.

Claire M. Lathers,

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

[FR Doc. 99–22995 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Enrofloxacin Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Bayer Corp., Agriculture Division, Animal Health. The supplemental NADA provides for an additional tablet size for enrofloxacin tablets used in dogs and cats for the management of diseases associated with bacteria susceptible to enrofloxacin and for the removal of a tablet size no longer marketed.

EFFECTIVE DATE: September 3, 1999.

FOR FURTHER INFORMATION CONTACT: Dennis M. Bensley, Center for Veterinary Medicine (HFV–143), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1705.

SUPPLEMENTARY INFORMATION: Bayer Corp., Agriculture Division, Animal Health, P.O. Box 390, Shawnee Mission, KS 66201, filed supplemental NADA 140–441 Baytril® tablets (enrofloxacin) that provides for 136-milligram (mg) tablet size in addition to 22.7- and 68.0-mg tablets. Furthermore, the sponsor stated that the 5.7-mg tablets are no longer marketed and has requested the size be deleted. The supplemental NADA is approved as of August 3, 1999, and the regulations are amended in 21 CFR 520.812(a) to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this 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.

The agency has determined under 21 CFR 25.33(d)(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.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.812 [Amended]

2. Section 520.812 *Enrofloxacin tablets* is amended in paragraph (a) by removing ''5.7, 22.7, or 68.0'' and adding in its place ''22.7, 68.0, or 136.0'' .

Dated: August 24, 1999.

Claire M. Lathers,

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

[FR Doc. 99–22998 Filed 9–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

New Animal Drugs For Use In Animal Feeds; Semduramicin and Virginiamycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Pfizer, Inc. The NADA provides for using approved single ingredient semduramicin and virginiamycin Type A medicated articles to make combination drug Type C medicated broiler chicken feeds. Approval of the NADA also provides for tolerances for semduramicin residues and an acceptable daily intake (ADI) for semduramicin and for virginiamycin.

EFFECTIVE DATE: September 3, 1999.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed NADA 141–114 that provides for combining approved Aviax® (22.7 grams per pound (g/lb) semduramicin) and Stafac® (20 or 227 g/lb virginiamycin) Type A medicated articles to make combination drug Type C medicated broiler chicken feeds. The Type C medicated broiler feeds containing 25 parts per million (ppm) (22.7 g/ton (t)) semduramicin and 5 to 15 g/t virginiamycin are used for the prevention of coccidiosis caused by *Eimeria tenella, E. acervulina, E. maxima, E. brunetti, E. necatrix,* and *E. mivati/mitis,* and for increased rate of weight gain. The Type C medicated broiler feeds containing 25 ppm semduramicin and 5 g/t virginiamycin are used for the prevention of coccidiosis caused by *E. tenella, E. acervulina, E. maxima, E. brunetti, E. necatrix,* and *E. mivati/mitis,* and for increased rate of weight gain and improved feed efficiency. The Type C medicated broiler feeds containing 25 ppm semduramicin and 20 g/t virginiamycin are used for the prevention of coccidiosis caused by *E. tenella, E. acervulina, E. maxima, E. brunetti, E. necatrix,* and *E. mivati/mitis,* and for prevention of necrotic enteritis caused by *Clostridium*

perfringens susceptible to virginiamycin.

The NADA is approved as of July 27, 1999. The regulations are amended in 21 CFR 558.555 by redesignating paragraph (b) as paragraph (d), by adding new paragraph (b) and adding and reserving paragraph (c), by revising the heading of newly redesignated paragraph (d), by removing the introductory text of newly redesignated paragraph (d)(1), and by adding paragraphs (d)(5), (d)(6), and (d)(7) to reflect the approval. Also, the regulations are amended in 21 CFR 558.635 by removing paragraphs (a), (c), (e)(3), and (e)(4), by redesignating paragraphs (b), (d), (e), and (f) as paragraphs (a), (b), (c), and (d), by correcting the cross-references in newly redesignated paragraph (a) from paragraph (f) to paragraph (d), by correcting a typographical error in newly redesignated paragraph (d)(2)(i), and by adding paragraph (d)(4)(vii) to also reflect the approval. The basis for approval is discussed in the freedom of information summary.

Furthermore, neither an ADI for semduramicin or for virginiamycin nor a tolerance for semduramicin residues have been previously established. At this time, 21 CFR 556.597 is added to establish an ADI and a tolerance for semduramicin. Also, 21 CFR 556.750 is amended to remove language referring to negligible residues in swine, broiler chicken, and cattle tissues to provide for an ADI for virginiamycin, and to reflect a revised format.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this 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.

The agency has determined under 21 CFR 25.33(a)(2) 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.

List of Subjects

21 CFR Part 556

Animal drugs, Foods.

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 parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

2. Section 556.597 is added to read as follows:

§ 556.597 Semduramicin.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of semduramicin is 180 micrograms per kilogram of body weight per day.

(b) *Tolerances*—(1) *Broiler chickens.* Tolerances are established for residues of parent semduramicin in uncooked edible tissues of 400 parts per billion (ppb) in liver and 130 ppb in muscle.

(2) [Reserved]

3. Section 556.750 is revised to read as follows:

§ 556.750 Virginiamycin.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of virginiamycin is 250 micrograms per kilogram of body weight per day.

(b) *Tolerances*—(1) *Swine.* Tolerances are established for residues of virginiamycin in uncooked edible tissues of 0.4 part per million (ppm) in kidney, skin, and fat, 0.3 ppm in liver, and 0.1 ppm in muscle.

(2) *Broiler chickens and cattle.* A tolerance for residues of virginiamycin is not required.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

5. Section 558.555 is amended by redesignating paragraph (b) as paragraph (d), by adding new paragraph (b) and adding and reserving paragraph (c), by revising the heading of newly redesignated paragraph (d), by removing the introductory text of newly redesignated paragraph (d)(1), and by adding paragraphs (d)(5), (d)(6), and (d)(7) to read as follows:

§ 558.555 Semduramicin.

* * * * *

(b) *Related tolerances.* See § 556.597 of this chapter.

(c) [Reserved]

(d) *Conditions of use in broiler chickens.* * * *

(5) *Amount.* Semduramicin 22.7 grams with virginiamycin 20 grams per ton.

(i) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella, E. acervulina, E. maxima, E. brunetti, E. necatrix,* and *E. mivati/mitis,* and for prevention of necrotic enteritis caused by *Clostridium perfringens* susceptible to virginiamycin.

(ii) *Limitations.* For broiler chickens only. Feed continuously as sole ration. Do not feed to laying hens. Semduramicin and virginiamycin as provided by 000069 in § 510.600(c) of this chapter.

(6) *Amount.* Semduramicin 22.7 grams with virginiamycin 5 to 15 grams per ton.

(i) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella, E. acervulina, E. maxima, E. brunetti, E. necatrix,* and *E. mivati/mitis,* and for increased rate of weight gain.

(ii) *Limitations.* For broiler chickens only. Feed continuously as sole ration. Do not feed to laying hens. Semduramicin and virginiamycin as provided by 000069 in § 510.600(c) of this chapter.

(7) *Amount.* Semduramicin 22.7 grams with virginiamycin 5 grams per ton.

(i) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella, E. acervulina, E. maxima, E. brunetti, E. necatrix,* and *E. mivati/mitis,* and for increased rate of weight gain and improved feed efficiency.

(ii) *Limitations.* For broiler chickens only. Feed continuously as sole ration. Do not feed to laying hens. Semduramicin and virginiamycin as provided by 000069 in § 510.600(c) of this chapter.

6. Section 558.635 is amended by removing paragraphs (a), (c), (e)(3), and (e)(4), by redesignating paragraphs (b), (d), (e), and (f) as paragraphs (a), (b), (c), and (d), respectively, by removing ''(f)'' and ''(f)(3)'' in newly redesignated paragraph (a)(1) and adding in their places ''(d)'' and ''(d)(3)'', by removing ''(f)(1)(iv)'' and ''(f)(1)(v)'' in newly redesignated paragraph (a)(2) and adding in their places ''(d)(1)(iv)'' and ''(d)(1)(v)'', by removing ''chiickens'' in newly redesignated paragraph (d)(2)(i) and adding in its place ''chickens'', and

by adding paragraph (d)(4)(vii) to read as follows:

§ 558.635 Virginiamycin.

* * * * *

(d) * * *

(4) * * *

(vii) Semduramicin as in § 558.555 of this chapter.

Dated: August 24, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–22997 Filed 9–3–99; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–19–01–5892a; A–1–FRL–6421–8]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Volatile Organic Compound Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes reasonably available control technology (RACT) emission limits for certain industrial categories. The intended effect of this action is to fully approve the majority of the Commonwealth's SIP revision submitted on November 13, 1992 and February 17, 1993. The EPA is granting approval to the generic RACT rule in Title 310 Code of Massachusetts Regulations (CMR) section 7.18(17) only in the Springfield, Massachusetts ozone nonattainment area (Berkshire, Franklin, Hampden and Hampshire counties). EPA will address 310 CMR 7.18(17) as it applies to the Boston, Massachusetts ozone nonattainment area in a future action. This action is being taken under section 110 of the Clean Air Act (Act). 42 U.S.C. 7410.

DATES: This rule will become effective November 2, 1999 without further notice, unless EPA receives relevant adverse comments on the parallel notice of proposed rulemaking by October 4, 1999. If EPA receives such comment, then it will publish a document in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, 1 Congress Street, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA, and at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Jeanne Cosgrove, (617) 918–1669.

SUPPLEMENTARY INFORMATION: On November 13, 1992 and February 17, 1993, the Massachusetts Department of Environmental Protection (DEP) submitted a revision to its SIP. The revision consisted of changes and additions made to Massachusetts' volatile organic compound (VOC) rules pursuant to the requirements of section 182(b)(2) of the Act, 42 U.S.C. 7511a(b)(2). Changes were made to the following regulations: 310 CMR 7.00, Definitions; 310 CMR 7.03(13), Paint spray booths; 310 CMR 7.18(2), Compliance with emission limitations; 310 CMR 7.18(7), Automobile surface coating; 310 CMR 7.18(8), Solvent Metal Degreasing; 310 CMR 7.18(11), Surface coating of miscellaneous metal parts and products; 310 CMR 7.18(12), Graphic arts; 310 CMR 7.18(17), Reasonably available control technology; and 310 CMR 7.24(3), Distribution of motor vehicle fuel. Additionally, the following new rules were added to Massachusetts' Code: 310 CMR 7.18(20), Emission control plans for implementation of reasonably available control technology; 310 CMR 7.18(21), Surface coating of plastic parts; 310 CMR 7.18(22), Leather surface coating; 310 CMR 7.18(23), Wood products surface coating; 310 CMR 7.18(24), Flat wood paneling surface coating; 310 CMR 7.18(25), Offset lithographic printing; 310 CMR 7.18(26), Textile finishing; and 310 CMR 7.18(27), Coating mixing tanks.

I. Background

Under the pre-amended Clean Air Act, ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions. EPA issued three sets of control technique guidelines (CTGs) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. EPA determined that the area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Under section 172(a)(1), ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that submitted an attainment demonstration projecting attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987 were required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources.

Under the pre-amended Act, Massachusetts was designated as nonattainment for ozone and sought an extension of the attainment date under section 172(a)(2) to December 31, 1987. Therefore, the Commonwealth was required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources. However, the Commonwealth of Massachusetts did not attain the ozone standard by the approved attainment date. On May 25, 1988, EPA notified the Governor of Massachusetts that portions of the SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that pre-enactment ozone nonattainment areas that retained their designation of nonattainment and were classified as marginal or above fix their deficient RACT rules for ozone by May 15, 1991. The entire Commonwealth of Massachusetts retained its designation of nonattainment and was classified as serious nonattainment for ozone. 56 FR 56694 (Nov. 6, 1991). The Commonwealth submitted revisions to meet the RACT fix-up requirement and EPA has approved those revisions to the Massachusetts SIP on October 8, 1992, January 11, 1993 and June 30, 1993 (57 FR 46313, 58 FR 3492 and 58 FR 34908.)

Section 182(b)(2) of the amended Act requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the Clean Air Act Amendments of 1990; (2) RACT for

sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. This RACT requirement applies to nonattainment areas that previously were exempt from certain RACT requirements to ''catch up'' to those nonattainment areas that became subject to those requirements during an earlier period. In addition, it requires newly designated ozone nonattainment areas to adopt RACT rules consistent with those for previously designated nonattainment areas. Subsequent to the 1990 Clean Air Act, all of Massachusetts was classified as serious nonattainment for ozone. 56 FR 56694 (Nov. 6, 1991).

Since Massachusetts was previously required to adopt RACT for all the CTG and major non-CTG sources, the Commonwealth did not need to adopt any specific additional RACT rules. However, the Commonwealth did submit a rule for the surface coating of flat wood paneling. Massachusetts had previously submitted a negative declaration for this rule, stating that there were no wood paneling sources in Massachusetts. The Commonwealth is now adopting a wood paneling regulation because the state has identified such sources. Additionally, under section 182 of the Act, the major source definition for serious nonattainment areas was lowered to include sources that have a potential to emit greater than 50 tons per year of VOC. Therefore, the Commonwealth needed to lower the applicability cutoff of its non-CTG and/or relevant CTG-based regulations to include newly classified major sources in these categories.

In addition, CAA section 184 (b)(1)(B) requires all states in the Ozone Transport Region (OTR) to impose RACT on all sources covered by a CTG. Under section 184(b)(2), OTR states must regulate all sources with potential VOC emissions of 50 tons per year or more as though they were in a moderate ozone attainment area. All of Massachusetts is part of the OTR. Therefore, RACT remains a requirement statewide in Massachusetts even after EPA's recent revocation of the one-hour ozone standard in Eastern Massachusetts.

VOCs contribute to the production of ground level ozone and smog. These rules were adopted as part of an effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. The following section is EPA's evaluation and final action for the following Massachusetts regulations: 310 CMR 7.00, Definitions; 310 CMR 7.03(13), Paint spray booths; 310 CMR 7.18(2), Compliance with emission limitations; 310 CMR 7.18(7), Automobile surface coating; 310 CMR 7.18(8), Solvent Metal Degreasing; 310 CMR 7.18(11), Surface coating of miscellaneous metal parts and products; 310 CMR 7.18(12), Graphic arts; 310 CMR 7.18(17), Reasonably available control technology (as it applies to the Springfield ozone nonattainment area only); 310 CMR 7.18(20), Emission control plans for implementation of reasonably available control technology; 310 CMR 7.18(21), Surface coating of plastic parts; 310 CMR 7.18(22), Leather surface coating; 310 CMR 7.18(23), Wood products surface coating; 310 CMR 7.18(24), Flat wood paneling surface coating; 310 CMR 7.18(25), Offset lithographic printing; 310 CMR 7.18(26), Textile finishing; 310 CMR 7.18(27), Coating mixing tanks; and 310 CMR 7.24(3), Distribution of motor vehicle fuel.

II. EPA Evaluation and Final Action

The Commonwealth has submitted negative declarations for the CTG categories listed below. Through the negative declarations, Massachusetts is asserting that it has no sources within its area that would be subject to a rule for that source category.

- Petroleum refinery vacuum producing systems, waste water separators & process unit turnarounds (Petroleum refinery processes).
- Fugitive VOC emissions from petroleum refining (Leaks from petroleum refinery equipment).
- Pharmaceutical manufacture (manufacture of synthesized pharmaceutical products).
- Rubber tire manufacture (Manufacture of pneumatic rubber tires).
- Large petroleum dry cleaners.
- Manufacture of high density polyethylene, polypropylene, and polystyrene resins (Manufacture of high-density polyethylene, polypropylene and polystyrene resins).
- Natural gas/gasoline processing plants (Equipment Leaks from natural gas/gasoline processing plants).
- SOCMI air oxidation processes (Air oxidation processes in synthetic organic chemical manufacturing industry).

EPA is approving these negative declarations as meeting the section 182(b)(2) and section 184(b) RACT requirements for the source categories listed. However, if evidence is submitted during the comment period that there are existing sources within the area that, for purposes of meeting the RACT requirements, would be subject to one or more of these rules, if developed, EPA will withdraw final approval action on the negative declarations.

Massachusetts also submitted revisions to its VOC regulations. In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the Act and EPA regulations, as found in section 110 and part D of the Act and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). EPA's interpretation of these requirements, which forms the basis for today's action, appears in various EPA policy guidance documents. The specific guidance relied on for this action is referenced within the technical support document and this action. For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of CTG documents. The CTGs are based on the underlying requirements of the Act and specify presumptive norms for RACT for specific source categories. EPA has not yet developed CTGs to cover all sources of VOC emissions. Further interpretations of EPA policy are found in, but not limited to, the following: (1) the proposed Post-1987 ozone and carbon monoxide policy, 52 FR 45044 (November 24, 1987); (2) the document entitled, ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 **Federal Register** document,'' otherwise known as the ''Blue Book'' (notice of availability was published in the **Federal Register** on May 25, 1988 and in the existing CTGs); (3) the ''Model Volatile Organic Compound Rules for Reasonably Available Technology,'' (Model VOC RACT Rules) issued as a staff working draft in June 1992; (4) the document entitled, ''Draft Control Techniques Guidelines of Control of Volatile Organic Compound Emissions from Offset Lithographic Printing,'' September 1993; (5) the document entitled, ''Alternative Control Techniques Document: Offset Lithographic Printing,'' (EPA 453/R–94–054) June 1994; (6) the document entitled, ''Alternative Control Techniques Document: Surface Coating of Automobile/Transportation and Business Machine Plastic Parts,'' (EPA 453/R–94–017), February 1994; and (7) the document entitled, ''Draft Control Techniques Guidelines of Control of Volatile Organic Compound Emissions from Wood Furniture Coating Operations, October 1991.'' In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

The changes to Massachusetts's VOC regulations that were included in the

November 13, 1992 and February 17, 1993 submittals are summarized below, along with EPA's action with regard to each measure.

310 CMR 7.00, Definitions

Massachusetts has adopted 47 new and revised definitions which clarify some of the VOC regulations which EPA is acting upon in this proposed rulemaking. These definitions are approvable because they clarify existing and new rules in Massachusetts' VOC regulations.

310 CMR 7.03(13), Paint Spray Booths

The Commonwealth revised this regulation to include citations for the new VOC regulations added to 310 CMR 7.18. 310 CMR 7.03(13) currently regulates any new or modified paint spray booths. This revision is approvable.

310 CMR 7.18(2), Compliance with Emission Limitations

Section (f) was added to this regulation to include an exemption for noncompliant coatings used in amounts less than 55 gallons in the aggregate for any consecutive 12 month period. The change is consistent with EPA's August 10, 1990 policy memorandum from G.T. Helms, Chief of the Ozone/Carbon Monoxide Programs Branch of the Office of Air Quality Planning and Standards, entitled, ''Exemption of Low-Use Coatings.'' Section 193 of the Clean Air Act (i.e., the General Savings Clause), requires that any regulation in effect before the date of the enactment of the Clean Air Act Amendments of 1990 in any nonattainment area may only be modified if the modification insures equivalent or greater reductions of the same pollutant. Although the proposed addition of 310 CMR 7.18(2)(f) represents a small relaxation of existing control requirements, the requirements of section 193 are met by the reductions resulting from other changes being approved in this notice.

The Commonwealth has added another section to 310 CMR 7.18(2) to allow daily weighted averaging, provided the source meets conditions outlined in the subsection. This addition is consistent given with the guidance given in section XX.3082 of EPA's Model Rule and is approvable.

310 CMR 7.18(7), Automobile Surface Coating

The Commonwealth corrected a typographical mistake in its automobile surface rule. This change does not affect the rule and is approvable.

310 CMR 7.18(8), Solvent Metal Degreasing

The Commonwealth has revised it's free board ratio from 0.70 to 0.75. This revision is approval and consistent with EPA's Model Rule.

310 CMR 7.18(11), Surface Coating of Miscellaneous Metal Parts and Products

The Commonwealth corrected a typographical error in section 310 CMR 7.18(11)(a). This change does not affect the rule and is approvable.

310 CMR 7.18(12), Graphic Arts

This regulation was amended to define RACT for graphic arts sources with potential emissions from all printing operations of 50 tons or more per year, which were not previously subject to the rule. While this change is consistent with the requirements of section 182 of the Act, the Commonwealth has removed the compliance date for sources previously subject to the rule. The Commonwealth included a section 301 CMR 7.18(12)(e) allowing enforcement action to be taken on a facility that was not previously in compliance. EPA interprets 310 CMR 7.18(12)(e) to require sources who meet a size cutoff of 100 tons per year to meet the compliance dates that were in effect from January 1, 1983 until January 1, 1994. For example, Massachusetts' graphic arts rule that was adopted on August 17, 1990 had a compliance date for 100 ton sources of December 31, 1982, unless granted an approval by the MA DEP to December 31, 1985. Therefore, sources who met the 100 tons per year cutoff had to meet the compliance date of December 31, 1982 unless the MA DEP granted an extension until December 31, 1985. This revision is approvable.

310 CMR 7.18(17), Reasonably Available Control Technology

This regulation was amended to define RACT for any facility that has the potential to emit, before add-on control, equal to or greater than 25 tons per year. Section 182(b)(2) of the CAA requires that a SIP revision be submitted by November 15, 1992 including ''provisions to require the implementation of RACT. * * *'' In addition, the necessary SIP revision is required to ''provide for the implementation of the required measures as expeditiously as practicable but no later then May 31, 1995.'' This regulation describes a process by which RACT can be defined but does not specifically define RACT for each source applicable to the regulation. To receive full approval, Massachusetts will need to define explicitly, and have approved by EPA, RACT for all of the sources that are subject to 310 CMR 7.18(17). Because there are sources in the eastern Massachusetts ozone nonattainment area for which RACT plans have not yet been approved by EPA, EPA will address 310 CMR 7.18(17) in the Boston Massachusetts ozone nonattainment area in a separate **Federal Register** action, along with the case-specific RACT determinations. Since there are no outstanding RACT determinations in the Springfield ozone nonattainment area, EPA is approving 310 CMR 7.18(17) as it applies to the Springfield Massachusetts nonattainment area (i.e., Berkshire, Franklin, Hampden and Hampshire counties).

310 CMR 7.18(20), Emission Control Plans for Implementation of Reasonably Available Control Technology

This regulation outlines the process by which a facility must comply with the requirements of RACT under 310 CMR 7.18. This section says that a source must submit an emission control plan to the Commonwealth for review and approval. Furthermore, this section lists what the required elements are in the emission control plan.

310 CMR 7.18(21), Surface Coating of Plastic Parts

This section is added to regulate facilities with plastic parts coating line(s) which in total have the potential to emit, before add-on control, equal to or greater than 50 tons per year of VOC and requires compliance by January 1, 1994. A source can apply for a non-renewable one year extension of the compliance deadline. This regulation requires sources who do not have control devices to meet the following as applied emission limits:

Emission Source	Emission limitations (lbs VOC/gal solids);
Business Machines/Miscellaneous Plastic Parts:	
Color Coating	3.4

Emission Source	Emission limitations (lbs VOC/gal solids);
Color/texture Coating	3.4
EMI/RFI	8.8
Automotive Interior Parts Coating:	
Colorcoat	5.7
Primer	6.7
Automotive Exterior Flexible Parts Coating:	
Colorcoat	9.3
Clearcoat	6.7
Primer	11.9
Automotive Exterior Rigid (non-flexible) Parts Coating:	
Colorcoat	9.3
Clearcoat	6.7
Primer	6.7

Additionally, the Commonwealth has included the following as applied emission limits for sources which have add-on control devices:

Emission source	Emission limitations (lbs VOC/gal solids)
Business Machines/Miscellaneous Plastic Parts:	
Color Coating	1.7
Color/texture Coating	1.7
Primer Coating	1.4
EMI/RFI	1.9
Automotive Interior Parts Coating:	
Colorcoat	3.6
Primer	1.7
Automotive Exterior Flexible Parts Coating:	
Colorcoat	2.8
Clearcoat	2.4
Primer	4.8
Automotive Exterior Rigid (non-flexible) Parts Coating	
Colorcoat	2.8
Clearcoat	2.4
Primer	3.6

This regulation is approvable because it is consistent with EPA guidance and it meets the requirements of the Act.

310 CMR 7.18(22), Leather Surface Coating

The Commonwealth has regulated any leather surface coating line(s) which in total have the potential to emit before add-on control, equal to or greater than 50 tons per year of VOC. Compliance is required by January 1, 1994, unless granted an extension. No leather coater may use a coating which has an emission limit greater than 27.4 lbs VOC per gallon solids as applied. This regulation is approvable.

310 CMR 7.18(23), Wood Products Surface Coating

This addition to Massachusetts' rules require facilities with wood products surface coating line(s) with the potential to emit, before add-on control, equal to or greater than 50 tons per year of VOC to meet the following emission limitations:

Emission Source	Emission Limitation (lbs VOC/gal solids)
Semitransparent stain	89.4
Wash coat	35.6
Opaque stain	13.0
Sealer	23.4
Pigmented coat	15.6
Clear topcoat	23.4

A source must comply by January 1, 1994 unless granted a nonrenewable one year extension. This regulation is approvable and meets EPA's guidance that was available at the time the rule was adopted.

310 CMR 7.18(24), Flat Wood Paneling Surface Coating

This regulation requires any flat wood paneling surface coating line(s) which

emits, before add-on control equal to or greater than 15 pounds per day of VOC to comply with the following emission limitations by January 1, 1994:

Emission Source	Emission Limitation (lbs of VOC per 1000 square feet coated)
Printed hardwood panels and thin particleboard panels	6.0
Natural finish hardwood plywood panels	12.0
Class II finish on hardboard panels	10.0

This regulation is approvable and meets the requirements in EPA's Model Rule.

310 CMR 7.18(25), Offset Lithographic Printing

The Commonwealth has adopted a regulation which regulates a facility with offset lithographic presses, which in total have the potential to emit, before add-on control, equal to or greater than 50 tons per year of VOC. A source subject to this regulation must comply by January 1, 1994 unless granted a one year extension to January 1, 1995. The requirements for each type of printing press is listed in Massachusetts' rule and the TSD prepared for this action. This regulation is approvable.

310 CMR 7.18(26), Textile Finishing

This new regulation applies to any person who owns, leases, operates or controls a textile finishing facility with potential emissions of 50 tons per year before add-on control. Sources are required to comply with the rule by January 1, 1994 unless given a non-renewable 1 year extension by the Commonwealth. A rotary screen or roller printing press cannot use a print paste formulation with an emission limit equal to or greater than 0.5 pounds of VOC per pound of solids as applied. Additionally, any finishing formulations cannot contain more than 0.5 pounds of VOC per pound of solids, as applied. This regulation is approvable because it is consistent with EPA guidance and it meets the requirements of the Act.

310 CMR 7.18(27), Coating Mixing Tanks

This new section regulates sources who lease, operate or control a coating mixing tank which emits before add-on control, 15 pounds of VOC per day. Most of this regulation requires ''good housekeeping'' measures for portable and stationary coating mixing tanks. Any source which has emissions from coating mixing tanks in excess of 50 tons per year must submit a plan to the Commonwealth and have it approved. The plans required by the coating mixing tank regulation are not necessary in order to enforce the basic RACT housekeeping that EPA is approving. Those requirements are already specified in the rule. This regulation is approvable.

310 CMR 7.24(3), Distribution of Motor Vehicle Fuel

The Commonwealth had revised this regulation to include a minor wording change in the applicability of the rule. Stationary tanks with the capacity equal to or greater than 2000 gallons are required to have any vapors displaced through submerged fill to be processed through a vapor balance system. The former regulation required stationary tanks greater than 2000 gallons to have their emission processed. The Commonwealth has also amended recordkeeping and testing provisions. This revision is approvable.

Transfer Efficiency Test Methods

In each of the new surface coating regulations EPA is approving today, there is a provision that addresses transfer efficiency. A typical example is found in the plastic parts surface coating regulation, 310 CMR 7.18(21)(g), which reads in part: ''Demonstrations of compliance may include considerations of transfer efficiency provided that the baseline transfer efficiency is equal to or greater than 65%, and the transfer efficiency test method is detailed in the emission control plan approved by the Department.'' See also 310 CMR 7.18 (22)(f) (leather surface coating), (23)(g) (wood products surface coating), (24)(g) (flatwood paneling surface coating). This provision is designed to ensure that any transfer efficiency test method is clearly stated in an emission control plan, but it is not designed to delegate approval of that test method to DEP. Each of these rules includes a provision specifically requiring both DEP and EPA approval of any new test methods, such as 310 CMR 7.18(21)(I), which reads in part: ''Testing shall be conducted in accordance with EPA Method 24 and/or Method 25 as described in CFR Title 40 part 60, or by *other methods approved by the Department and EPA*.'' (Emphasis added; see also 310 CMR 7.18(22)(h), (23)(i), (24)(i).) Any test method used to demonstrate improved transfer efficiency will have to be approved by both DEP and EPA, because there is currently no approved method in 40 CFR part 60. EPA is basing its approval of these provisions on its understanding that it is DEP's intent to submit transfer efficiency test methods to EPA for approval.

III. Final Action:

EPA is fully approving the VOC RACT regulations submitted by the Commonwealth on February 17, 1993 as revisions to the Commonwealth's SIP, with the exception of 310 CMR 7.18(17). For this regulation, EPA is approving it only as it applies to the Springfield, Massachusetts ozone nonattainment area (i.e., Berkshire, Franklin, Hampden and Hampshire counties).

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as a proposal to approve the SIP revision should relevant adverse comments be filed. This action will be effective November 2, 1999 without further notice unless, by October 4, 1999, relevant adverse comments are received.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective November 2, 1999 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or

establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

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

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

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

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

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility

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

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 2, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: June 24, 1999.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(117) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(117) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on February 17, 1993.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated February 17, 1993 submitting a revision to the Massachusetts State Implementation Plan.

(B) Regulations 310 CMR 7.00, Definitions; 310 CMR 7.03(13), Paint spray booths; 310 CMR 7.18(2), Compliance with emission limitations; 310 CMR 7.18(7), Automobile surface coating; 310 CMR 7.18(8), Solvent Metal Degreasing; 310 CMR 7.18(11), Surface coating of miscellaneous metal parts and products; 310 CMR 7.18(12), Graphic arts; 310 CMR 7.18(17), Reasonable available control technology (as it applies to the Springfield ozone nonattainment area only); 310 CMR 7.18(20), Emission control plans for implementation of reasonably available control technology; 310 CMR 7.18(21), Surface coating of plastic parts; 310 CMR 7.18(22), Leather surface coating; 310 CMR 7.18(23), Wood products surface coating; 310 CMR 7.18(24), Flat wood paneling surface coating; 310 CMR 7.18(25), Offset lithographic printing; 310 CMR 7.18(26), Textile finishing; 310 CMR 7.18(27), Coating mixing tanks; and 310 CMR 7.24(3), Distribution of motor vehicle fuel all effective on February 12, 1993.

3. In § 52.1167 Table 52.1167 is amended by adding new entries in numerical order to existing state citations: ''310 CMR 7.00, Definitions; 310 CMR 7.18(2), Compliance with emission limitations; 310 CMR 7.18(7), Automobile surface coating; 310 CMR 7.18(8), Solvent Metal Degreasing; 310 CMR 7.18(11), Surface coating of miscellaneous metal parts and products; 310 CMR 7.18(12), Graphic arts; and 310 CMR 7.18(17), Reasonable available control technology; and by adding the following new state citations: 310 CMR 7.03(13), Paint spray booths; 310 CMR 7.18(20), Emission control plans for implementation of reasonably available control technology; 310 CMR 7.18(21), Surface coating of plastic parts; 310 CMR 7.18(22), Leather surface coating; 310 CMR 7.18(23), Wood products surface coating; 310 CMR 7.18(24), Flat wood paneling surface coating; 310 CMR 7.18(25), Offset lithographic printing; 310 CMR 7.18(26), Textile finishing; 310 CMR 7.18(27), Coating mixing tanks; and 310 CMR 7.24(3), Distribution of motor vehicle fuel.

§ 52.1167 EPA—approved Massachusetts State regulations

* * * * *

TABLE 52.1167—EPA—APPROVED MASSACHUSETTS REGULATIONS

State citation	Title/Subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	
310 CMR 7.00	Definitions	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	
*	*	*	*	*	*	
310 CMR 7.03(13)	Paint spray booths	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds the following coating operations: plastic parts surface coating, leather surface coating, wood product surface coating, and flat wood paneling surface coating.

TABLE 52.1167—EPA—APPROVED MASSACHUSETTS REGULATIONS—Continued

State citation	Title/Subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
	*	* *	*	* *	*	
310 CMR 7.18(2) ...	Compliance with emission limitations.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds an exemption for coatings used in small amounts, and a section on daily weighted averaging.
	*	* *	*	* *	*	
310 CMR 7.18(7) ...	Automobile surface coating.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Revises a limit for primer surface coating.
310 CMR 7.18(8) ...	Solvent Metal Degreasing.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds a typographical correction.
	*	* *	*	* *	*	
310 CMR 7.18(11)	Surface coating of miscell-aneous metal parts and products.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Revises a reference.
310 CMR 7.18(12)	Graphic arts	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Amends applicability to 50 tons per year VOC.
310 CMR 7.18(17)	Reasonable available control technology.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds new VOC RACT requirements in the Springfield, Mass. ozone nonattainment area only.
	*	* *	*	* *	*	
310 CMR 7.18(20)	Emission Control Plans for implementa-tion of reasonably available control technology.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds new VOC RACT requirements.
310 CMR 7.18(21)	Surface coating of plastic parts.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for plastic parts surface coating.
310 CMR 7.18(22)	Leather surface coating.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for leather surface coating.
310 CMR 7.18(23)	Wood products surface coating.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for wood product surface coating.
310 CMR 7.18(24)	Flat wood paneling surface coating.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for flat wood paneling surface coating.
310 CMR 7.18(25)	Offset lithographic printing.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for offset lithographic printing.
310 CMR 7.18(26)	Textile finishing	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for textile finishing.
310 CMR 7.18(27)	Coating mixing tanks.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for coating mixing tanks.
	*	* *	*	* *	*	
310 CMR 7.24(3) ...	Distribution of motor vehicle fuel.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Amends distribution of motor fuel requirements, applicability, record-keeping and testing requirements.

[FR Doc. 99–22933 Filed 9–2–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–221–158; FRL–6430–7]

Approval and Promulgation of Implementation Plans; California—Owens Valley Nonattainment Area; PM–10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a State Implementation Plan (SIP) submitted by the State of California for attaining the particulate matter (PM–10) national ambient air quality standards (NAAQS) in the Owens Valley Planning Area, along with the State's request for an extension to December 31, 2006 to attain the PM–10 NAAQS in the area. EPA is taking these final actions under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals, SIPs for national primary and secondary standards, and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on October 4, 1999.

ADDRESSES: The rulemaking docket for this notice, may be inspected and copied at the following location during normal business hours. A reasonable fee may be charged for copying parts of the docket.

U.S. Environmental Protection Agency, Region 9, Air Division, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the SIP materials area also available for inspection at the addresses listed below:

California Air Resources Board, 2020 L Street, P.O. Box 2815, Sacramento, CA 95814; or

Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514.

FOR FURTHER INFORMATION CONTACT: Larry A. Biland, U.S. Environmental Protection Agency, Region 9, Air Division (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744-1227.

SUPPLEMENTARY INFORMATION:

I. Background

The 1998 PM–10 plan (1998 SIP) for the Owens Valley Planning Area [1] was adopted on November 16, 1998, by the Great Basin Unified Air Pollution Control District (GBUAPCD or the District), and submitted as a SIP revision by the California Air Resources Board (CARB) on December 10, 1998. EPA determined this submission to be complete on February 2, 1999.[2]

II. Summary of EPA Action

EPA is finalizing approval of the serious area SIP submitted by the State of California for the Owens Valley PM–10 nonattainment area. Specifically, EPA is approving the 1998 SIP with respect to the CAA requirements for public notice and involvement under section 110(a)(1); emissions inventories under section 172(c)(3); control measures under section 110(k)(3), as meeting the requirements of sections 110(a) and 189(b)(1)(B); Reasonable Further Progress (RFP) and rate-of-progress milestones under section 189(c); contingency measures under section 172(c)(9); and demonstration of attainment under section 189(b)(1)(A). EPA is also finalizing approval of the State's request for an extension of the attainment date from December 31, 2001, to December 31, 2006, under CAA section 188(e).

These actions were proposed on June 25, 1998 (64 FR 34173–34179). The reader is referred to that notice for additional detail on the affected area and the SIP submittal, as well as a summary of relevant CAA provisions and EPA interpretations of those provisions.

III. Response to Public Comments

EPA received only one comment, from Dorothy Alther of California Indian Legal Services, representing the Lone Pine and Timbisha Shoshone Indian Tribes and the Owens Valley Indian Water Commission. The commenter summarized the position of the Tribes as having some concerns regarding the 1998 SIP and its implementation, but being anxious to see work begin on the Dry Lake. The comments did not urge EPA disapproval of the 1998 SIP.

Ms. Alther stated that EPA erred in stating that required controls on 16.5 square miles in the first phase of implementation is discretionary. EPA agrees. The Los Angeles Department of Water and Power is mandated to place controls on 10 square miles of the Owens Lake bed. Implementation of controls on an additional 3.5 square miles in Phase 2 is required ''unless the District determines, on or before December 31, 2001, that the Owens Valley Planning Area (OVPA) will attain the PM–10 NAAQS by December 31, 2006 without implementation of further control measures.'' Implementation of controls on an additional 3 square miles in Phase 3 is required unless the District makes a similar determination by December 31, 2002. Board Order #981116–01, Paragraphs 2 and 3.

The commenter expressed concern regarding the lack of certainty regarding what measures will be implemented in the second increment of the 1998 SIP. EPA believes that the second increment (Phases 4–6) of the SIP control strategy includes an enforceable City obligation to implement controls on additional areas of the Owens Lake bed by particular dates sufficient to meet progress and attainment requirements as determined by the District. In view of the absence of information on large-scale fugitive dust control projects at a dry lake bed, EPA believes that it is reasonable to allow the City and District the discretion to identify more precisely the specific measures that will be most effective in achieving attainment, based on the practical experience gained in implementing the first increment of the control strategy. The commenter and other stakeholders will have an opportunity to review the specific strategies included in a SIP revision to be submitted on December 31, 2003. EPA will work with the District and City to ensure that the selected strategies in the second increment are adequate to achieve progress and attainment by 2006, and that any necessary SIP updates are prepared and adopted in a process that provides full opportunities for public involvement.

The commenter disagreed with EPA's discussion and proposed approval of the 5-year attainment date extension. The commenter did not explain why she believed that the SIP failed to qualify for an extension. EPA continues to believe that the area meets the CAA section 188(e) criteria for the extension. Despite an expeditious schedule for implementing all feasible and effective control measures, the 1998 SIP provides information showing that attainment by 2001 is impracticable. The State has complied with all implementation requirements and commitments pertaining to the area in the implementation plan. Finally, EPA continues to conclude that the 1998 SIP includes the most stringent measures

[1] For a description of the boundaries of the Owens Valley Planning Area, see 40 CFR 81.305.

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

that are included in the implementation plan of any state or are achieved in practice in any state, and can feasibly be implemented in the area.

The commenter questioned the adequacy of the attainment demonstration, since the modeling assessment shows the probable need to control 22,400 acres and the 1998 SIP concentrates on control of 14,400 acres. The District has committed to a program of continuing scientific investigation of emission reductions and air quality progress, and based on this refined information will adjust the strategy as needed to provide for attainment by 2006. If attainment has not been achieved in the first increment of control, the District will revise the SIP's control strategy in 2003 to provide controls over the lake playa sufficient to attain the NAAQS by 2006. EPA will monitor the results of these strategy assessments and work with the District and other plan participants to ensure that the plan is adjusted, as may be necessary, to meet progress and attainment deadlines.

The commenter noted that the plan shows a design day PM–10 concentration of 149.95 μg/m^3, which is technically below the 150 μg/m^3 24-hour PM–10 NAAQS, but provides no ''cushion.'' EPA agrees that the plan predicts that the control strategy will reduce peak concentrations only to levels very slightly below the 24-hour NAAQS. While the attainment provision meets minimal approval criteria, it will be important for the District, State, and EPA to verify that implementation of the plan is having the predicted impact on air quality.

For the reasons stated above, EPA is finalizing the proposed plan approval.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

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

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and

is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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

H. Petitions for Judicial Review

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 18, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

2. Section 52.220 is amended by adding paragraph (c)(247) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(267) New plan for Owens Valley PM–10 Planning Area for the following agency was submitted on December 10, 1998 by the Governor's designee.

(i) Incorporation by reference.

(A) Great Basin Unified APCD.

(1) Owens Valley PM–10 Planning Area Demonstration of Attainment State Implementation Plan, Section 7–4, Commitment to adopt 2003 SIP Revision and Section 8–2, the Board Order adopted on November 16, 1998 with Exhibit 1.

* * * * *

[FR Doc. 99–22930 Filed 9–2–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 99–147; MM Docket No. 91–259; RM–7309, RM–7942, RM–7943, RM–7944, RM–7948]

Radio Broadcasting Services; Canovanas, Culebra, Las Piedras, Mayaguez Quebradillas San Juan and Vieques, PR, and Christiansted and Frederiksted, VI

ACTION: Final rule; Application for review.

SUMMARY: This document denies an Application for Review filed by WKJB AM–FM, Inc. directed to the *Memorandum Opinion and Order* in this proceeding. Based upon preferential FM allotment priorities, the Commission finds a proposed channel substitution, its reallotment, and the modification of a station's license to be within the public's interest. With this action, the proceeding published September 16, 1996 (61 FR 48638) is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Memorandum Opinion and Order* in MM Docket No. 91–259, adopted June 17, 1999, and released June 21, 1999. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–23071 Filed 9–2–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE22

Endangered and Threatened Wildlife and Plants; Final Endangered Status for 10 Plant Taxa From Maui Nui, HA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Under the authority of the Endangered Species Act of 1973 (Act), as amended, we (the U.S. Fish and Wildlife Service (Service)) determine endangered status for 10 plant taxa—*Clermontia samuelii* (óha wai), *Cyanea copelandii* ssp. *haleakalaensis* (haha), *Cyanea glabra* (haha), *Cyanea hamatiflora* ssp. *hamatiflora* (haha), *Dubautia plantaginea* ssp. *humilis* (na'ena'e), *Hedyotis schlechtendahliana* var. *remyi* (kopa), *Kanaloa kahoolawensis* (kohe malama malama o Kanaloa), *Labordia tinifolia* var. *lanaiensis* (kamakahala), *Labordia triflora* (kamakahala), and *Melicope munroi* (alani). All 10 taxa are endemic to the Maui Nui group of islands in the Hawaiian Islands. This group includes Maui, Molokai, Lanai, and Kahoolawe. *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora,* and *Dubautia plantaginea* ssp. *humilis* are endemic to the island of Maui. *Hedyotis schlechtendahliana* var. *remyi* and *Labordia tinifolia* var. *lanaiensis* are

endemic to the island of Lanai. *Kanaloa kahoolawensis* is endemic to the island of Kahoolawe, although pollen studies indicate it may have been a dominant species on Oahu until 800 years ago. *Labordia triflora* is endemic to Molokai, and *Melicope munroi* is found on Lanai but was also known historically from Molokai. The 10 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following—competition, predation or habitat degradation from alien species, natural disasters, and random environmental events (e.g., landslides, flooding, and hurricanes). This final rule implements the Federal protection provisions provided by the Act for these 10 plant taxa. Listing under the Act also triggers protection for these taxa under State Law.

EFFECTIVE DATE: This rule takes effect October 4, 1999.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Pacific Islands Ecoregion, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Karen Rosa, Assistant Field Supervisor—Endangered Species, Pacific Islands Ecoregion at the above address (telephone 808/541–3441; facsimile 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

Clermontia samuelii, Cyanea copelandii ssp. *haleakalaensis, Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora, Dubautia plantaginea* ssp. *humilis, Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis, Labordia tinifolia var. lanaiensis, Labordia triflora,* and *Melicope munroi* are, or were, known from four Hawaiian Islands—Molokai, Lanai, Maui, and Kahoolawe. The current and historical distribution by island for each of the 10 taxa is presented in Table 1.

TABLE 1. SUMMARY OF ISLAND DISTRIBUTION OF THE 10 SPECIES

Species	Island within Maui Nui			
	Maui	Molokai	Lanai	Kahoolawe
Clermontia samuelii	Current.			
Cyanea copelandii ssp. *haleakalaensis*	Current.			
Cyanea glabra	Current.			
Cyanea hamatiflora ssp. *hamatiflora*	Current.			
Dubautia plantaginea ssp. *humilis*	Current.			
Hedyotis schlechtendahliana ssp. *remyi*	.....	.....	Current.	
Kanaloa kahoolawensis	.....	.....	.....	Current.*
Labordia tinifolia var. *lanaiensis*	.....	.....	Current.	
Labordia triflora	.....	Current.		
Melicope munroi	.....	Historical	Current.	

KEY
Current—population last observed within the past 20 years.
Historical—population not seen for more than 20 years.
*Kanaloa kahoolawensis was most likely a dominant species in the lowland areas of Oahu, and possibly Maui, up until 800 years ago, according to pollen records.

The Hawaiian archipelago includes eight large volcanic islands (Niihau, Kauai, Oahu, Molokai, Lanai, Kahoolawe, Maui, and Hawaii), as well as offshore islets, shoals, and atolls set on submerged volcanic remnants at the northwest end of the chain. The archipelago covers a land area of about 16,600 square kilometers (sq km) (6,400 sq miles (sq mi)), extending roughly between latitude 18°50′ to 28°15′ N and longitude 154°40′ to 178°70′ W, and ranging in elevation from sea level to 4,200 meters (m) (13,800 feet (ft)) (Department of Geography 1983). The four main central islands of Maui, Molokai, Lanai, and Kahoolawe are part of a large volcanic mass of six major volcanoes that during times of lower sea level were united as a single island, which was named Maui Nui and covered about 5,200 sq km (2,000 sq mi).

The climate of the Hawaiian Islands reflects the tropical setting buffered by the surrounding ocean (Department of Geography 1983). The prevailing winds are northeast trades with some seasonal fluctuation in strength. There are also winter storm systems and occasional hurricanes. Temperatures vary over the year an average of 5° Celsius (C) (11° Fahrenheit (F)) or less, with daily variation usually exceeding seasonal variation in temperature. Temperature varies with elevation and ranges from a maximum recorded temperature of 37.7 °C (99.9 °F), measured at 265 m (870 ft) elevation, to a minimum of –12.7 °C (9.1 °F) recorded at 4,205 m (13,795 ft) elevation. Annual rainfall varies greatly by location, with marked windward to leeward gradients over short distances. Minimum average annual rainfall is less than 250 millimeters (mm) (10 inches (in.)); the maximum average precipitation is greater than 11,000 mm (450 in.) per year. Precipitation is greatest during the months of October through April. A dry season is apparent in leeward settings, while windward settings generally receive tradewind-driven rainfall throughout the year (Department of Geography 1983).

The native-dominated vegetation of the Hawaiian Islands varies greatly according to elevation, moisture regime, and substrate. The most recent classification of Hawaiian natural communities recognizes nearly 100 native vegetation types. Within these types are numerous island-specific or region-specific associations, comprising an extremely rich array of vegetation types within a very limited geographic area. Major vegetation formations include forests, woodlands, shrublands, grasslands, herblands, and pioneer associations on lava and cinder substrates (Gagné and Cuddihy 1990).

In Hawaii, lowland, montane, and subalpine forest types extend from sea level to above 3,000 m (9,800 ft) in elevation. Coastal and lowland forests are generally dry or mesic and may be open or closed-canopied. The stature of lowland forests is generally under 10 m (30 ft). Three of the taxa in this final rule (*Cyanea copelandii* ssp. *haleakalaensis, Labordia tinifolia* var. *lanaiensis,* and *Labordia triflora*) have been reported from lowland mesic forest habitat. Montane wet forests, occupying elevations between 915 and 1,830 m

(3,000 and 6,000 ft), occur on the windward slopes and summits of the islands of Kauai, Oahu, Molokai, Maui, and Hawaii. The forests may be open- to closed-canopied, and may exceed 20 m (65 ft) in stature. Several species of native trees and tree ferns usually dominate montane wet forests. Four of the taxa in this final rule (*Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra,* and *Cyanea hamatiflora* ssp. *hamatiflora*) have been reported from montane wet forest habitat.

Hawaiian shrublands are also found from coastal to alpine elevations. The majority of Hawaiian shrubland types are in dry and mesic settings, or on cliffs and slopes too steep to support trees. One taxon in this final rule, *Kanaloa kahoolawensis,* has been reported from coastal dry shrubland on Kahoolawe. Two taxa in this final rule, *Dubautia plantaginea* ssp. *humilis* and *Melicope munroi,* have been reported from lowland wet shrublands, and *Hedyotis schlechtendahliana* var. *remyi* has been reported from lowland mesic shrublands.

The land that supports these 10 plant taxa is owned by various private parties, the State of Hawaii (including forest reserves and natural area reserves), and the Federal government (Department of the Interior, National Park Service (NPS)).

Discussion of the 10 Plant Taxa

Clermontia samuelii C. Forbes

Clermontia samuelii, was first described by C.N. Forbes from a collection he made in 1919 (Degener and Degener 1958, Forbes 1920). Harold St. John described *C. hanaensis* in 1939, based on a specimen collected by C.N. Forbes in 1920 (Degener and Degener 1960, St. John 1939). Later, St. John formally described *C. gracilis, C. kipahuluensis,* and *C. rosacea* (St. John 1987a). In the most recent treatment of this endemic Hawaiian genus, Lammers considers all four species to be synonymous with *C. samuelii,* and divides the species into two subspecies—ssp. *hanaensis* (including the synonyms *C. hanaensis* and *C. kipahuluensis*) and ssp. *samuelii* (including *C. gracilis* and *C. rosacea*) (Lammers 1988, 1990).

Clermontia samuelii, a member of the bellflower family (Campanulaceae), is a terrestrial shrub 1.2 to 5 m (4 to 16 ft) tall. The leaves are elliptical, sometimes broader at the tip, with blades 5 to 10 centimeters (cm) (2 to 4 in.) long and 1.8 to 4.5 cm (0.7 to 1.8 in.) wide. The upper surfaces of the leaves are dark green, often tinged purplish, and may be sparsely hairy. The lower surfaces of the leaves are pale green, and sparsely to densely hairy. The leaf margins are thickened, with shallow, ascending, rounded teeth. The tips and bases of the leaves are typically sharply pointed. The inflorescences (flowering clusters) bear two to five flowers on a main stem that is 4 to 18 mm (0.2 to 0.7 in.) long. The stalk of each individual flower is 12 to 28 mm (0.5 to 1.1 in.) long. The hypanthium (cup-like structure at the base of the flower) is widest on the top, 8 to 14 mm (0.3 to 0.6 in.) long, and 5 to 10 mm (0.2 to 0.4 in.) wide. The sepals and petals are similar in color (rose or greenish white to white), curved, and tubular. The flowers are 36 to 55 mm (1.4 to 2.2 in.) long and 5 to 10 mm (0.2 to 0.4 in.) wide. The lobes of the sepals and petals are erect, and extend 0.2 to 0.5 times beyond the tube. Berries of this species have not yet been observed. *C. samuelii* ssp. *hanaensis* is differentiated from *C. samuelii* ssp. *samuelii* by the greenish white to white flowers; longer, narrower leaves with the broadest point near the base of the leaves; and fewer hairs on the lower surface of the leaves. The species is separated from other members of this endemic Hawaiian genus by the size of the flowers and the hypanthium (Lammers 1990).

Historically, *Clermontia samuelii* has been reported from eight locations on Haleakala, East Maui, from Keanae Valley on the windward (northeastern) side to Manawainui on the more leeward (southeastern) side of Haleakala (Hawaii Heritage Program (HHP) 1991a1 to 1991a4, 1991b1 to 1991b4; Medeiros and Loope 1989). Currently, *Clermontia samuelii* ssp. *hanaensis* is known from several populations limited to the northeastern side of Haleakala, totaling fewer than 300 individuals. The populations occur on State owned land, within a Natural Area Reserve and a Forest Reserve (FR) (Arthur C. Medeiros, Biological Resources Division, U.S. Geological Survey (BRD), pers. comm. 1995). *Clermontia samuelii* ssp. *samuelii* is known from 5 to 10 populations totaling 50 to 100 individuals. Most of the populations occur on the back walls of Kipahulu Valley, within Haleakala National Park, with two or three of the populations on adjacent State owned land (Robert Hobdy, Hawaii Division of Forestry and Wildlife (DOFAW) and A.C. Medeiros, pers. comms. 1995). *Clermontia samuelii* ssp. *hanaensis* is found at, or below, 915 m (3,000 ft) elevation (A.C. Medeiros, pers. comm. 1995), while *Clermontia samuelii* ssp. *samuelii* is typically found between 1,800 to 2,100 m (6,000 to 6,900 ft) elevation (HHP 1991b1, 1991b2, 1991b4). Both taxa are found in montane wet forest dominated by *Metrosideros polymorpha* (*'ohi'a*) with an understory of *Cibotium* sp. (hapu u') and various native shrubs. Associated plant taxa include *Dubautia* sp. (na'ena'e), *Clermontia* sp. (*'oha wai*), *Hedyotis* sp. (pilo), *Vaccinium* sp. (ohelo), *Carex alligata,* Melicope sp. (alani), and *Cheirodendron trigynum* (*'olapa*) (HHP 1991a1, 1991a2, 1991b4).

Threats to *Clermontia samuelii* ssp. *hanaensis* include habitat degradation and/or destruction by feral pigs (*Sus scrofa*) and competition with alien plant taxa such as *Tibouchina herbacea* (glorybush) and two species of *Hedychium* (ginger) (A.C. Medeiros, pers. comm. 1995; Fredrick R. Warshauer, BRD, pers. comm. 1995). In addition, two extremely invasive alien plant taxa, *Miconia calvescens* (velvet tree) and *Clidemia hirta* (Koster's curse), are found in nearby areas and may invade this habitat if not controlled (A.C. Medeiros, pers. comm. 1995). The habitat of *Clermontia samuelii* ssp. *samuelii* was extensively damaged by pigs in the past, and pigs are still a major threat to the populations on State owned lands. The populations of *Clermontia samuelii* ssp. *samuelii* within the park have been fenced and pigs have been eradicated. Due to the large populations of pigs in adjacent areas, the park populations must constantly be monitored to prevent further ingress (R. Hobdy and A.C. Medeiros, pers. comms. 1995). Rats (mainly the black rat (*Rattus rattus*)) and slugs (mainly *Milax gagetes*) are known to eat leaves, stems, and fruits of other members of this genus, and therefore are a potential threat to both subspecies (Loyal Mehrhoff, Service, *in litt.* 1995).

Cyanea copelandii Rock ssp. *haleakalaensis* (St. John) Lammers

Cyanea haleakalaensis was first described in 1971 by St. John, from a collection made by G.Y. Kikudome in 1951 (St. John 1971). In 1987, St. John (St. John 1987b) merged the two genera *Cyanea* and *Delissea*, formally recognizing only *Delissea*, the genus with priority. This resulted in the combination *D. haleakalaensis.* Lammers retains both genera in the currently accepted treatment of the Hawaiian members of the family, and in 1988 he recognized *C. haleakalaensis* as a subspecies of *C. copelandii,* publishing the new combination *C. copelandii* ssp. *haleakalaensis* (Lammers 1988, 1990). *Cyanea copelandii* ssp. *copelandii* was previously listed as an endangered species (59 FR 10305).

Cyanea copelandii ssp. *haleakalaensis,* a member of the bellflower family, is a vine-like shrub 0.3 to 2 m (1 to 7 ft) tall, with sprawling stems. The sap of this species is a tan latex. Stems are unbranched or sparingly branched from the base. The leaves are elliptical, 10 to 19 cm (4 to 7 in.) long, and 3.5 to 8.5 cm (1.4 to 3.3 in.) wide. The upper surfaces of the leaves have no hairs, while the lower surfaces are hairy. The margins of the leaves are thickened, with small, widely spaced, sharp teeth. The leaf stalks are 2.5 to 10 cm (1 to 4 in.) long. The inflorescences are 5 to 12-flowered and hairy. The main inflorescence stalks are 20 to 45 mm (0.8 to 1.8 in.) long. The hypanthium is oval and widest at the top, 6 to 10 mm (0.2 to 0.4 in.) long, about 5 mm (0.2 in.) wide, and hairy. The corolla (petals collectively) is yellowish but appears pale rose in color due to a covering of dark red hairs. The corolla is 37 to 42 mm (1.4 to 1.6 in.) long and about 5 mm (0.2 in.) wide. The corolla tube is gently curved and the lobes spread about 0.25 times beyond the tube. The berries are dark orange, oval, and 7 to 15 mm (0.3 to 0.6 in.) long. This subspecies is differentiated from the other subspecies by the elliptical leaves, which are also shorter. This species differs from others in this endemic Hawaiian genus by the vine-like stems and the yellowish flowers that appear red due to the covering of hairs (Lammers 1990).

Cyanea copelandii ssp. *haleakalaensis* was historically reported from six locations on the windward (northeastern) side of Haleakala, East Maui, from Waikamoi to Kipahulu Valley (Chock and Kikudome (299) 1950; Forbes (1680.M) 1919, (1708.M) 1919, (2616.M) 1920, (2675.M) 1920; Hobdy (887) 1980; Kikudome (454) 1951; Lamoureux and DeWreede (3917) 1967; Rock (25660b) 1954; St. John (24732) 1950; Warshauer and Kepler (FRW 2698) 1980; Warshauer and McEldowney (FRW 2769) 1980; Wagner *et al.* (5912) 1988). Currently, this taxon is known from two populations—one population of about 200 individuals in Kipahulu Valley within Haleakala National Park, and one population of 35 individuals on lower Waikamoi flume, which is privately owned. Typical habitat is stream banks and wet scree slopes in montane wet or mesic forest dominated by *Acacia koa* (koa) and/or *Metrosideros polymorpha* (Hobdy (887) 1980; Medeiros and Loope 1989; National Tropical Botanical Garden (NTBG) 1994; Wagner *et al.* (5912) 1988; R. Hobdy and A.C. Medeiros, pers. comms. 1995). *Cyanea copelandii* ssp. *haleakalaensis* is found at elevations between 730 and 1,340 m (2,400 and 4,400 ft) (Hobdy (887) 1980; Wagner *et al.* (5912) 1988; Warshauer and Kepler (FRW 2698) 1980; Warshauer and McEldowney (FRW 2769) 1980; A.C. Medeiros, pers. comm. 1995). Associated species include *Perrottetia sandwicensis* (olomea), *Psychotria hawaiiensis* (kopiko ùla), *Broussaisia arguta* (kanawao), and *Hedyotis acuminata* (au) (Wagner *et al.* (5912) 1988).

The major threats to *Cyanea copelandii* ssp. *haleakalaensis* are habitat degradation and/or destruction by feral pigs and competition with several alien plant taxa (Higashino *et al.* 1988; Hobdy (887) 1980; NTBG 1994; R. Hobdy, A.C. Medeiros, and F.R. Warshauer, pers. comms. 1995). Rats (mainly the black rat) and slugs (mainly *Milax gagetes*) are known to eat leaves, stems, and fruits of other members of this genus, and therefore are a potential threat to this species (L. Mehrhoff, *in litt.* 1995). In addition, *C. copelandii* ssp. *haleakalaensis* is threatened by random environmental events since it is known from only two populations.

Cyanea glabra (F. Wimmer) St. John

Cyanea glabra was first collected on West Maui by Willam Hillebrand who named it *Cyanea holophylla* var. *obovata* (Hillebrand 1888). In 1943, F.E. Wimmer named it *C. knudsenii* var. *glabra,* based on a specimen collected by Forbes on East Maui (Wimmer 1943). In 1981, St. John elevated *C. knudsenii* var. *glabra* to full species status as *C. glabra* (St. John 1981). Lammers, in the most recent treatment of the Hawaiian members of the family, upheld the species name, and included *C. holophylla* var. *obovata* as well as the following synonyms in *C. glabra,* including *C. scabra* var. *variabilis, Delissea glabra, D. holophylla* var. *obovata,* and *D. scabra* var. *variabilis* (Lammers 1990, Rock 1919).

Cyanea glabra, a member of the bellflower family, is a branched shrub. The leaves of juvenile plants are deeply pinnately lobed, while those of the adult plants are more or less entire and elliptical. Adult leaves are 23 to 36 cm (9 to 14 in.) long and 7 to 12 cm (3 to 5 in.) wide. The upper surfaces of the leaves are green and hairless, while the lower surfaces are pale green and hairless to sparsely hairy. The margins of the adult leaves are thickened and shallowly toothed to irregularly lobed. Six to eight flowers are borne in each inflorescence. The main inflorescence stalk is 20 to 55 mm (0.8 to 2.2 in.) long, while the individual flower stalk is 12 to 25 mm (0.5 to 1.0 in.) long. The hypanthium is widest at the top, 7 to 10 mm (0.3 to 0.4 in.) long, and about 5 mm (0.2 in.) wide. The corolla is white, often with a pale lilac tinge, 50 to 60 mm (2 to 2.4 in.) long, and about 8 mm (0.3 in.) wide. The tube of the corolla is curved. The lobes are spreading, 0.25 to 0.33 times as long as the tube, and are covered by small, sharp projections. The berries are yellowish orange, elliptical, and 10 to 15 mm (0.4 to 0.6 in.) long. The calyx (sepals collectively) persist on the berry. This species is differentiated from others in this endemic Hawaiian genus by the size of the flower and the pinnately lobed juvenile leaves (Lammers 1990).

Cyanea glabra has been reported historically from two locations on West Maui (Hillebrand 1888; Steve Perlman, NTBG, pers. comm. 1992) and five locations on Haleakala, East Maui (HHP 1991c1 to 1991c5). This species is currently known from only two populations—one population of 12 individuals in Kauaula Gulch on West Maui on privately owned land (S. Perlman, pers. comm. 1995), and one scattered population of approximately 200 individuals in Kipahulu Valley, within Haleakala National Park (A.C. Medeiros, pers. comm. 1995). Typical habitat is wet forest dominated by *Acacia koa* and/or *Metrosideros polymorpha,* at elevations between 975 to 1,340 m (3,200 to 4,400 ft) (A.C. Medeiros, pers. comm. 1995).

The primary threat to *Cyanea glabra* is slugs (A.C. Medeiros, pers. comm. 1995). Additional threats are habitat degradation and/or destruction by feral pigs, flooding, and competition with several alien plant taxa (R. Hobdy and A.C. Medeiros, pers. comms. 1995). Rats are a potential threat to *C. glabra,* since they are known to eat plant parts of other members of the bellflower family (L. Mehrhoff, *in litt.* 1995; A.C. Medeiros, pers. comm. 1995). Leaf damage in the form of stippling and yellowing by the two spotted leafhopper (*Saphonia rufofascia*) has been observed on other native species within the area of *C. glabra* on West Maui and is a potential threat to this species (Kenneth Wood, NTBG, pers. comm. 1995). Random environmental events are a threat to this species, with only two populations remaining.

Cyanea hamatiflora Rock ssp. *hamatiflora*

Cyanea hamatiflora was first collected by Joseph Rock in 1910 and described in 1913 (Rock 1913). In 1987, St. John (St. John 1987b) merged the two genera *Cyanea* and *Delissea,* formally recognizing only *Delissea,* the genus with priority. This resulted in the

combination *D. hamatiflora*. In 1988, Lammers upheld *Cyanea* as a separate genus and combined *C. carlsonii* with this species, resulting in two subspecies: The federally endangered *C. hamatiflora* ssp. *carlsonii* (59 FR 10305) and the nominative *C. hamatiflora* ssp. *hamatiflora* (Lammers 1988, 1990).

Cyanea hamatiflora ssp. *hamatiflora*, a member of the bellflower family, is a palm-like tree 3 to 8 m (10 to 26 ft) tall. The latex is tan in color. The leaves are elliptical with the broadest point at the tip, or they may be narrowly oblong. The leaf blades are 50 to 80 cm (20 to 30 in.) long, 8 to 14 cm (3 to 5.5 in.) wide, and have no stem. The upper surface of the leaf is sparsely hairy to hairless and the lower surface is hairy at least along the midrib and veins. The leaf margins are minutely round-toothed. The inflorescence is 5 to 10 flowered with main stalks 15 to 30 mm (0.6 to 1.2 in.) long. The stalks of individuals flowers are 5 to 12 mm (0.2 to 0.5 in.) long. The hypanthium is widest at the top, 12 to 30 mm (0.5 to 1.2 in.) long, and 6 to 12 mm (0.2 to 0.5 in.) wide. The corolla is magenta in color, 60 to 80 mm (2 to 3 in.) long, 6 to 11 mm (0.2 to 0.4 in.) wide, and hairless. The tube of the corolla is slightly curved, with lobes 0.25 to 0.5 times as long as the tube. The corolla lobes all curve downward, making the flower appear one-lipped. The anthers (pollen-bearing structures) are hairless except for the lower two, which have apical tufts of white hairs. The fruit is a purplish red berry 30 to 45 mm (1.2 to 1.8 in.) long and 20 to 27 mm (0.8 to 1.1 in.) wide. The berry is crowned by persistent calyx lobes. This subspecies is differentiated from the previously listed subspecies (*C. hamatiflora* ssp. *carlsonii*) by its longer calyx lobes and shorter individual flower stalks. This species is separated from others in this endemic Hawaiian genus by fewer flowers per inflorescence and narrower leaves (Lammers 1990).

Cyanea hamatiflora ssp. *hamatiflora* was historically known from eight locations on the windward (northeastern) side of Haleakala, on Maui, stretching from Puu o Kakae to Manawainui (Degener (7977) 1927; Forbes (1294.M) 1919, (1654.M) 1919, (2607.M) 1920; Higashino and Haratani (10037) 1983; Higashino and Holt (9398) 1980; Higashino and Mizuro (2850) 1976; Hobdy (2630) 1986; Rock (8514) 1918; St. John (24730) 1951; Skottsberg (870) 1920; Warshauer and McEldowney (FRW 2614) 1980; Warshauer and McEldowney (FRW 2876) 1980). Currently, this taxon is known from two locations. Five or 6 populations totaling 50 to 100 individuals in Kipahulu Valley occur within Haleakala National Park (A.C. Medeiros, pers. comm. 1995), and 5 or 6 populations totalling 20 to 25 widely scattered individuals occur in the Waikamoi-Koolau Gap area on privately owned land (NTBG 1995; R. Hobdy, pers. comm. 1995). Typical habitat for this taxon is montane wet forest dominated by *Metrosideros polymorpha*, with a *Cibotium* sp. and/or native shrub understory, from 975 to 1,500 m (3,200 to 4,920 ft) elevation (NTBG 1995; Warshauer and McEldowney (FRW 2614) 1980; Warshauer and McEldowney (FRW 2876) 1980). Associated native plant taxa include *Dicranopteris linearis* (uluhe), *Cheirodendron trigynum*, *Broussaisia arguta*, *Cyanea solenocalyx* (haha), *Cyanea kunthiana* (haha), *Vaccinium* sp. (‘ohelo), Melicope sp., and *Myrsine* sp. (kolea) (Higashino and Mizuro (2850) 1976; NTBG 1995).

The major threats to *Cyanea hamatiflora* ssp. *hamatiflora* are habitat degradation and/or destruction by feral pigs, landslides, and competition with the alien plant *Ageratina adenophora* (Maui pamakani) (NTBG 1995; R. Hobdy and A.C. Medeiros, pers. comms. 1995). Pig damage in the form of peeled bark has been observed on individuals of *C. hamatiflora* ssp. *hamatiflora* (A.C. Medeiros, pers. comm. 1995). Rats and slugs are potential threats, since other Hawaiian members of this family are known to be eaten by rats and slugs (L. Mehrhoff, *in litt.* 1995). All populations of this taxon are in areas where rats and slugs have been observed (A.C. Medeiros, pers. comm. 1995).

Dubautia plantaginea Gaud. ssp. *humilis* G. Carr

Dubautia plantaginea ssp. *humilis* was first described in 1985, from specimens collected by Gerald Carr, Robert Robichaux, and Rene Sylva in Black Gorge on West Maui (Carr 1985, 1990).

Dubautia plantaginea ssp. *humilis*, a member of the aster family (Asteraceae), is a dwarfed shrub less than 80 cm (30 in.) tall. The stems are hairless or occasionally strigullose (having straight hairs pressed against the stem). The leaves are opposite, narrow, 8 to 15 cm (3 to 6 in.) long, and 0.7 to 4.5 cm (0.3 to 1.8 in.) wide. The leaves usually have five to nine nerves, and are hairless or moderately strigullose. The leaf margins are toothed from the apex to near the middle. Between 20 to 90 flowering heads are found in each inflorescence, which is about 20 cm (8 in.) long and 28 cm (11 in.) wide. Eight to 20 florets (small flower that is part of a dense cluster) are found in each head, borne on a flat receptacle. The bracts on the receptacle are about 5 mm (0.2 in.) long, sharply toothed, and fused together. The corolla is yellow, and may purple with age. The fruit is an achene (a dry, one-celled, indehiscent fruit) 2.5 to 4 mm (0.08 to 0.2 in.) long. The taxon is self-incompatible, meaning flowers must be pollinated by pollen from a different plant. This subspecies differs from the other two subspecies (*D. plantaginea* ssp. *magnifolia* and *D. plantaginea* ssp. *plantaginea*) by having fewer heads per inflorescence but more florets per head. The species differs from other Hawaiian members of the genus by the number of nerves in the leaves and by the close resemblance of the leaves to the genus *Plantago* (Carr 1985, 1990).

Dubautia plantaginea ssp. *humilis* has only been reported from two locations in Iao Valley, on West Maui. Both populations are on privately owned land, and the two populations total fewer than 300 individuals. Typical habitat is wet, barren, wind-blown cliffs, between 350 to 400 m (1,150 to 1,300 ft) elevation. Associated native plant taxa include *Metrosideros polymorpha*, *Pipturus albidus* (mamaki), *Eragrostis variabilis* (kawelu), *Carex* sp., *Hedyotis formosa*, *Lysimachia remyi*, *Bidens* sp. (koòkoòlau), *Pritchardia* sp. (loulu), and the federally endangered *Plantago princeps* (àle) (Hawaii Plant Conservation Center (HPCC) 1990; HHP 1991d1, 1991d2; R. Hobdy, pers. comm. 1995).

Threats to *Dubautia plantaginea* ssp. *humilis* include landslides and several alien plant taxa (HPCC 1990; HHP 1991d1; R. Hobdy, pers. comm. 1995). Random environmental events are also a threat, with only two known populations less than a half mile apart within the same valley.

Hedyotis schlechtendahliana Steud. var. *remyi* (Hillebr.) Fosb.

Hillebrand described a new species, *Kadua remyi*, based on collections on Lanai and East Maui by Reverend John Lydgate (Hillebrand 1888). F. Raymond Fosberg combined the genus *Kadua* with *Hedyotis* in 1943, and combined *K. remyi* with *Hedyotis schlechtendahliana*. Fosberg considered the Lanai plants different enough from the Maui plants to create a separate variety, *H. schlechtendahliana* var. *remyi*. This variety has been upheld in the most recent revision of the Hawaiian members of this genus (Wagner *et al.* 1990).

Hedyotis schlechtendahliana var. *remyi*, a member of the coffee family (Rubiaceae), is a few branched subshrub from 60 to 600 cm (24 to 240 in.) long, with weakly erect or climbing stems that may be somewhat square, smooth, and

glaucous (with a fine waxy coating that imparts a whitish or bluish hue to the stem). The leaves are opposite, glossy, thin or somewhat thickened, egg-shaped or with a heart-shaped base and a very pointed tip, and 3 to 6 cm (1.2 to 2.4 in.) long. The margins of the leaves curl under. The veins of the leaves are impressed on the upper surface with hairs along the veins and raised on the lower surface. The lower surface of the leaves are usually glaucous, like the stems. The leaf stalks are up to 1 cm (0.4 in.) long, slightly fused to the stem, and bear stipules (appendages on the base of the leaf stalks). The inflorescence stalks are 2 to 15 mm (0.1 to 0.6 in.) long, square, usually glaucous, and borne at the ends of the stems. The flowers have either functional male and female parts or only functional female parts. Leaf-like bracts are found at the base of each flower. The hypanthium is top-shaped and 1.5 to 2.2 mm (0.06 to 0.09 in.) wide. The calyx lobes are usually leaf-like and oblong to broadly egg-shaped, 2 to 8 mm (0.08 to 0.3 in.) long, and 1.5 to 2.5 mm (0.08 to 0.09 in.) wide, enlarging somewhat in fruit. The corolla is cream-colored, fleshy, usually glaucous, trumpet-shaped, with a tube 6 to 17 mm (0.2 to 0.7 in.) long and lobes 1.5 to 10 mm (0.06 to 0.4 in.) long when the anthers are ripe. The stamens reach only to 1 to 3 mm (0.04 to 0.1 in.) below the sinuses of the corolla lobes. The styles are woolly on the lower portions, and two to four lobed. The fruits are top-shaped to sub-globose capsules 2 to 4 mm (0.1 to 0.2 in.) long and 3 to 7 mm (0.1 to 0.3 in.) in diameter. The fruits break open along the walls of the cells within the fruit. Seeds are dark brown, irregularly wedge-shaped and angled, and darkly granular. This variety is distinguished from the other variety by the leaf shape, narrow flowering stalks, and flower color. It is distinguished from others in the genus by the distance between leaves and the length of the sprawling or climbing stems (Wagner *et al.* 1990).

Historically, *Hedyotis schlechtendahliana* var. *remyi* was known from five locations on the northwestern portion of Lanaihale on the island of Lanai (Degener *et al.* (24193) 1957; Forbes (33.L) 1913, (315.L) 1917); Fosberg (12463) 1939; HHP 1991e1 to 1991e3; Hillebrand 1888; Hillebrand and Lydgate (s.n.) n.d.; Munro (s.n.) 1913, (s.n.) 1914, (257, 335) 1928, (506) 1930; Nagata and Ganders (2524) 1982; Rock (8116) 1910; St. John and Eames (18738) 1938; Wagner *et al.* 1990). Currently, this species is known from six individuals in three populations on Kaiholeha-Hulupoe ridge, Kapohaku drainage, and Waiapaa drainage on Lanaihale (HHP 1991e1 to 1991e3; R. Hobdy, pers. comm. 1995). *Hedyotis schlechtendahliana* var. *remyi* typically grows in mesic windswept shrubland with a mixture of dominant plant taxa that may include *Metrosideros polymorpha, Dicranopteris linearis,* and/or *Styphelia tameiameiae* (pukiawe) at elevations between 730 and 900 m (2,400 to 3,000 ft). Associated plant taxa include *Dodonaea viscosa* (ààliÏ), *Sadleria* sp. (àmaù), *Dubautia* sp. (naènaè), *Myrsine sp.*, and several others (HHP 1991e1 to 1991e3; Lau (2866) 1986; Nagata and Ganders (2524) 1982).

The primary threats to *Hedyotis schlechtendahliana* var. *remyi* are habitat degradation and/or destruction by axis deer (*Axis axis*); competition with alien plant taxa such as *Psidium cattleianum, Myrica faya* (firetree), *Leptospermum scoparium* (New Zealand tea), and *Schinus terebinthifolius* (Christmas berry); and random environmental events and/or reduced reproductive vigor due to the small number of remaining individuals and populations (HHP 1994e1 to 1991e3; Joel Lau, The Nature Conservancy of Hawaii, pers. comm. 1995).

Kanaloa kahoolawensis Lorence and K.R. Wood

Kanaloa kahoolawensis was previously unknown to science until its discovery by Steve Perlman and Ken Wood in 1992 on a steep rocky spire on the coast of Kahoolawe. David Lorence and Wood have determined that this plant represents a new genus, and have named the species *Kanaloa kahoolawensis* (Lorence and Wood 1994).

Kanaloa kahoolawensis, a member of the legume family (Fabaceae), is a densely branched shrub 0.75 to 1 m (2.5 to 3.5 ft) tall. The branches are sprawling and 0.75 to 1.5 m (2.5 to 5 ft) long. New growth is densely covered with brown and white hairs. The twigs are brown, ribbed or angled, and become whitish gray with corky fissures. The leaves are clustered near twig tips and have two persistent stipules. The leaf stalk is 6 to 24 mm (0.2 to 0.9 in.) long. The leaves are divided into three pairs of leaflets, with a leaf nectary (nectar-bearing gland) at the joint between each pair of leaflets. The leaflet pairs are 22 to 55 mm (0.8 to 2 in.) long. The main stalk of the leaf terminates in a short, brown appendage. The leaflets are egg-shaped, unequal-sided, 1.4 to 4.2 cm (0.6 to 1.7 in.) long, and 0.9 to 3.2 cm (0.4 to 1.3 in.) wide. One to three inflorescences are found in the leaf axils (joint between leaf and stem), developing with the flush of new leaves. The main stalk of the inflorescence is 8 to 30 mm (0.3 to 1.2 in.) long. The inflorescence is a globose head 6 to 8 mm (0.3 to 0.3 in.) in diameter, with small bracts 1 to 1.5 mm (0.04 to 0.06 in.) long at the base. Each inflorescence has 20 to 54 white flowers. The calyx of the male flowers has limbs that are wider at the tip; densely covered with long, white hairs; and have lobes that overlap when the flower is in bud. The corolla lobes also overlap when the flower is in bud, and the petals are 1.5 to 1.8 mm (0.06 to 0.07 in.) long. The petals are hairy on the outside at the tip, and are not fused at the base. Ten stamens are found in the male flowers, fused at the base. Male flowers have only vestigial female parts. Female flowers have not been observed. The fruit is borne on a stalk about 5 mm (0.2 in.) long. Up to four fruit develop in each flowering head. The fruit is egg-shaped to subcircular, compressed, hairy at the base, and open along two sides. One slender, brown seed, about 2 mm (0.08 in.) long, is found in each fruit. There is no other species of legume in Hawaii that bears any resemblance to this species or genus (Lorence and Wood 1994).

The only known location of *Kanaloa kahoolawensis* is a rocky stack on the southern coast of the island of Kahoolawe, which is owned by the State of Hawaii (Lorence and Wood 1994). While there are no previous records of the plant, pollen core studies on the island of Oahu revealed a legume pollen that could not be identified until this species was discovered. The pollen cores indicate that *K. kahoolawensis* was a codominant with *Dodonaea viscosa* and *Pritchardia* sp. from before 1210 B.C. to 1565 A.D., at which point *K. kahoolawensis* disappeared from the pollen record and *D. viscosa* and *Pritchardia* sp. declined dramatically (Athens *et al.* 1992, Athens and Ward 1993, Lorence and Wood 1994). Only two living individuals and 10 to 12 dead individuals are known (D. Lorence, NTBG, pers. comm. 1995). The only known habitat is mixed coastal shrubland on steep rocky talus slopes at 45 to 60 m (150 to 200 ft) elevation. Associated native plant taxa include *Sida fallax* (ìlima), *Senna gaudichaudii* (kolomona), *Bidens mauiensis* (koòkoòlau), *Lipochaeta lavarum* (nehe), *Portulaca molokinensis* (ìhi), and *Capparis sandwichiana* (pua pilo). In addition, the area is also a nesting site for Bulwer's petrel (*Bulweria bulwerii*) and wedge-tailed shearwater (*Puffinus pacificus*) (Lorence and Wood 1994).

The major threats to *Kanaloa kahoolawensis* are landslides and the alien plant taxa *Emelia fosbergii, Chloris barbata* (swollen finger grass), and *Nicotiana glauca* (tobacco tree) (Lorence and Wood 1994). Goats (*Capra hircus*) played a major role in the destruction of vegetation on Kahoolawe before they were removed (Cuddihy and Stone 1990), and *K. kahoolawensis* probably survived only because the rocky stack is almost completely separated from the island and inaccessible to goats (Lorence and Wood 1994). Rats are a potential threat to this species, since it has seeds similar in appearance and presentation to the federally endangered *Caesalpinia kavaiensis*, which is eaten by rats. Rats may have been the cause of the decline of this species 800 years ago (L. Mehrhoff, *in litt.* 1995). Random environmental events and/or reduced reproductive vigor are also a threat to this species, because only two individuals are known.

Labordia tinifolia A. Gray var. *lanaiensis* Sherff

Hillebrand determined, but did not name, a new variety of *Labordia tinifolia* based on specimens he collected on the islands of Kauai, West Maui, Lanai, and Hawaii. E.E. Sherff named the variety *L. tinifolia* var. *lanaiensis* in 1938 (Sherff 1938). In the revision of the Hawaiian members of this family, Wagner *et al.* (1990), retained the nomenclature, but included only those plants from Lanai and Mapulehu on Molokai (previously considered *L. triflora*) as *L. tinifolia* var. *lanaiensis*. This endemic Hawaiian genus has been revised, and only the Lanai populations are included in *L. tinifolia* var. *lanaiensis*, while L. triflora has been resurrected for the Molokai population (see discussion of the next taxon, below) (Motley 1995).

Labordia tinifolia var. *lanaiensis*, a member of the logan family (Loganiaceae), is an erect shrub or small tree 1.2 to 15 m (4 to 49 ft) tall. The stems branch regularly into two forks of nearly equal size. The leaves are medium to dark green, oval to narrowly oval, 3.8 to 21 cm (1.5 to 8.3 in.) long, and 1.4 to 7.3 cm (0.6 to 2.9 in.) wide. The leaf stalks are 2.2 to 4 cm (0.9 to 1.6 in.) long. The stipules are fused together, forming a sheath around the stem that is 1 to 4 mm (0.04 to 0.2 in.) long. Three to 19 flowers are found in each inflorescence, and the entire inflorescence is pendulous and has a stalk 9 to 22 mm (0.4 to 0.8 in.) long. The flowers are borne on stalks 8 to 11 mm (0.3 to 0.4 in.) long. The corolla is pale yellowish green or greenish yellow, narrowly urn-shaped, and 6.5 to 19 mm (0.2 to 0.7 in.) long. The fruit is broadly oval, 8 to 17 mm (0.3 to 0.7 in.) long, 2 to 3 valved, and has a beak 0.5 to 1.5 mm (0.02 to 0.06 in.) long. The seeds are brown and about 1.8 mm (0.06 in.) long. This subspecies differs from the other two subspecies and other species in this endemic Hawaiian genus by having larger capsules and smaller corollas (Motley 1995; Wagner *et al.* 1990).

Labordia tinifolia var. *lanaiensis* was historically known from the entire length of the summit ridge of Lanaihale, on the island of Lanai (HHP 1991f1 to 1991f12; Motley 1995; Sherff 1938). Currently, *L. tinifolia* var. *lanaiensis* is known from only one population at the southeastern end of the summit ridge of Lanaihale. This population is on privately owned land and totals 300 to 1,000 scattered individuals. The typical habitat of *L. tinifolia* var. *lanaiensis* is lowland mesic forest, associated with such native species as *Dicranopteris linearis* and *Scaevola chamissoniana* (naupaka kuahiwi), at elevations between 760 and 915 m (2,500 and 3,000 ft) (HHP 1991f3; Motley 1995; R. Hobdy and J. Lau, pers. comms. 1995).

Labordia tinifolia var. *lanaiensis* is threatened by axis deer and several alien plant taxa (R. Hobdy, pers. comm. 1994; J. Lau, pers. comm. 1995). The single population is also threatened by random environmental factors.

Labordia triflora Hillebr.

Hillebrand named *Labordia triflora* based on a specimen he collected on Molokai in the early 1800s (Hillebrand 1888). Wagner *et al.* considered this species to be synonymous with *L. tinifolia* var. *lanaiensis* (Wagner *et al.* 1990). Timothy Motley of the University of Hawaii (UH) recently revised this endemic Hawaiian genus, and has resurrected *L. triflora* as a valid species (Motley 1995).

Labordia triflora, a member of the logan family, is very similar to *L. tinifolia* var. *lanaiensis*, described above, except in the following characteristics. Stems of *L. triflora* are climbing. The leaf stalks are only 1 to 3 mm (0.04 to 0.1 in.) long. The inflorescence stalks are 40 to 50 mm (1.6 to 2 in.) long. Each flower stalk is 10 to 25 mm (0.4 to 1 in.) long (Motley 1995).

Until 1990, *Labordia triflora* was known only from the type collection at Mapulehu, on the island of Molokai. This collection was made by Hillebrand in 1870 (Motley 1995). In 1990, Joel Lau of The Nature Conservancy of Hawaii, rediscovered the species in Kua Gulch on Molokai (Motley 1995; J. Lau, pers. comm. 1995). Only 10 individuals are known, all occurring on privately owned land (J. Lau, pers. comm. 1995). Of these individuals, only two are male plants (Timothy Motley, University of Hawaii, pers. comm. 1993). This species occurs in mixed lowland mesic forest, at an elevation of 800 m (2,600 ft). Associated species include *Pouteria sandwicensis* (àlaà), the federally endangered *Cyanea mannii* (haha), and *Tetraplasandra* sp. (òhe) (Motley 1995).

The threats to *Labordia triflora* include habitat degradation and/or destruction by pigs and goats, rats that eat seeds, and competition with the alien plant species *Schinus terebinthifolius* (Motley 1995; T. Motley, pers. comm. 1993). Random environmental events and reduced reproductive vigor also threaten this species, as only 10 individuals remain in one population.

Melicope munroi (St. John) B. Stone

In 1944, St. John described *Pelea munroi*, based on a collection by George C. Munro in 1915 (St. John 1944). The genus *Pelea* has since been submerged with *Melicope*, creating the combination *M. munroi* (Hartley and Stone 1989).

Melicope munroi, a member of the citrus family (Rutaceae), is a sprawling shrub up to 3 m (10 ft) tall. The new growth of this species is minutely hairy. The leaves are opposite, broadly elliptical, 6 to 11 cm (2.4 to 4.3 in.) long, and 3.5 to 7.5 cm (1.4 to 3.0 in.) wide. The veins of the leaf are parallel, in 8 to 12 pairs, and are connected by arched veins near the margin of the leaf. The margins of the leaves are sometimes rolled under. The leaf stalks are 4 to 12 mm (0.2 to 0.5 in.) long. The inflorescence is found in the axil of the leaf and contains one to three flowers. The inflorescence stalk is 10 to 15 mm (0.4 to 0.5 in.) long, and the individual flower stalk is 15 to 35 mm (0.6 to 1.4 in.) long. Male flowers have not been reported. Female flowers have ovoid sepals about 2.5 mm (0.1 in.) long and deltate petals about 8 mm (0.3 in.) long. The fruit is about 18 mm (0.7 in.) wide, and the 4 carpels (egg-bearing structures) are fused about one-third of their length. This species differs from other Hawaiian members of the genus in the shape of the leaf and the length of the inflorescence stalk (Stone *et al.* 1990).

Historically known from the Lanaihale summit ridge of Lanai and above Kamalo on Molokai, *Melicope munroi* is currently known from only the Lanaihale summit ridge (HHP 1991g1 to 1991g10). The one widely scattered population totals an estimated 300 to 500 individuals (J. Lau, pers. comm. 1995). *Melicope munroi* is typically found in lowland mat fern shrubland, at elevations of 790 to 1020 m (2,600 to 3,350 ft). Associated native

plant taxa include *Diplopterygium pinnatum*, *Dicranopteris linearis*, *Metrosideros polymorpha*, *Cheirodendron trigynum*, *Coprosma* sp. (pilo), *Broussaisia arguta*, *Melicope* sp., and *Machaerina angustifolia* ('uki) (HHP 1991g3 to 1991g10).

The major threats to *Melicope munroi* are axis deer and the alien plant taxa *Leptospermum scoparium* and *Psidium cattleianum* (HHP 1991g3 to 1991g10; J. Lau, pers. comm. 1995). Random environmental events also threaten the one remaining population.

Previous Federal Action

Federal action on some of these plants began as a result of section 12 of the Act (16 U.S.C. 1533), which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered or threatened in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. One of the 10 taxa, *Cyanea glabra* (as *C. scabra* var. *variabilis*), was considered to be endangered in that document. One taxon, *Labordia tinifolia* var. *lanaiensis*, was considered to be threatened and two taxa, *L. triflora* and *Melicope munroi* (as *Pelea munroi*), were considered to be extinct. On July 1, 1975, we published a notice in the **Federal Register** (40 FR 27823) of our acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of our intent to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, we published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species. Two of the 10 taxa, *Labordia triflora* and *Melicope munroi*, were proposed for endangered status in this document. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and us in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over two years old be withdrawn. A one-year grace period was given to proposals already over two years old. On December 10, 1979, we published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, including the proposals to list *Labordia triflora* and *Melicope munroi*, along with four other proposals that had expired. We published an updated notice of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), February 21, 1990 (55 FR 6183), and September 30, 1993 (58 FR 51144). Six of the species in this final rule (including synonymous taxa) were at one time or another considered category 1 or category 2 candidates for Federal listing. Category 1 species were those for which we had on file substantial information on biological vulnerability and threats to support preparation of listing proposals but for which listing proposals had not yet been published because they were precluded by other listing activities. Certain species were considered Category 1 but if designated by an asterisk (*), were considered possibly extinct. Category 2 species were those for which listing as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not currently available to support proposed rules. Two taxa, *Labordia tinifolia* var. *lanaiensis* and *L. triflora*, were considered category 2 species in the 1980 and 1985 notices of review. *Melicope munroi* (as *Pelea munroi*) was considered a category 1* in the 1980 and 1985 notices.

In the 1990 and 1993 notices, *Dubautia plantaginea* ssp. *humilis*, *Hedyotis schlechtendahliana* var. *remyi*, and *Melicope munroi* were considered category 2 species. *Labordia tinifolia* var. *lanaiensis* was considered more abundant than previously thought and moved to category 3C in the 1990 notice. Category 3C species were those that had proven to be more abundant or widespread than previously believed and/or were not subject to any identifiable threat. *Labordia triflora* was considered a synonym of *L. tinifolia* var. *lanaiensis* in the 1990 notice. As published in the **Federal Register** (61 FR 7596) on February 28, 1996, we discontinued the designation of categories for candidate species.

Since the last notice, new information suggests that the numbers and distribution are sufficiently restricted and the taxa are imminently threatened for the previously designated category 1, category 2, and category 3C candidate species mentioned above, as well as six additional taxa (*Clermontia samuelii*, *Cyanea copelandii* ssp. *haleakalaensis*, *Cyanea glabra*, *Cyanea hamatiflora* ssp. *hamatiflora*, the newly discovered *Kanaloa kahoolawensis*, and the resurrected *Labordia triflora*), to warrant listing. A proposed rule was published on May 15, 1997, (62 FR 26757) to list these 10 plant taxa as endangered and the September 19, 1997 (62 FR 49398), notice of review listed these species as proposed for endangered status.

We now determine 10 taxa from Maui Nui, Hawaii, to be endangered with the publication of this final rule.

Summary of Comments and Recommendations

In the May 15, 1997, proposed rule and associated notifications, we requested all interested parties to submit factual reports or information that might contribute to the development of a final rule. The public comment period ended on July 14, 1997. Appropriate Federal and State agencies, county governments, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting public comment was published in the ''Maui News'' on May 29, 1997. No comments were received.

In accordance with our peer review policy (59 FR 34270; July 1, 1994), we also solicited the expert opinions of three appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomy, population models, and supportive biological and ecological information substantive to the listing determination for these 10 taxa. The independent specialists did not respond to our request.

Summary of Factors Affecting the Species

After a thorough review and consideration of all available information, we have determined that *Clermontia samuelii*, *Cyanea copelandii* ssp. *haleakalaensis*, *Cyanea glabra*, *Cyanea hamatiflora* ssp. *hamatiflora*, *Dubautia plantaginea* ssp. *humilis*, *Hedyotis schlechtendahliana* var. *remyi*, *Kanaloa kahoolawensis*, *Labordia triflora*, *Melicope munroi*, and *Labordia tinifolia* var. *lanaiensis* should be classified as endangered species. We followed the procedures found at section 4(a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424). A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Clermontia samuelii* ('oha wai), *Cyanea copelandii* ssp. *haleakalaensis* (haha), *Cyanea glabra* (haha), *Cyanea hamatiflora* ssp. *hamatiflora* (haha), *Dubautia plantaginea* ssp. *humilis* (na'na'e), *Hedyotis schlechtendahliana* var. *remyi* (kopa), *Kanaloa kahoolawensis* (kohe

malama malama o Kanaloa), *Labordia tinifolia* var. *lanaiensis* (kamakahala), *Labordia triflora* (kamakahala), and *Melicope munroi* (alani) follow. The primary threats facing the 10 taxa in this final rule are summarized in Table 2.

TABLE 2.—SUMMARY OF PRIMARY THREATS

Species	Alien mammals				Alien plants	Inverte-brates	Substrate loss	Overcol-lecting vandalism	Limited numbers*
	Pigs	Goats	Deer	Rats					
Clermontia samuelii	X	.....	.....	P	X	P	.....	P	
Cyanea copelandii ssp. *haleakalaensis*	X	.....	.....	P	P	P	.....	P	X
Cyanea glabra	X	.....	.....	P	X	X	X	P	X
Cyanea hamatiflora ssp. *hamatiflora*	X	.....	.....	P	X	P	X	P	
Dubautia plantaginea ssp. *humilis*	.....	.....	.....	.....	X	.....	X	P	X
Hedyotis schlechtendahliana var. *remyi*	.....	.....	X	.....	X	.....	.....	P	X1
Kanaloa kahoolawensis	.....	.....	.....	P	X	.....	X	P	X1
Labordia tinifolia var. *lanaiensis*	.....	.....	X	.....	X	.....	.....	P	X
Labordia triflora	X	X	.....	X	X	.....	.....	P	X1
Melicope munroi	.....	.....	X	.....	X	.....	.....	P	X

X = Immediate and significant threat.
P = Potential threat.
* = No more than 5 populations; 1= No more than 10 individuals total.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Native vegetation on all of the main Hawaiian Islands has undergone extreme alteration because of past and present land management practices including ranching, agricultural development, and deliberate introductions of alien animals and plants (Cuddihy and Stone 1990, Wagner *et al.* 1985). The primary threats facing the 10 plant taxa included in this final rule are ongoing and threatened destruction and adverse modification of habitat by feral animals and competition with alien plants (see Factor E for discussion about alien plants).

Eight of the 10 taxa in this rule are variously threatened by feral animals (see Table 2). Animals such as pigs, goats, axis deer, and cattle were introduced either by the early Hawaiians or more recently by European settlers for food and/or commercial ranching activities. Over the 200 years following their introduction, their numbers increased and the adverse impacts of feral ungulates on native vegetation have become increasingly apparent. Beyond the direct effect of trampling and grazing native plants, feral ungulates have contributed significantly to the heavy erosion still taking place on most of the main Hawaiian islands (Cuddihy and Stone 1990).

Pigs, originally native to Europe, Africa, and Asia, were introduced to Hawaii by the Polynesian ancestors of Hawaiians, and later by western immigrants. The pigs escaped domestication and invaded primarily wet and mesic forests of Kauai, Oahu, Molokai, Maui, and Hawaii. Pigs pose an immediate threat to one or more populations of five of the taxa in wet and mesic habitats. While foraging, pigs root and trample the forest floor, encouraging the establishment of alien plants in the newly disturbed soil. Pigs also disseminate alien plant seeds through their feces and on their bodies, accelerating the spread of alien plants through native forests (Cuddihy and Stone 1990, Stone 1985). Pigs facilitate the spread of *Psidium cattleianum* (strawberry guava) and *Schinus terebinthifolius* (Christmas berry), which threaten several of the taxa (Cuddihy and Stone 1990, Smith 1985, Stone 1985). On Maui, pigs threaten both subspecies of *Clermontia samuelii*, *Cyanea copelandii* ssp. *haleakalaensis*, the only known populations of *Cyanea glabra* and *Cyanea hamatiflora* ssp. *hamatiflora*, and the only known population of *Labordia triflora* (NTBG 1994; A.C. Medeiros, R. Hobdy, and J. Lau, pers. comms. 1995; F.R. Warshauer, pers. comm. 1995).

Goats, native to the Middle East and India, were first successfully introduced to the Hawaiian Islands in 1792. Feral goats now occupy a wide variety of habitats from lowland dry forests to montane grasslands on Kauai, Oahu, Molokai, Maui, and Hawaii, where they consume native vegetation, trample roots and seedlings, accelerate erosion, and promote the invasion of alien plants (Scott *et al.* 1986, Stone 1985, van Riper and van Riper 1982). On Molokai, goats threaten the only known population of *Labordia triflora* (T. Motley, pers. comm. 1993).

In 1920, a group of 12 axis deer was introduced to the island of Lanai and about 60 years later the population was estimated at 2,800 (Tomich 1986). Axis deer degrade habitat by trampling and overgrazing vegetation, which removes ground cover and exposes the soil to erosion. Extensive red erosional scars caused by decades of deer activity are evident on Lanai (Cuddihy and Stone 1990). Activity of axis deer threatens all populations of *Hedyotis schlechtendahliana* var. *remyi*, *Labordia tinifolia* var. *lanaiensis*, and *Melicope munroi* on Lanai (HHP 1991g8 to 1991g10; J. Lau, pers. comm. 1995).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants is a potential threat to any species identified as an imperiled. This is the case with all of the taxa in this final rule, but would seriously impact the eight taxa whose low numbers and/or few populations make them especially vulnerable to disturbances (*Cyanea copelandii* ssp. *haleakalaensis*, *Cyanea glabra*, *Dubautia plantaginea* ssp. *humilis*, *Hedyotis schlechtendahliana* var. *remyi*, *Kanaloa kahoolawensis*, *Labordia tinifolia* var. *lanaiensis*, *Labordia triflora*, and *Melicope munroi*).

C. Disease and Predation

Disease is not known to be a significant threat to any of the taxa. None of the 10 taxa are known to be unpalatable to pigs, deer, or goats. Feral pigs not only destroy native vegetation through their rooting activities and dispersal of alien plant seeds (see Factor A), but they also feed on plants, preferring the pithy interior of large tree ferns and fleshy-stemmed plants from the bellflower family (Stone 1985, Stone and Loope 1987). There is direct evidence of pigs eating bark off individuals of *Cyanea hamatiflora* ssp.

hamatiflora (A.C. Medeiros, pers. comm. 1995), and predation is a possible threat to other members of the bellflower family (*Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis,* and *Cyanea glabra*). Predation is also a possible threat to the one other taxon, *Labordia triflora,* known from areas where pigs have been reported (A.C. Medeiros and R. Hobdy, pers. comms. 1995; F.R. Warshauer, pers. comm. 1995).

Two rat species, the black rat and the Polynesian rat (*Rattus exulans*), and to a lesser extent other introduced rodents, eat large fleshy fruits and strip the bark of some native plants, particularly fruits of the native plants in the bellflower family (Cuddihy and Stone 1990, Tomich 1986, Wagner *et al.* 1985). It is possible that rats eat the fruits of *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra,* and *Cyanea hamatiflora* ssp. *hamatiflora,* which produce fleshy fruits and stems, and grow in areas where rats occur (A.C. Medeiros, pers. comm. 1995; L. Mehrhoff, *in litt.* 1995). Rats also eat the seeds of *Labordia triflora* (T. Motley, pers. comm. 1993). Rats are a potential threat to *Kanaloa kahoolawensis,* which has seeds of a type preferred by rats (L. Mehrhoff, *in litt.* 1995).

Slugs are widespread in Hawaii and a serious threat to many native plant taxa, in addition to possibly being an attractant to pigs (Howarth 1985). Slugs feed preferentially on plants with fleshy leaves, stems, and fruits, including all taxa in the family Campanulaceae in Hawaii (L. Mehrhoff, *in litt.* 1995). Slugs are the primary threat to *Cyanea glabra.* All recent observations of this species have shown slug damage on both juveniles and adults (A.C. Medeiros, pers. comm. 1995). Slugs are also a potential threat to the following taxa with fleshy tissues, including *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis,* and *Cyanea hamatiflora* ssp. *hamatiflora* (A.C. Medeiros, pers. comm. 1995; L. Mehrhoff, *in litt.* 1995).

Two spotted leafhopper is a recently introduced insect that feeds on leaves, causing physical damage. In addition to mechanical feeding damage, this insect may be a vector of a plant virus and is suspected of causing severe dieback of the native fern *Dicranopteris linearis* (uluhe), and economic damage to crops and ornamental plants in Hawaii. The two spotted leafhopper is a potential threat to all native taxa, since it has shown no host preference. It is a particularly grave threat to *Cyanea glabra,* since biologists have observed leafhoppers near the West Maui population (Adam Asquith, Service, pers. comm. 1994; K. Wood, pers. comm. 1995).

D. The Inadequacy of Existing Regulatory Mechanisms

Of the 10 taxa in this final rule, 8 have populations located on private land, 2 on State land, and 4 on Federal land within Haleakala National Park. While four of the taxa occur in more than one of those three ownership categories, five are known only from private land, and *Kanaloa kahoolawensis* is found only on State land.

While four of these taxa are found in Haleakala National Park, which is managed to protect native ecosystems, one or more populations of each taxa are found on State or private land as well. One of the taxa, *Clermontia samuelii,* also occurs in a State Natural Area Reserve, which is managed to perpetuate native resources (HRS, sect. 195–5). Furthermore, although Hawaii has a strong State Endangered Species law (HRS, sect. 195-D), these plants are currently not protected under that law. The other three taxa are found on private lands. However, there are no State laws or existing regulatory mechanisms at the present time to protect or prevent further decline of these plants on private land, except for minimal protection offered to those that occur on land classified as a conservation district.

Sections 2(c) (1) and 7 of the Act direct Federal agencies to seek to conserve listed endangered and threatened species and to avoid jeopardizing listed species, but require no such activities if the plants are not federally listed.

The majority of the populations of the 10 taxa are located on land classified within conservation districts and owned by the State of Hawaii or private companies or individuals. *Clermontia samuelii* occurs within Haleakala National Park, and on State Forest Reserve or State Natural Area Reserve lands—both are within conservation districts. *Kanaloa kahoolawensis* occurs only on the island of Kahoolawe, which is owned by the State of Hawaii. In 1993, Kahoolawe was transferred to native Hawaiian control. The Kahoolawe Island Reserve Commission (KIRC), which is under the Hawaii Department of Land and Natural Resources' Historic Preservation section, was established to oversee the cleanup of the island, including the removal of unexploded military ordnance and the restoration of native ecosystems and traditional cultural uses. Funding for the cleanup was authorized by the U.S. Congress, and the U.S. Navy is responsible for performing the cleanup. Although it does not lease the island, the Navy controls access to the island because of the danger of unexploded ordnance. The island is not a State Forest Reserve, Natural Area Reserve, or within a conservation district.

Regardless of the owner, lands in these districts are regarded as necessary for the protection of endemic biological resources and the maintenance or enhancement of the conservation of natural resources. Activities permitted in conservation districts are chosen by considering how best to make multiple use of the land (HRS, sect. 205–2). Some uses, such as maintaining animals for hunting, are based on policy decisions, while others, such as preservation of endangered species, are mandated by State laws. Requests for amendments to district boundaries or variances within existing classifications can be made by government agencies and any person with a property interest in the land (HRS, sect. 205–4). Before decisions about these requests are made, the impact of the final reclassification on ''preservation or maintenance of important natural systems or habitat'' (HRS, sects. 205–4, 205–17), as well as the maintenance of natural resources is required to be taken into account (HRS, sects. 205–2, 205–4).

Hawaii Revised Statutes (chapt. 343) require an environmental assessment to determine whether or not the environment will be significantly affected before any final land use—(1) occurs on State land, or (2) is funded in part or whole by county or State funds, or (3) will occur within land classified as conservation district. If it is found that an action will have a significant effect, preparation of a full Environmental Impact Statement is required. Hawaii's Environmental Policy Act, adopted in 1974 to encourage the conservation of natural resources and the enhancement of the quality of life, requires the safeguarding of ''. . . the State's unique natural environmental characteristics . . .'' (HRS, sect. 344–3(1)) and includes guidelines to protect endangered species of individual plants and animals (HRS, sect. 344–4(3)(A)). However, unless the species are protected under the State endangered species law (i.e., State listed as endangered or threatened), there is no mechanism to ensure that the species will be protected, regardless of what State ''guidelines'' are in place. Even though all of these species, except *Kanaloa kahoolawensis,* occur on conservation district lands, the designation of a conservation district does not provide adequate protection to these species.

Federal listing of these 10 plant species will automatically invoke State listing under Hawaii's Endangered Species law and supplement the protection available under other State laws. The Federal Endangered Species Act will, therefore, offer additional protection to these species.

State laws relating to the conservation of biological resources, including indigenous aquatic life, wildlife and land plants, and endangered species and their associated ecosystems, allow for the acquisition of land as well as the development and implementation of programs for the conservation, management, and protection of biological resources (HRS, sect. 195D–5(a)). However, according to HRS, sect. 195D–5(d), ''in carrying out programs authorized by this section, priority shall be given to the conservation and protection of those endangered . . .'', (i.e., Federal and State listed),'' . . . aquatic life, wildlife, and land plant species whose extinction within the State would imperil or terminate, respectively, their existence in the world.'' Therefore, the State will always give priority to protection and conservation efforts to species that are federally and State listed as endangered or threatened. Without Federal listing, these 10 species receive no protection or management by the State.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

All 10 of the taxa in this final rule are threatened or potentially threatened by competition with one or more alien plant taxa (see Table 2). The most significant of these appear to be *Psidium cattleianum* (strawberry guava), *Schinus terebinthifolius* (Christmas berry), *Rubus rosifolius* (thimbleberry), *Clidemia hirta* (Koster's curse), *Miconia calvescens* (velvet tree), *Myrica faya* (firetree), *Paspalum conjugatum* (Hilo grass), *Psidium guajava* (common guava), *Casuarina equisetifolia* (ironwood tree), *Leptospermum scoparium* (New Zealand tea), and *Ageratina adenophora* (Maui pamakani). There are a number of other alien plant taxa that pose a significant threat to populations of these plants.

Psidium cattleianum (strawberry guava), an invasive shrub or small tree native to tropical America, has become widely naturalized on all of the main islands, forming dense stands that exclude other plant species in disturbed areas (Cuddihy and Stone 1990). This alien plant grows primarily in mesic and wet habitats and is dispersed mainly by feral pigs and fruit-eating birds (Smith 1985, Wagner *et al.* 1990). *Psidium cattleianum* is considered to be one of the greatest alien plant threats to Hawaiian rain forests and is a threat on Maui to one of two known populations of *Cyanea copelandii* ssp. *haleakalaensis* and *Cyanea glabra* (Higashino *et al.* 1988; A.C. Medeiros, pers. comm. 1995). On Lanai, this invasive alien plant threatens all populations of *Hedyotis schlechtendahliana* var. *remyi*, the only known population of *Labordia tinifolia* var. *lanaiensis*, and the only known population of *Melicope munroi* (HHP 1991e1 to 1991e3; R. Hobdy, pers. comm. 1994; J. Lau, pers. comm. 1995).

Schinus terebinthifolius (Christmas berry), introduced to Hawaii before 1911, is a fast-growing tree or shrub invading most mesic to wet lowland areas of the major Hawaiian Islands (Wagner *et al.* 1990). *Schinus terebinthifolius* is distributed mainly by feral pigs and fruit-eating birds and forms dense thickets that shade out and displace other plants (Cuddihy and Stone 1990, Smith 1985, Stone 1985). This species is a threat to one population of *Hedyotis schlechtendahliana* var. *remyi*, and the only known populations of *Labordia tinifolia* var. *lanaiensis* and *Labordia triflora* (HHP 1991e2; R. Hobdy, pers. comm. 1994; J. Lau, pers. comm. 1995).

Rubus rosifolius (thimbleberry), native to Asia, is naturalized in disturbed mesic to wet forest on all of the main Hawaiian Islands and is perhaps the most widespread of all species of *Rubus* introduced to Hawaii (Cuddihy and Stone 1990). On Maui, this species threatens one of the two populations of *Cyanea copelandii* ssp. *haleakalaensis* as well as *Cyanea glabra* (NTBG 1994; A.C. Medeiros, pers. comm. 1995).

Clidemia hirta (Koster's curse), a noxious shrub native to tropical America, is found in mesic to wet forests on at least six islands in Hawaii (Almeda 1990, Hawaii Department of Agriculture 1981, Smith 1992). *Clidemia hirta* was first reported on Oahu in 1941 and had spread through much of the Koolau Mountains by the early 1960s. This noxious plant forms a dense understory, shading out other plants and hindering plant regeneration (Cuddihy and Stone 1990). This prolific alien plant has recently spread to five other islands and, on Maui is a potential threat to *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis* and *Cyanea glabra* (A.C. Medeiros, pers. comm. 1995).

Miconia calvescens (velvet tree) is a recently naturalized species native to tropical America. This species has become invasive in the Hamakua coast and Pahoa areas of the island of Hawaii, the island of Oahu, and has become established on East Maui. This species has the potential to be very disruptive, as it has become an understory dominate where introduced to similar habitat in Tahiti (Almeda 1990, Cuddihy and Stone 1990). This species occurs on Maui near populations of *Clermontia samuelii* and poses a potential threat (A.C. Medeiros, pers. comm. 1995).

Myrica faya (firetree), native to the Azores, Madeira, and the Canary Islands, was introduced to Hawaii before 1900 for wine-making, firewood, or an ornamental. Trees were planted in forest reserves in the 1920s. By the mid-1980s *M. faya* had infested over 34,000 hectares (83,980 acres) throughout the State, with the largest infestations on the island of Hawaii. It is now considered a noxious weed (Cuddihy and Stone 1990, DOA 1981). *Myrica faya* can form a dense stand with no ground cover beneath the canopy. This lack of ground cover may be due to dense shading or to chemicals released by the tree that prevent other species from growing. *Myrica faya* also fixes nitrogen and increases nitrogen levels in Hawaii's typically nitrogen-poor volcanic soils. This may encourage the invasion of alien plants that would not normally be able to grow as well as native species in the low-nitrogen soils of Hawaii (Cuddihy and Stone 1990). On Lanai, this species threatens *Hedyotis schlechtendahliana* var. *remyi* and *Labordia tinifolia* var. *lanaiensis* (HHP 1991e3; R. Hobdy, pers. comm. 1994).

Paspalum conjugatum (Hilo grass) is naturalized in moist to wet disturbed areas on all of the main Hawaiian Islands except Niihau and Kahoolawe, and produces a dense ground cover (Cuddihy and Stone 1990). In Maui's Kipahulu Valley, this grass threatens one of the two populations of *Cyanea copelandii* ssp. *haleakalaensis*, as well as *Cyanea glabra* (NTBG 1994; A.C. Medeiros, pers. comm. 1995). On West Maui, *P. conjugatum* threatens *Dubautia plantaginea* ssp. *humilis* (HPCC 1990).

Psidium guajava (common guava), a shrub or small tree native to the New World tropics, is naturalized on all of the main islands, except, perhaps, Niihau and Kahoolawe (Wagner *et al.* 1990). *Psidium guajava* is a serious weed that invades disturbed sites, forming dense thickets in dry as well as mesic and wet forests (Smith 1985, Wagner *et al.* 1990). On Maui, this species threatens one of the two known populations of *Cyanea copelandii* ssp. *haleakalaensis*, as well as *Cyanea glabra* and *Dubautia plantaginea* ssp. *humilis*

(HPCC 1990; Higashino *et al.* 1988; A.C. Medeiros, pers. comm. 1995).

Casuarina equisetifolia (ironwood) is a large, fast-growing tree that reaches up to 20 m (65 ft) in height (Wagner *et al.* 1990). This large tree shades out other plants, takes up much of the available nutrients, and possibly releases a chemical agent that prevents other plants from growing beneath it (Neal 1965, Smith 1985). *Casuarina equisetifolia* is invading the wet cliffs of Iao Valley and is a threat to *Dubautia plantaginea* ssp. *humilis* (HPCC 1990; HHP 1991d1; R. Hobdy, pers. comm. 1995).

Leptospermum scoparium (New Zealand tea), brought to Hawaii as an ornamental plant and now naturalized in disturbed mesic to wet forest on three islands, threatens *Hedyotis schlechtendahliana* var. *remyi*, and the only known populations of *Labordia tinifolia* var. *lanaiensis* and *Melicope munroi* (Wagner *et al.* 1990; J. Lau, pers. comm. 1995).

Ageratina adenophora (Maui pamakani), native to tropical America, has become naturalized in dry areas to wet forest on Oahu, Molokai, Lanai, Maui, and Hawaii (Wagner *et al.* 1990). This noxious weed forms dense mats with other alien plants and prevents regeneration of native plants (Anderson *et al.* 1992). On Maui, one of the two known populations of *Cyanea copelandii* ssp. *haleakalaensis*, as well as *Cyanea glabra* and *Cyanea hamatiflora* ssp. *hamatiflora* are threatened by this species (NTBG 1995; R. Hobdy, pers. comm. 1995).

Rubus argutus (prickly Florida blackberry) was introduced to the Hawaiian Islands in the late 1800s from the continental U.S. (Haselwood and Motter 1983). The fruits are easily spread by birds to open areas such as disturbed mesic or wet forests, where the species forms dense, impenetrable thickets (Smith 1985). One of two known populations of *Cyanea copelandii* ssp. *haleakalaensis*, as well as *Cyanea glabra* are threatened by this species (A.C. Medeiros, pers. comm. 1995).

Hedychium coronarium (white ginger) was introduced to Hawaii in the late 1800s, probably by Chinese immigrants. It escaped from cultivation and is found in wet and mesic forests on most of the main Hawaiian islands. The large, vigorous herbs mainly reproduce vegetatively, forming very dense stands that exclude all other growth. *Hedychium gardnerianum* (kahili ginger) was introduced to Hawaii before 1940 from the Himalayas, and now has major infestations on the islands of Hawaii, Maui, and Kauai. This species is considered a more serious threat to native forests because it produces abundant fruit (Cuddihy and Stone 1990, Wagner *et al.* 1990). Both species of *Hedychium* threaten *Clermontia samuelii* (A.C. Medeiros, pers. comm. 1995), and *H. gardnerianum* is a threat to *Labordia tinifolia* var. *lanaiensis* (R. Hobdy, pers. comm. 1994).

Tibouchina herbacea (glorybush), a relative of Koster's curse, first became established on the island of Hawaii in the late 1970s and, by 1982, was collected in Lanilili on West Maui (Almeda 1990). Although the disruptive potential of this alien plant is not fully known, *T. herbacea* appears to be invading mesic and wet forests of Hawaii and Maui (Cuddihy and Stone 1990), and is considered a threat to *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis*, and *Cyanea glabra* (R. Hobdy and A.C. Medeiros, pers. comms. 1995).

Sporobolus africanus (smutgrass) was introduced from Africa and has become naturalized on all the main islands of Hawaii except Niihau and Kahoolawe. It is typically found in disturbed areas such as road sides and pastures (O'Connor 1990), and on Maui is a threat to *Dubautia plantaginea* ssp. *humilis* (HPCC 1990).

Pluchea symphytifolia (sourbush) is native to Mexico, the West Indies, and northern South America. This species is naturalized in dry forests and ranges into mesic and wet forests on all the main Hawaiian islands (Wagner *et al.* 1990). It is a fast growing shrub and can form dense thickets (Smith 1985). *Pluchea symphytifolia* is a threat to *Dubautia plantaginea* ssp. *humilis* on West Maui (HPCC 1990).

Emelia fosbergii is a pantropical weed of unknown origin. In Hawaii it is a common weed in disturbed lowland dry habitats on all the main islands (Wagner *et al.* 1990). *Emelia fosbergii* is a threat to the only known population of *Kanaloa kahoolawensis* (Lorence and Wood 1994).

Nicotiana glauca (tree tobacco) was brought to Oahu as an ornamental from Argentina in the 1860s. It is now naturalized in all warm temperate regions of the world. On Oahu, Lanai, Maui, and Kahoolawe, this species is naturalized in disturbed open, dry habitats (Symon 1990). *Nicotiana glauca* is a threat to the only known population of *Kanaloa kahoolawensis* (Lorence and Wood 1994).

Chloris barbata (swollen finger grass) is native to Central America, the West Indies, and South America. In Hawaii it is naturalized in disturbed dry areas on all the main islands, and is a threat to the only known population of *Kanaloa kahoolawensis* (Lorence and Wood 1994, O'Connor 1990).

Erosion, landslides, rockslides, and flooding due to natural weathering result in the death of individual plants as well as habitat destruction. This especially affects the continued existence of taxa or populations found on cliffs, steep slopes, and stream banks that have limited numbers and/or narrow ranges such as the West Maui population of *Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora, Dubautia plantaginea* ssp. *humilis*, and *Kanaloa kahoolawensis* (Lorence and Wood 1994; R. Hobdy, pers. comm. 1995).

The small number of populations and individuals of many of these taxa increases the potential for extinction from a single human-caused or natural environmental disturbance. In addition, the small gene pool may depress reproductive vigor. Four of the plants, *Kanaloa kahoolawensis, Labordia tinifolia* var. *lanaiensis, Labordia triflora*, and *Melicope munroi*, are each known from a single population. Four additional taxa have five or fewer populations (*Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra, Dubautia plantaginea* ssp. *humilis*, and *Hedyotis schlechtendahliana* var. *remyi*), and three of the taxa are estimated to number no more than 10 individuals (*Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis*, and *Labordia triflora*). All of the taxa in this final rule either number fewer than 15 populations or total fewer than 1,000 individuals (see Table 2).

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to make this rule final. Based on this evaluation, we find that these 10 species should be listed as endangered—*Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora, Dubautia plantaginea* ssp. *humilis, Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis, Labordia tinifolia* var. *lanaiensis, Labordia triflora*, and *Melicope munroi*. All of these taxa are threatened by one or more of the following—habitat degradation and/or predation by pigs, goats, deer, rats, and invertebrates; competition with alien plant taxa for space, light, water, and nutrients; and, substrate loss. Eight of the taxa have five or fewer populations, and three of these taxa are estimated to number no more than 10 individuals. Small population size and limited distribution make eight of these taxa particularly vulnerable to extinction from reduced reproductive

vigor or from random environmental events. Because all of the 10 taxa are in danger of extinction throughout all or a significant portion of their ranges, they fit the definition of endangered as defined in the Act. Therefore, the determination of endangered status for these 10 taxa is warranted.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Critical habitat is not prudent when one or both of the following situations exist—(i) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat; (ii) designation of critical habitat would not be beneficial to the species.

In the proposed rule, we indicated that designation of critical habitat was not prudent for the six taxa (*Dubautia plantaginea* ssp. *humilis, Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis, Labordia tinifolia* var. *lanaiensis, Labordia triflora,* and *Melicope munroi*) that are located primarily on non-Federal lands with limited Federal activities because of a concern that publication of precise maps and descriptions of critical habitat in the **Federal Register** could increase the vulnerability of these plant species to incidents of collection and general vandalism. In the case of plants, increased visits to the sites where rare species are found could contribute to the decline of existing populations through overcollection or vandalism. We also indicated that designation of critical habitat was not prudent for the other four taxa (*Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra,* and *Cyanea hamatiflora* ssp. *hamatiflora*) located primarily on Federal lands within Haleakala National Park. National Parks are managed for the protection of native ecosystems, which should promote protection, conservation, and recovery of plants that are part of those ecosystems, suggesting no significant benefit from a designation of critical habitat.

In light of recent court decisions (e.g., *Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt,* 2 F. Supp. 2d 1280 (D. Hawaii 1998)) issued since the proposed rule was published we have reconsidered the prudency finding under the Act. In the *Natural Resources Defense Council* case (hereafter *NRDC*), the Ninth Circuit held, first, that a not prudent finding premised on increased threats was justified only if the Service weighs, based on facts in the record, the benefits of designation against the risks of designation. Second, it held that the Service erred in finding no benefit to critical habitat simply because critical habitat would not control the majority of land-use activities within critical habitat, and that to do so was inconsistent with Congressional intent that the not prudent exception to designation should apply ''only in rare circumstances.'' With regard to non-Federal lands, the court found that they would be subject to section 7 requirements in the future if their use involved any form of Federal agency authorization or action. Third, the court found that the existence of another type of protection, even if potentially greater than that provided by designating critical habitat, does not justify a not prudent finding.

The Service continues to be concerned that designation of critical habitat could potentially increase the threats to these species. Due to low numbers of individuals or populations and their inherent immobility, these plants are vulnerable to unrestricted collection, vandalism or other disturbance. We also remain concerned that these threats may be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, we have examined the evidence available for each of these ten taxa and have not, at this time, found specific evidence of taking, vandalism, collection or trade of any of them or of similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)), we do not find that any of these species are currently threatened by taking or other human activity, which threats would be exacerbated by the designation of critical habitat.

In the absence of a finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted pursuant to the *NRDC* decision. In the case of these taxa, there may be some benefits to critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. Four of these species (*Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra,* and *Cyanea hamatiflora* ssp. *hamatiflora*) occur in part on Federal land that would be subject to section 7. The fact that this is land administered by the National Park Service does not, in itself, justify a not prudent finding in the Ninth Circuit. However, we will determine at the time of designation whether National Park Service lands meet the statutory definition of critical habitat. While the other taxa (*Dubautia plantaginea* ssp. *humilis, Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis, Labordia tinifolia* var. *lanaiensis, Labordia triflora,* and *Melicope munroi*) are located exclusively on non-Federal lands with limited Federal activities, there may be Federal actions affecting these lands in the future. While a critical habitat designation for habitat currently occupied by these species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. There may also be some educational or informational benefits to critical habitat. Therefore, we find that critical habitat is prudent for the 10 Maui Nui plant taxa, *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora, Dubautia plantaginea* ssp. *humilis, Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis, Labordia tinifolia* var. *lanaiensis, Labordia triflora,* and *Melicope munroi.*

Proposed Critical Habitat Designations Will Be Consistent With The Service's Listing Priority Guidance

As a Tier 2 activity, the processing of this final rule conforms with our current

listing priority guidance (LPG) for fiscal years 1998 and 1999, published in the **Federal Register** on May 8, 1998 (63 FR 25502). However, at this time, designation of critical habitat is a Tier 3 activity under the current LPG. While we allocated about 17 percent of the total listing budget for critical habitat actions this fiscal year, all of Region 1's allocation will be spent complying with court-ordered designations. Completion of any other Tier 3 activity in Region 1 this fiscal year is precluded by higher priority listing actions. Future work on proposed critical habitat designations for these taxa will be scheduled based on future listing appropriations, the LPG in effect at that time, and their relative priority compared to other pending critical habitat proposals.

The Act imposes more listing duties than we currently are able to meet due to lack of adequate funding. To deal with this difficult situation, we have developed a series of LPGs to prioritize our various listing activities in such a way as to secure the most protection for the greatest number of the most imperiled species in the least time.

The Listing Priority Guidance

The **Federal Register** notices for the LPGs describe the fiscal constraints imposed over the past four years in detail. 63 FR 25502 (May 8, 1998) (FY 1998/1999 LPG); 61 FR 64475 (Dec. 5, 1996) (FY 1997 LPG); 61 FR 24722 (May 16, 1996) (FY 1996 LPG). In brief, Congress originally appropriated $7.999 million for listing in FY 1995. On April 10, 1995, Congress enacted a moratorium on final listing determinations and critical habitat designations, and rescinded $1.5 million (nearly twenty percent) of the listing budget. The severe funding shortages and the listing moratorium continued in FY 1996. From October 1, 1995, until April 26, 1996, the Department of the Interior operated without a regularly enacted full-year appropriations bill. Instead, funding for most of the Department's programs, including the endangered species listing program, was governed by a series of thirteen ''continuing resolutions'' (CRs) that severely reduced or eliminated funding for the Service's listing program. Their net effect was essentially to shut down the listing program.

After more than six months of continuing resolutions, Congress allowed the President to lift the listing moratorium and appropriated $4.0 million for listing in FY 1996, far short of the funds necessary to process the backlog of 243 final listing determinations that required action. In FY 1997, although the President requested approximately $7.5 million for listing, Congress appropriated only $5.0 million. The President requested and received $5.19 million for listing in FY 1998, and Congress expressly prohibited the expenditure of any additional funds for listing. This reduced listing budget request was based on a realistic assessment of the level of funding that might be obtained and reflected a need to address other endangered species program activities such as conducting section 7 consultations, processing section 10 incidental take permit applications, and developing and implementing recovery plans. Although the Department also requested that Congress include the amount of the budget that could be allocated to listing on the face of the appropriations bill, it did so only to clarify Congress' intent, previously expressed in Congressional committee reports, that we not divert funding to listings from other programs. In FY 1999, the President requested significant increases for all Endangered Species programs, including an increase of $1.5 million for listing. However, Congress appropriated only an additional $566,000, for a total listing budget of $5.756 million, again with an express cap on the listing budget.

To address the backlog that has resulted from the listing moratorium and subsequent funding constraints, and to meet litigation deadlines, we employed the LPGs to prioritize listing actions. The 1996, 1997, and 1998/99 LPGs use categories or ''tiers'' of Act listing actions to guide the expenditure of limited listing funds. Each year, the content and number of tiers has changed somewhat, reflecting the progress that the Service has made in reducing the listing backlog. In the current guidance, the highest priority (Tier 1) is assigned to emergency listings of species facing an imminent risk of extinction. The second highest priority (Tier 2) includes processing final determinations on proposed additions to the lists of endangered and threatened species, processing new proposals to add species to the lists, and processing petition findings to add species to the lists. Preparing proposed and final rules to designate critical habitat is assigned the lowest priority (Tier 3).

It is essential during periods of limited listing funds to maximize the conservation benefit of listing appropriations. Designation of critical habitat is very resource-intensive, and in most cases provides little additional protection. As explained previously, the primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While in some cases critical habitat may result in some additional section 7 coverage, for example in unoccupied habitat, the prohibition on destroying critical habitat generally overlaps the jeopardy prohibition of section 7. There may also be other benefits of critical habitat, such as increased awareness by the general public and State and government agencies of the importance of certain habitat areas. Nevertheless, compared with the benefits of listing as endangered or threatened, those species that presently have no protection under the Act, designating critical habitat for species already receiving its full protection provides relatively fewer conservation benefits.

Furthermore, designation of critical habitat is expensive and time-consuming. It entails the detailed identification of all areas containing the physical or biological features essential to the conservation of each species (16 U.S.C. 1532(5)(A)). Then, we must determine which of these areas may require special management considerations or protection. Maps and written legal descriptions must be prepared for each area to be proposed for critical habitat (50 CFR 424.12(c)). We must also consider the economic and other impacts of designating areas as critical habitat (16 U.S.C. 1533(b)(2)). This requires the preparation of an economic analysis and consideration of any additional available information concerning other impacts. Then we must determine whether the benefits of excluding any particular area outweigh the benefits of including that area as part of the critical habitat. To insure that the affected public and State and local governments have an adequate opportunity to comment, we must also publish each critical habitat proposal in the **Federal Register** for public comment; provide actual notice of the proposed regulation to appropriate State and local government agencies where the taxon is believed to occur; publish a summary of each proposal in a newspaper of general circulation in each area where the taxon is believed to occur; and hold public hearings if requested (16 U.S.C. 1533(b)(5)).

It is very difficult to estimate precisely the time and cost to develop critical habitat designations for the plants at issue here and we intend to streamline the process to the extent possible consistent with our statutory obligations. For example, for the Mexican spotted owl, the actual designation cost over $341,000. Obviously, the greater the number of species, the greater the cost. Because of

the marginal additional protection critical habitat provides, and the cost of designating it, critical habitat designations have been accorded a lower priority under the LPG.

Adherence to the LPG has allowed us to make great strides in eliminating the backlog of pending listing proposals, thus allowing the implementation of a more balanced listing program. When the moratorium was lifted, final decisions for 243 proposed listings were pending. In the four calendar years prior to the moratorium, we made final listing decisions for an average of 88 species per year. In comparison, in the twelve months after the moratorium was lifted on April 26, 1996, we made final listing determinations for 131 species. Since that time, we further reduced the backlog of pending proposals to list domestic species, so that 68 such proposals remain pending (as of June 24, 1999), only 1 of which was published prior to the moratorium.

However, at present we still face the dilemma that we cannot complete all of our statutory listing duties within the time frames mandated by Congress, given the insufficient funds appropriated by Congress for this purpose. The LPG is the most efficient way, consistent with the purposes of the Act, for us to pursue the goal of reestablishing full compliance with the Act.

The progress we have made in reducing the listing backlog by employing the LPG has allowed us to slowly expand the activities we undertake. Resuming work on critical habitat designations, where prudent, is the next step in this process. In fact, we set aside $979,000 from the 1999 listing budget to undertake critical habitat actions. However, current budget levels are clearly insufficient for us to undertake all of our outstanding critical habitat designations in addition to meeting our other mandatory listing duties under the Act. Therefore, we plan to employ a priority system for deciding which ones should be addressed first. We will focus our efforts on those designations that will provide the most conservation benefit, taking into consideration the efficacy of critical habitat designation in addressing the threats to the species, the magnitude and immediacy of those threats, and the amount of resources necessary to complete the designation. We are also in the process of re-examining procedures and requirements for critical habitat designation, in order to streamline and expedite such actions to the maximum extent permitted under law (64 FR 31871, June 14, 1999) (notice of intent to clarify the role of habitat in endangered species conservation).

Region 1's Workload

Administratively, the Service is divided into seven geographic regions, which report to our headquarters in Washington, DC. Each region has a regional office and a number of field offices that report to the regional office. These ten species are under the jurisdiction of Region 1, which includes California, Oregon, Washington, Idaho, Nevada, Hawaii, and various Pacific Islands. Within Region 1, these species are the responsibility of the Pacific Islands Fish and Wildlife Office in Honolulu, Hawaii.

Region 1 has by far the heaviest endangered species workload of the Service's seven regions. About one-half of all species listed under the Act fall within Region 1's jurisdiction. Since the listing moratorium was lifted in April 1996, Region 1 has expended much of its limited listing resources on the completion of final determinations on proposed rules to list species. From April 1996 through June 24, 1999, we made 210 final determinations for Region 1 species (81 percent of the nationwide total of 260). In that time frame, Region 1 also proposed rules for 49 species (56 percent of the nationwide total of 88), and completed 9 petition findings (20 percent of the nationwide total of 44).

Region 1 likewise has a heavy listing workload for the remainder of FY 1999. Region 1 has the lead on forty-six species proposed for listing for which final determinations must be made. Region 1 must also complete 12-month findings for an additional five species. Moreover, Region 1 has primary responsibility for about 100 candidate species, many of which face imminent, high-magnitude threats to their existence. Finally, Region 1 has 5 listing petitions awaiting 90-day findings. Under the LPG, these are all Tier 2 activities that should be given priority to ensure that species in need of the fundamental protections of the Act are addressed. Currently, there is one draft final delisting package awaiting revision by the Pacific Islands Fish and Wildlife Office listing staff and, seven draft proposed listing packages covering 39 species awaiting revision by either the Regional Office listing staff or the Pacific Islands Fish and Wildlife Office. In addition, preparation of proposed listing rules for 28 Hawaiian plant species and 2 species of butterflies from the Northern Marianas Islands have been put on hold indefinitely due to the increased workload associated with the determination and designation of critical habitat for the listed species under litigation.

Region 1 must also expend its listing resources to comply with existing court orders or settlement agreements. In fact, this fiscal year, all of the Region's allocation for critical habitat actions will be expended to comply with these court orders. For example, we have been ordered to propose critical habitat for the tidewater goby by August 3, 1999, and to complete final critical habitat designation for the western snowy plover by December 1, 1999. In addition, Region 1 had to comply with a court order to reanalyze a previous not prudent finding for critical habitat for the coastal California gnatcatcher. This reanalysis was completed this fiscal year, and we are beginning the analysis on specific sites to identify any areas that may be appropriate for proposed critical habitat designation. Complying with these orders will require a significant commitment of resources.

By far the greatest litigation-driven commitment of listing resources will be required to comply with the order in Conservation Council of Hawaii v. Babbitt. There, the district court remanded to the Service its ''not prudent'' findings on critical habitat designation for 245 species of Hawaiian plants. The court ordered us not only to reconsider these findings but also to designate critical habitat for any species for which we determine on remand that critical habitat designation is prudent. This order essentially requires a single field office to draft critical habitat determinations for over one-fifth of all the species that have ever been listed in the history of the Act, and encompasses more than one-third of all listed plants. Compliance with this court order, set on a schedule to run through 2003, will require an enormous commitment of listing resources that may delay other Region 1 listing activity for years. Because of this tremendous court ordered workload, the Pacific Islands Fish and Wildlife Office is only working on emergency listing actions (Tier 1) in addition to lawsuit driven listing activities; all remaining Tier 2 activities remaining in the office will not be completed. While we cannot predict the outcome of the Congressional appropriation process for FY 2000 it is very unlikely that it will see a significant increase in its listing budget and it is more reasonable to expect that the budget will be at a slightly lower level than FY 1999. If this is the case, it is likely that the Pacific Islands Fish and Wildlife Office will continue to have the ability to work only on court ordered and emergency listing actions.

Of the $5.756 million appropriated in FY 1999 for listing actions, Region 1 was allocated $2.964 million (over 50 percent). Of the $979,000 allocated to critical habitat, Region 1 received $460,000, or 47 percent. These funds are insufficient to fulfill all of its section 4 listing duties during FY 1999 as well as to comply with existing court orders regarding critical habitat. Therefore, designating critical habitat for these 10 taxa at this time (Tier 3 activities) would come at the expense of providing basic protection under the Act to species not yet listed (Tier 2 activities).

We will develop critical habitat designations for these ten taxa as soon as feasible. At the present time, we expect that the most expeditious way of processing these designations will be to process them with the 245 Hawaiian plant species for which critical habitat determinations have been remanded to us in *Conservation Council of Hawaii v. Babbitt*. As a result, we currently anticipate that the proposed critical habitat designation will be completed by April 20, 2002, and the final rules will be completed by April 20, 2003.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing can encourage and result in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery plans be developed for listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Populations of four of the endangered taxa occur on National Park Service land. The National Park Service monitors and manages rare and endangered species populations within Haleakala National Park (S. Anderson, pers. comm. 1998).

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to the 10 species in this final rule, all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant species to/from the United States; transport such species in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale such a species in interstate or foreign commerce; remove and reduce such a species to possession from areas under Federal jurisdiction; maliciously damage or destroy any such species from areas under Federal jurisdiction; or remove, cut, dig up, or damage or destroy any such species in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. It is anticipated that few permits would ever be sought or issued because these 10 species are not common in cultivation or in the wild.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range. Four of the species occur on Federal lands under the jurisdiction of the National Park Service. Collection, damage, or destruction of these species on Federal lands is prohibited without a Federal endangered species permit. Such activities on non-Federal lands would constitute a violation of section 9 if conducted in knowing violation of Hawaii State law or regulations or in violation of a State criminal trespass law (see Hawaii State Law section below). We are not aware of any trade in these species.

We believe that, based on the best available information at this time, the following actions will not result in a violation of section 9 on private land provided that they do not violate State trespass or other laws—hunting, bird watching, and hiking. Activities for which a Federal endangered species permit is issued to allow collection for scientific or recovery purposes would also not result in a violation of section 9. We are not aware of any otherwise lawful activities being conducted or proposed by the public that will be affected by this listing and result in a violation of section 9. General prohibitions and exceptions that apply to all endangered plants in section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply as discussed earlier in this section.

Questions regarding whether specific activities will constitute a violation of section 9 of the Act should be directed to the Pacific Islands Ecoregion Manager (see **ADDRESSES** section). Requests for copies of the regulations concerning listed plants and inquiries regarding prohibitions and permits may be addressed to the Fish and Wildlife Service, Ecological Services, Permits Branch, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503–231–2063; facsimile 503–231–6243).

Hawaii State Law

Federal listing will automatically invoke listing under the State's endangered species law. Hawaii's endangered species law states, ''Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the Federal Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter * * *'' (HRS, sect. 195D–4(a)). Therefore, Federal listing will accord the species listed status under Hawaii State law. State law prohibits cutting, collecting, uprooting, destroying, injuring, or possessing any listed species of plant on State or private land, or attempting to engage in any such conduct. The State law encourages conservation of such species by State agencies and triggers other State regulations to protect the species (HRS, sect. 195AD–4 and 5).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance

number 1018–0094. 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 control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.62.

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

Author

The authors of this final rule are Karen ''Kitti'' Jensen and Christa Russell, telephone 808–541–3441 or facsimile 808–541–3470 (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Final Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend section 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Flowering Plants							
*	*	*	*	*	*	*	
Clermontia samuelii	Oha wai	U.S.A (HI)	Campanulaceae—Bellflower.	E	666	NA	NA
*	*	*	*	*	*	*	
Cyanea copelandii ssp. *haleakalaensis*.	Haha	U.S.A. (HI)	Campanulaceae—Bellflower.	E	666	NA	NA
*	*	*	*	*	*	*	
Cyanea glabra	Haha	U.S.A. (HI)	Campanulaceae—Bellflower.	E	666	NA	NA
*	*	*	*	*	*	*	
Cyanea hamatiflora ssp. *hamatiflora*.	Haha	U.S.A. (HI)	Campanulaceae—Bellflower.	E	666	NA	NA
*	*	*	*	*	*	*	
Dubautia plantaginea ssp. *humilis*.	Nàenàe	U.S.A. (HI)	Asteraceae—Sunflower	E	666	NA	NA
*	*	*	*	*	*	*	
Hedyotis schlechtendahliana var. *remyi*.	Kopa	U.S.A. (HI)	Rubiaceae—Coffee	E	666	NA	NA
*	*	*	*	*	*	*	
Kanaloa kahoolawensis.	None	U.S.A. (HI)	Fabaceae—Legume	E	666	NA	NA
*	*	*	*	*	*	*	
Labordia tinifolia var. *lanaiensis*.	Kamakahala	U.S.A. (HI)	Loganiaceae—Logan	E	666	NA	NA
*	*	*	*	*	*	*	
Labordia triflora	Kamakahala	U.S.A. (HI)	Loganiaceae—Logan	E	666	NA	NA
*	*	*	*	*	*	*	
Melicope munroi	Alani	U.S.A. (HI) Rutaceae—Citrus.		E	666	NA	NA
*	*	*	*	*	*	*	

Dated: August 24, 1999.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 99–22969 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990823235–9235–01; I.D. 061699F]

RIN 0648-AM55

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Closure of the Red Porgy Fishery

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

ACTION: Emergency interim rule; request for comments.

SUMMARY: This emergency interim rule prohibits the harvest and possession of red porgy in or from the exclusive economic zone off the southern Atlantic states. Closure of the fishery is intended to protect the red porgy resource, which is currently overfished.

DATES: This rule is effective September 8, 1999, through March 1, 2000. Comments must be received no later than October 4, 1999.

ADDRESSES: Comments on this emergency interim rule must be mailed to, and copies of documents supporting this action, such as NMFS' economic analysis and environmental assessment, may be obtained from, the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Requests for copies of a minority report submitted by a member of the South Atlantic Fishery Management Council (Council) should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; phone: 843-571-4366; fax: 843-769-4520.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 727-570-5305, fax: 727-570-5583.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

Fishing pressure on red porgy increased substantially from the early 1970's to the present. In 1992, an assessment revealed that red porgy were overfished with a spawning potential ratio (SPR) of 13 percent. Also, in 1992 the Council established a rebuilding timeframe of 10 years for red porgy. The Council used SPR as a proxy for maximum sustainable yield (MSY) and as a criterion to judge whether or not a stock was overfished.

Amendment 9 to the FMP, which was submitted to NMFS in February 1998 for review and implementation, recognized that red porgy were overfished and contained management measures to address that issue. Amendment 9 increased the minimum size limit from 12 to 14 inches (30.5 to 35.6 cm) total length, established a recreational bag limit of 5 fish, prohibited harvest and possession in excess of the bag limit during March and April, and prohibited purchase and sale during March and April. Based on the best scientific information available at that time, the Council believed that the proposed red porgy management measures in Amendment 9 would prevent overfishing.

Also, in October 1998, based upon the same information used to develop Amendment 9, the Council selected a 10-year rebuilding timeframe for red porgy in the Comprehensive Amendment Addressing Sustainable Fishery Act Definitions and Other Required Provisions in Fishery Management Plans of the South Atlantic Region. NMFS partially approved the Comprehensive Amendment on May 19, 1999, and specifically approved the rebuilding schedule for red porgy.

In March 1999, a new red porgy assessment revealed the condition of the red porgy resource was substantially worse than previously thought. Specifically, for the first time in the management of this fishery, biomass-based estimates for MSY, minimum stock size threshold (MSST), maximum fishing mortality threshold (MFMT), and estimates of actual recruitment to the fishery for the 1973 through 1997 period were available. This information revealed that the red porgy resource is suffering recruitment failure. Recruitment failure means that the number of recruits is insufficient to maintain the spawning biomass of the population. If such a condition is allowed to persist, the fishery will collapse. In addition, the 1999 assessment noted that the SPR estimate is useful to describe the fishing mortality rate, but the SPR estimate is not a valid proxy for MSY in this fishery because it does not provide information on the actual level of spawning biomass that is providing recruitment.

The 1999 red porgy assessment revealed that recruitment of age–1 red porgy had declined 99.85 percent from 1973 to 1997 (7.6 million to 0.012 million age–1 fish) and that total spawning biomass has declined 97.24 percent from 1978 to 1997 (11,700 metric tons (mt) to 323 mt). The MSST to achieve an SPR of 30 percent (MSY) is 2,845 mt; the comparable figure for optimum yield is 3,805 mt. The MFMT is 0.45; whereas, the current fishing mortality is 0.64, which is 42 percent over the MFMT. In addition, commercial and recreational landings have declined substantially, and the size of red porgy at maturity and size at transition from females to males have occurred at progressively smaller sizes.

The FMP specifies the overfishing threshold for red porgy at an SPR of 30 percent. The 1999 assessment estimated the SPR at 24 percent. Thus, overfishing is occurring.

The 1999 assessment clearly shows that the spawning biomass has been substantially below the MSST since 1992. Concomitant with the depressed level of spawning stock has been a depressed level of recruitment. Given the seriously overfished condition of the red porgy resource, as well as the original intent of the Council to rebuild this resource by the year 2001, the Council concluded that it is prudent and necessary under the Magnuson-Stevens Act to close the fishery to rebuild this species.

The Council will request NMFS to develop potential management options for the red porgy fishery in time for the September Council meeting. The Council intends to develop permanent management measures to replace the emergency interim rule for red porgy at the September Council meeting.

This action will require the discard of red porgy that inevitably will be caught incidentally when fishing for other snapper-grouper species. Some of these discarded fish will not survive. Nevertheless, the overall reduction in mortality of red porgy is necessary to return the biomass to levels that will allow harvests approximating the MSY for the species.

Minority Report

A Council member submitted a minority report that objects to the

closure of the red porgy fishery for the reasons summarized as follows.

First, the minority report states that the present situation does not constitute overfishing. The red porgy SPR of 24 percent is characterized in the latest assessment as ''slightly underestimated.'' Further, 24–percent SPR is only slightly below the FMP's established overfishing level of 30 percent, and the red porgy conservation measures in Amendment 9 are projected to raise the SPR level above 30 percent.

Second, the minority report asserts:

(1) That the proposed action does not properly consider efficiency in the utilization of fishery resources, as required in national standard 5. Since red porgy are part of a mixed species fishery, fishermen will incur increased expenses because they will have to move to new areas when red porgy are encountered and will have to make longer, and possibly more distant, trips to make up for the foregone catches of red porgy and other species from their accustomed fishing areas.

(2) That there was a lack of meaningful discussions on economic concerns during the Council's deliberations on the proposed action and, therefore, the action violates national standard 8's requirement to take into account the importance of fishery resources to fishing communities.

(3) That the ban on retention of red porgy will create bycatch, rather than minimize it, as required in national standard 9.

(4) That closing the red porgy fishery will require some fishermen to stay longer at sea on trips, often in inclement weather, and possibly require trips farther off shore, both of which are contrary to national standard 10's requirement to promote the safety of human life at sea.

Finally, the minority report states that inaccurate statements during Council deliberations had a substantial effect on the outcome of the vote.

Copies of the minority report are available (see **ADDRESSES**).

Criteria for Issuing an Emergency Rule

This emergency interim rule meets NMFS policy guidelines for the use of emergency rules (62 FR 44421, August 21, 1997), because the emergency situation: results from recent, unforeseen events, or recently discovered circumstances; presents a serious management problem; and realizes immediate benefits from the emergency rule that outweigh the value of prior notice, opportunity for public comment, and deliberative consideration expected under the normal rulemaking process. Specifically, the Council acted as soon as the results in the 1999 assessment were presented to it. Thus, the emergency results from recently discovered circumstances. As discussed here, the current red porgy stock is in danger of experiencing recruitment failure, i.e., the number of red porgy of a size that are subject to harvest may not be sufficient to sustain continued fishing for them. Continued fishing mortality of red porgy serves to worsen the current status of the stock. Thus, immediate closure of the fishery has immediate benefits that outweigh the value of prior notice, opportunity for public comment, and deliberative consideration under the normal rulemaking process.

Period of Effectiveness

This emergency interim rule is effective for not more than 180 days, as authorized by section 305(c) of the Magnuson-Stevens Act. It may be extended for an additional period of not more than 180 days, provided that the public has had an opportunity to comment on it and the Council is actively preparing an amendment to address the emergency on a permanent basis. Public comments on this rule and the Council's actions will be considered in determining whether to extend this rule.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this emergency interim rule is necessary to minimize significant long-term adverse biological, social, and economic impacts that would occur with continued fishing for red porgy. The AA has also determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared an economic evaluation of the regulatory impacts associated with this emergency interim rule, which is summarized as follows.

During the period 1993 through 1997, annual commercial landings of red porgy averaged 326,800 lb (148,236 kg) with revenues averaging approximately $397,300. Such landings and revenues were approximately 8.2 and 6.3 percent, respectively, of the total landings and revenues of all species landed on trips on which red porgy were landed. An average of 331 vessels per year reported landings of red porgy during this period. The predicted total losses to commercial fishermen would have averaged approximately $365,300 per year between 1993 and 1997 had the red porgy fishery been closed. This prediction is a modeled result based on average vessel harvesting costs per trip. The actual short-term economic effect of a moratorium will depend on individual vessel's trip costs.

As the resource has declined, red porgy have not been an important species for charter vessels, headboats, and other recreational fishing vessels. The headboat sector is the most dominant sector in the fishery yet red porgy still comprise less than 10 percent of total annual headboat harvests for all states combined. Data do not exist to estimate the impact of the moratorium on these vessels, but it appears to be minor.

The long-term economic effects of the moratorium cannot be estimated without additional information about the rate at which the red porgy population would recover. Although the economic analysis does not estimate the long-term economic effects of the moratorium, NMFS data indicate that the MSY of red porgy, which is the ultimate goal of the moratorium and future actions to rebuild the resource, is in excess of 1,500,000 lb (680,400 kg), with potential annual revenues then exceeding $1,800,000 (assuming a price of $1.20 per lb ($2.64 per kg), though it is unlikely that current prices could be maintained while more than tripling the market supply).

Copies of the economic evaluation are available (see **ADDRESSES**).

Recent NMFS stock assessment information clearly indicates that the red porgy resource is severely overfished and that stock recruitment (i.e., addition of fish to the red porgy population) is at a dangerously low level. Red porgy are currently being harvested in the snapper-grouper fishery, and continued harvest during the next several months (late summer - early fall) will worsen the stock condition. Continued fishing during this time period will fail to reverse overfishing of red porgy and increase the probability of recruitment failure and stock collapse, with resultant severe economic impacts on those dependent on the fishery. Thus, immediate closure of the fishery has potential significant benefits that outweigh the value of prior notice, opportunity for public comment, and deliberative consideration under the normal rulemaking process. Accordingly, under authority set forth at 5 U.S.C. 553(b)(B), the AA finds that these reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for prior public comment, as such procedures would be contrary to the public interest.

For these same reasons, under 5 U.S.C. 553(d)(3), the AA finds for good cause that a 30-day delay in the effective date of this rule would be contrary to the public interest. However, to allow time for vessels at sea to be notified of the closure of the red porgy fishery and land red porgy on board, the effective date of this rule is delayed for 5 days after the date this rule is published.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*., are inapplicable.

List of Subjects in 50 CFR Part 622

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

Dated: August 27, 1999.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

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

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

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

2. In § 622.32, paragraph (b)(4)(vii) is added to read as follows:

§ 622.32 Prohibited and limited-harvest species.

* * * * *

(b) * * *

(4) * * *

(vii) Red porgy may not be harvested or possessed in or from the South Atlantic EEZ. Red porgy caught in the South Atlantic EEZ must be released immediately with a minimum of harm.

* * * * *

3. In § 622.36, paragraph (b)(5) is suspended.

4. In § 622.37, paragraph (e)(3)(iv) is suspended.

5. In § 622.39, paragraph (d)(1)(vi) is suspended.

6. In § 622.45, paragraph (d)(5) is suspended and paragraph (d)(7) is added to read as follows:

§ 622.45 Restrictions on sale/purchase.

* * * * *

(d) * * *

(7) During March and April, no person may sell or purchase a gag or black grouper harvested from the South Atlantic EEZ or, if harvested by a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic. The prohibition on sale/purchase during March and April does not apply to gag or black grouper that were harvested, landed ashore, and sold prior to March 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of gag or black grouper harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. Such documentation must contain:

(i) The information specified in 50 CFR part 300 subpart K for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce;

(ii) The official number, name, and home port of the vessel harvesting the gag or black grouper;

(iii) The port and date of offloading from the vessel harvesting the gag or black grouper; and

(iv) A statement signed by the dealer attesting that the gag or black grouper was harvested from an area other than the South Atlantic.

* * * * *

[FR Doc. 99–22956 Filed 9–2–99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990820230–9230–01; I.D. 080599B]

RIN 0648-AM92

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Restricted Reopening of Limited Access Permit Application Process

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

ACTION: Emergency interim rule; request for comments.

SUMMARY: This emergency interim rule provides an additional opportunity to obtain snapper-grouper limited access permits for those vessel owners who were previously determined by NMFS to be eligible for such permits but did not submit an application by the application deadline, on or before October 14, 1998, provided they have not violated the permit requirement in the interim. This rule is intended to avoid adverse social and economic impacts on the affected individuals.

DATES: This rule is effective September 3, 1999 through March 1, 2000. Comments must be received no later than October 4, 1999.

ADDRESSES: Comments on this emergency interim rule must be mailed to, and copies of documents supporting this action may be obtained from, the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Written comments regarding the collection-of-information requirements contained in this rule may be submitted to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 727-570-5305.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council (Council), approved by NMFS, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

Amendment 8 to the FMP, approved by NMFS on January 28, 1998, and implemented by final rule (July 16, 1998; 63 FR 38298), limits access to the snapper-grouper fishery. A vessel owner who met certain required landings and permit histories in the snapper-grouper fishery was eligible for an initial limited access permit, provided the vessel owner applied for such a permit by no later than October 14, 1998. NMFS notified each vessel owner of NMFS' initial determination of the individual's eligibility for either a transferable or trip-limited limited access permit. Notifications were sent by regular mail to the owner's address as shown in NMFS' permit records.

For various reasons, including hurricanes Bonnie, Georges, and Mitch, some permit eligibility notifications were not received and/or were not responded to on or before October 14,

1998. Approximately 260 vessel owners who had been determined by NMFS to have met the required landings and permit histories in the snapper-grouper fishery and, thus, were eligible for a limited access permit, did not apply for a permit by the permit application deadline. Because these owners failed to submit applications in a timely manner, their vessels could not fish in the snapper-grouper fishery as of December 14, 1998.

After considerable public input, the Council concluded that there were compelling reasons for a significant number of vessel owners to have missed the permit application deadline. Further, the resultant inability to continue to fish in the snapper-grouper fishery was causing significant economic hardships and adverse community impacts. The Council further concluded that allowing an additional period for applications of owners who were known to have met the initial qualifying criteria would be consistent with the goals of its limited access program. The limited access program had not considered that these owners might not be able to apply in a timely manner for compelling reasons.

At its meeting on June 17, 1999, the Council requested that NMFS implement by emergency rule a limited reopening of the application period for limited access permits in the snapper-grouper fishery.

Limited Reopening of the Application Period

As requested by the Council and implemented in this emergency interim rule, a vessel owner who was determined by NMFS to be eligible for an initial limited access permit, but did not apply in a timely manner, will have an additional 45-day period to apply. However, an owner who has been determined by a final administrative decision to have violated the snapper-grouper permit requirement on or after December 14, 1998, is not eligible to apply. An otherwise qualified owner who has been charged with such a violation, but whose case has not been finally resolved, may apply for a permit, but the issuance will be withheld until the case has been resolved in the applicant's favor.

Each owner who was initially determined by the Southeast Regional Administrator (RA) to be eligible for a transferable permit under Amendment 8 may apply for an unlimited permit. An unlimited permit is similar to the transferable permits initially issued, i.e., it is not subject to a trip limit, but its transferability is significantly restricted as described here. An owner who was initially determined by the RA to be eligible for a trip-limited permit under Amendment 8 may apply for a trip-limited permit. A trip-limited permit issued under this emergency interim rule does not differ from those initially issued under Amendment 8.

Each owner to whom this limited reopening of the permit application process applies will be so advised by the RA by certified mail, which will include an application form, not later than 5 days after the date of publication of this document. The notification will be sent to the address in NMFS' permit files. An owner who receives such notification must submit an application, postmarked or hand-delivered not later than October 18, 1999 to the RA. Failure to apply in a timely manner will preclude permit issuance.

Upon receipt of a complete application submitted in a timely manner, NMFS will issue an initial limited access permit for the snapper-grouper fishery, either unlimited or trip-limited, as specified in the letter of notification, provided the applicant has not been determined by a final administrative decision to have violated the snapper-grouper permit requirement on or after December 14, 1998.

Limitations on Transfers of Unlimited Permits

The limited access program for the snapper-grouper fishery limits the transfers of both transferable and trip-limited permits. Included in those transfer limitations is a provision that allows a new entrant into the non-trip-limited fishery to obtain a permit only upon obtaining and trading in two existing transferable permits. As a result, existing transferable permits have significantly increased in value. An owner who met the catch and permit history criteria for a transferable limited access permit, but who did not apply for such permit because he/she no longer desired to participate in the fishery, may be tempted to obtain an unlimited permit under this emergency rule solely for the purpose of a windfall profit. This rule is intended to benefit qualified owners who are suffering economic losses as a result of their exclusion from the fishery because of not meeting the permit application deadline rather than owners who opted not to participate in the fishery. To preclude such windfall profits, the Council requested that an unlimited permit obtained under this emergency rule be non-transferable for 3 years, except for a transfer to a replacement vessel owned by the same entity. The permit will become transferable for the purposes of the two-for-one provision only if at least 1,000 lb (453.6 kg) of South Atlantic snapper-grouper are landed by the permitted vessel, or its replacement, in each of the 3 years. If landings in one of these 3 years are less than 1,000 lb (453.6 kg), the permit may be renewed only as a trip-limited permit.

The sole basis for determination of meeting this catch criterion will be the fishing records, which are required by 50 CFR 622.5(a)(1)(iv)(A) for all permitted vessels, that are submitted in a timely manner. The initial 1-year period for meeting the catch criterion will end at the end of the month 12 months after the unlimited permit is issued and similarly for each of the 2 succeeding years.

Because of the requirement that an unlimited permit revert to a trip-limited permit when the landings criterion is not met, an initial unlimited permit issued under this emergency interim rule must have an expiration date that is more than 12 months from the initial date of issue. Otherwise, an owner whose vessel reaches the 1,000–lb (453.6–kg) threshold in the 12th month will be without a valid permit before a renewal permit can be issued. Accordingly, an initial unlimited permit issued under this emergency rule will expire at the end of the month 13 months after it is issued. However, the 1,000–lb (453.6–kg) landing requirement must be met during the first full 12-month period under the permit, and in each succeeding 12-month period, for the full 3-year period. After the initial permit an unlimited permit will be renewed for a 12-month period.

For example, if an initial unlimited permit is issued on January 1, 2000, it will be valid through January 31, 2001, but the 1000–lb (453.6–kg) landing requirement must be met January 1, through December 31, 2000. If the landing requirement is met, the permit will be renewed and will be valid January 31, 2001, through January 31, 2002, and the landing criterion must be met January 1, 2001, through December 31, 2001. If the landing requirement is met, the permit will be renewed and will be valid January 31, 2002, through January 31, 2003, and the landing requirement must be met January 1, 2002, through December 31, 2002. If the 1000–lb (453.6–kg) landing requirement is met for all 3 years, the unlimited permit will become a transferable permit when it is renewed in January 2003.

Criteria for Issuing an Emergency Rule

This emergency interim rule meets NMFS policy guidelines for the use of emergency rules (62 FR 44421, August 21, 1997), because the emergency

situation: Results from recent, unforeseen events, or recently discovered circumstances; presents a serious management problem; and realizes immediate benefits from the emergency rule that outweigh the value of prior notice, opportunity for public comment, and deliberative consideration expected under the normal rulemaking process. When the initial 90-day application period was established, the Council did not foresee the extreme circumstances that would cause some qualified vessel owners to miss the application deadline. The full scope of these circumstances became known only after the application period ended. Further, the full scope of the economic hardships and adverse community impacts were not known until the Council's public hearing on June 16, 1999. These economic hardships and adverse community impacts constitute serious management problems in the fishery, as the fishery includes the fishermen as well as the fish stocks themselves. Economic hardship will be alleviated for up to 260 vessel owners as a result of this emergency interim rule. However, the rule will not adversely affect the benefits that were anticipated from the Council's limited access program. Thus, the benefits of immediate restricted reopening of the application period for limited access permits are considered to outweigh the value of prior notice, opportunity for public comment, and deliberative consideration under the normal rulemaking process.

Period of Effectiveness

This emergency interim rule is effective for not more than 180 days, as authorized by section 305(c) of the Magnuson-Stevens Act. It may be extended for an additional period of not more than 180 days, provided that the public has had an opportunity to comment on it and the Council is actively preparing an amendment to address the emergency on a permanent basis. Public comments on this rule and the Council's actions will be considered in determining whether to extend this rule.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this emergency interim rule is necessary to minimize significant adverse social and economic impacts on the affected snapper-grouper vessel owners. The AA has also determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared an economic evaluation of the regulatory impacts associated with this emergency interim rule, which is summarized as follows. The long-term economic consequences of this emergency rule are expected to be very small. The reasoning is that the rule is designed to provide an additional opportunity for fishermen who originally qualified for a permit, but did not apply for reasons beyond their control. This rule applies only to fishermen deemed to qualify originally and will not provide an additional open season for entities not previously in the fishery to enter the fishery. Accordingly, the total number of entities that can engage in the snapper-grouper fishery will not increase beyond the number envisioned by the original action. While the number will not increase, it could actually decrease because some of the eligible entities that did not renew their permits originally may not renew them this time either.

There are 1,167 qualified holders of permits at present. Approximately 260 qualified individuals failed to renew under the original 90-day window. NMFS cannot determine how many of these 260 fishermen will reapply. However, even if all 260 qualified individuals apply and receive permits under the 45-day window established by this emergency interim rule, the resulting number of permitted fishermen would still be less than the number originally contemplated by the Council in Amendment 8. In addition, it is expected that permitted fishing capability would still be smaller than originally envisioned when the decision was made to reissue permits only to those fishermen that were currently active in the fishery. This results from the requirement that the 260 fishermen can only qualify for non-transferable permits, with the limited exception of a transfer to another vessel owned by the same entity. An unlimited permit would become transferable only if the vessel owner recorded 1,000 lb (453.6 kg) of landings of South Atlantic snapper-grouper in each of the next 3 years. If the landings criterion is not met, the permit will revert to a trip-limited permit, i.e., a permit under which a 225–lb (102.1–kg) trip limit applies. Copies of the economic evaluation of this rule are available (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This rule contains two collection-of-information requirements, permit applications and submission of fishing records, that are subject to the Paperwork Reduction Act (PRA). These collections of information have been approved by OMB under control numbers 0648–0205 and 0648–0016, respectively. The public reporting burdens for these collections of information are estimated to average 20 minutes and 10 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates, or any other aspect of these data collections, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

If NMFS does not immediately reopen the snapper-grouper permit application process, approximately 260 vessels, whose owners were determined to be eligible for an initial limited access commercial permit for snapper-grouper, will continue to be denied access to the snapper-grouper fishery because their owners, through no fault of their own, did not submit a permit application by the deadline. It is estimated that the total ex-vessel value of landings for the 260 vessels is about $90,000 per month. Immediate reopening of the application process and consequent immediate permit issuance is critical to minimize the economic loss qualified vessel owners, their crews, and others dependent upon them, have been experiencing since December 14, 1998. If reopening of the application process is delayed to provide prior notice and opportunity for public comment, they will continue to experience economic harm with no apparent benefit. Accordingly, under authority set forth at 5 U.S.C. 553(b)(B), the AA finds good cause to waive the requirement to provide prior notice and the opportunity for public comment, as such procedures would be contrary to the public interest. Because reopening the application and permit issuance process relieves a restriction, under 5 U.S.C. 553(d)(1), a 30-day delay in the effective date is not required. NMFS will advise the eligible vessel owners, by certified mail, of the reopening of the permit application process.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the

Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*., are inapplicable.

List of Subjects in 50 CFR Part 622

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

Dated: August 27, 1999.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

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

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

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

2. In § 622.18, the second sentence in paragraph (a) is suspended and paragraph (g) is added to read as follows:

§ 622.18 South Atlantic snapper-grouper limited access.

* * * * *

(g) *Revised implementation procedures*. A permit issued under this paragraph (g) will be either an unlimited permit (a permit not subject to a trip limit but with significant limitations on transferability) or a trip-limited permit.

(1) *Applicability*. (i) The procedures and limitations in this paragraph (g) apply to an owner of a vessel for whom the RD's initial determination under paragraph (d)(1) of this section was that he/she was eligible for an initial limited access commercial vessel permit for South Atlantic snapper-grouper, but who did not apply for such permit in a timely manner.

(ii) The RD's initial determination of eligibility notwithstanding, the procedures in this paragraph (g) do not apply to an owner against whom a final administrative decision has been taken on a Notice of Violation and Assessment (NOVA) for fishing in the snapper-grouper fishery without a permit on or since December 14, 1998. Such owner may not apply for an initial limited access commercial vessel permit for South Atlantic snapper-grouper. (See 15 CFR 904.2 for the definition of ''Final administrative decision'' and 15 CFR 904.104, 904.271(d), and 904.273(i) for determinations of when final administrative decisions are effective.)

(2) *Notification*. Not later than September 8, 1999, the RD will renotify, by certified mail, each owner to whom this paragraph (g) applies of NMFS' determination of eligibility for either an unlimited or a trip-limited, limited access commercial permit for South Atlantic snapper-grouper. An owner who was advised under paragraph (b) of this section of eligibility for an initial transferable permit will be advised of eligibility for an unlimited permit under this paragraph (g). All other owners will be advised of eligibility for a trip-limited permit under this paragraph (g). Each notification will include an application for such permit. Addresses for such notifications will be based on NMFS' permit records. A vessel owner who believes he/she qualifies for a limited access commercial permit for South Atlantic snapper-grouper under this paragraph (g) and who does not receive such notification must contact the RD to verify eligibility status for a limited access permit. The RD will either provide such a person notification of eligibility, including an application, or advise him/her of the reasons for ineligibility.

(3) *Applications*. (i) An owner of a vessel who receives the notification specified in paragraph (g)(2) of this section and who desires a limited access commercial permit for South Atlantic snapper-grouper must submit an application for such permit postmarked or hand-delivered not later than October 18, 1999 to the RD. Failure to apply in a timely manner will preclude permit issuance.

(ii) An application for an unlimited permit when the RD's certified mail notification specifies eligibility for a trip-limited permit will not be considered.

(iii) If an application that is postmarked or hand-delivered in a timely manner is incomplete, the RD will notify the vessel owner of the deficiency. If the owner fails to correct the deficiency within 20 days of the date of the RD's notification, the application will be considered abandoned.

(4) *Issuance*. (i) If a complete application is submitted in a timely manner, the RD will issue an initial limited access commercial vessel permit for South Atlantic snapper-grouper. The type of permit issued, unlimited or trip-limited, will be as specified in the RD's certified mail notification specified in paragraph (g)(2) of this section.

(ii) An initial unlimited permit issued under this paragraph (g)(4) will be valid through the end of the month 13 months after its issuance, as specified on the permit. A trip-limited permit issued under this paragraph (g)(4) will be valid through the date specified on the permit.

(iii) The provisions of paragraph (g)(4)(i) of this section notwithstanding, the RD will not issue a permit to an owner who has been issued a NOVA for fishing in the snapper-grouper fishery without a permit on or since December 14, 1998, until such NOVA is dismissed.

(5) *Transfers of unlimited permits*. (i) An unlimited permit issued under this paragraph (g) may not be transferred for 3 years after it is issued, except that an owner may request that the RD transfer the permit to another vessel owned by the same entity.

(ii) After the 3-year period, an unlimited permit issued under this paragraph (g) will become transferable in accordance with the provisions of paragraph (e)(1) of this section provided at least 1,000 lb (453.6 kg) of South Atlantic snapper-grouper were landed by the permitted vessel, or its replacement, in each of the three 12-month periods after it was initially issued.

(iii) When the landings of a vessel with an unlimited permit, or its replacement, are less than 1,000 lb (453.6 kg) of South Atlantic snapper-grouper in one of these three 12-month periods, the permit may be renewed only as a trip-limited permit.

(iv) Fishing records submitted in a timely manner in accordance with § 622.5(a)(1)(iv) and (a)(2) will be the sole basis for determination of landings of South Atlantic snapper-grouper for the purposes of meeting the 1,000–lb (453.6–kg) landing criterion.

[FR Doc. 99–22954 Filed 9–2–99; 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. 083099C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment prohibiting directed fishing for pollock in Statistical Area 620 of the Gulf of Alaska (GOA) and extending the C fishing season for pollock in Statistical Area 620 until further notice. This adjustment is necessary to manage the C seasonal allowance of the pollock

total allowable catch (TAC), given the existence of excessive harvesting capacity.

DATES: Directed fishing for pollock in Statistical Area 620 will be closed at 1200 hrs, A.l.t., September 2, 1999. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 15, 1999.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 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.

As of August 21, 1999, 8,900 metric tons (mt) of pollock remain in the C seasonal allowance of the pollock TAC in Statistical Area 620 of the GOA. That amount will be available for harvest at 1200 hrs, A.l.t., September 1, 1999. The emergency interim rule (EIR) establishing Steller sea lion protection measures for pollock off Alaska (64 FR 3437, January 22, 1999, and extended at 64 FR 39087, July 21, 1999) defines the C fishing season for pollock in Statistical Area 620 of the GOA as starting from 1200 hrs, A.l.t., September 1, 1999, until the directed fishery is closed or 1200 hrs, A.l.t. October 1, 1999, whichever comes first. The D fishing season is to begin 5 days after the closure of the C fishing season in Statistical Area 620.

NMFS also is extending the C fishing season by inseason adjustment to delay the start of the D fishing season until the agency has determined whether sufficient amounts of the C season allowance remains unharvested to allow another opening prior to the harvest of the pollock authorized for the D season.

In accordance with § 679.20(a)(5)(ii)(C), underages from the C fishing season also may be applied to the D fishing season, provided that the revised D fishing seasonal allowance does not exceed 30 percent of the annual TAC.

While the potential catching capacity for vessels delivering pollock for processing by the inshore component is large enough to limit the first opening during the C fishing season to 24 hours, that limitation may reduce interest in participating in the fishery. If the catch during the C fishing season is very limited, the potential exists for a substantial amount of the C seasonal allowance of the pollock TAC not to be caught and to be eligible for harvest during the D fishing season. Therefore, in accordance with § 679.25(a)(1)(i) and (a)(2)(i)(C), NMFS is extending the C fishing season to prevent the underharvest of that seasonal allowance of the pollock TAC until NMFS has determined the C seasonal allowance has been harvested or October 1, 1999, whichever occurs first.

In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 1200 hrs, A.l.t., September 2, 1999, after a 24-hour opening, and extending the C fishing season is the least restrictive management adjustment to achieve the C seasonal allowance of the pollock TAC and will allow other fisheries to continue in noncritical areas and time periods. Pursuant to § 679.25(b)(2), NMFS has considered data regarding catch per unit of effort and rate of harvest in making this adjustment.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for

good cause that providing prior notice and public comment or

delaying the effective date of this action is impracticable and contrary to the public interest. Without this inseason adjustment, NMFS could not allow this fishery, and the C seasonal allowance of the pollock TAC in Statistical Area 620 of the GOA would not be harvested in accordance with the regulatory schedule, resulting in a seasonal loss of more than $1.0 million. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 15, 1999.

This action is required by §§ 679.20 and 679.25 and is exempt from review under E.O. 12866.

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

Dated: August 30, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–23084 Filed 8–31–99; 5:00 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 083199A]

Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/''Other Flatfish'' Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1999 Pacific halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery category.

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

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

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

The Final 1999 Harvest Specifications of Groundfish (64 FR 12103, March 11, 1999) established the halibut bycatch mortality allowance for the BSAI trawl rock sole/flathead sole/''other flatfish'' fishery category, which is defined at § 679.21(e)(3)(iv)(B)(*2*), as 755 metric tons.

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1999 halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for species in the rock sole/flathead

sole/''other flatfish'' fishery category by vessels using trawl gear in the BSAI.

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

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent exceeding the 1999 halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery category. Providing prior notice and an opportunity for public comment on this action is impracticable and contrary to the public interest. The fleet will soon take the allowance. Further delay would result in the 1999 halibut bycatch allowance being exceeded. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under U.S.C. 553(d), a delay in the effective date is hereby waived.

Classification

This action is required by 50 CFR 679.21 and is exempt from review under E.O. 12866.

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

Dated: August 31, 1999.

George H. Darcy,

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

[FR Doc. 99–23088 Filed 8–31–99; 4:36 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. 083099B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment prohibiting directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA) 6 hours after its scheduled opening at 1200 hrs, Alaska local time (A.l.t.), September 1, 1999, and extending the C fishing season for pollock in Statistical Area 610 until further notice. This adjustment is necessary to manage the C seasonal allowance of the pollock total allowable catch (TAC), given the existence of excessive harvesting capacity.

DATES: Directed fishing for pollock in Statistical Area 610 will be closed at 1800 hrs, A.l.t., September 1, 1999. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 15, 1999.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 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.

As of August 21, 1999, 4,700 metric tons (mt) of pollock remained in the C seasonal allowance of the pollock TAC in Statistical Area 610 of the GOA. That amount will be available for harvest at 1200 hrs, A.l.t., September 1, 1999. The emergency interim rule (EIR) establishing Steller sea lion protection measures for pollock off Alaska (64 FR 3437, January 22, 1999, and extended at 64 FR 39087, July 21, 1999) defines the C fishing season for pollock in Statistical Area 610 of the GOA as starting from 1200 hrs, A.l.t., September 1, 1999, until the directed fishery is closed or 1200 hrs, A.l.t. October 1, 1999, whichever comes first. The D fishing season is to begin 5 days after the closure of the C fishing season in Statistical Area 610.

Section 679.23(b) specifies that the time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hrs, A.l.t. A fishery opening, therefore, must be a minimum of 24 hours. Current information shows the catching capacity of vessels catching pollock for processing by the inshore component is in excess of 9,600 mt per day. The Administrator, Alaska Region, NMFS, has determined that the C seasonal allowance of the pollock TAC could be exceeded if a 24–hour fishery were allowed to occur. NMFS intends that the seasonal allowance not be exceeded and, therefore, will not allow a 24–hour directed fishery.

NMFS, in accordance with § 679.25(a)(1)(i), is adjusting the C fishing season for pollock in Statistical Area 610 of the GOA by closing the fishery at 1800 hrs, A.l.t., September 1, 1999, at which time directed fishing for pollock will be prohibited. This action has the effect of opening the fishery for 6 hours. NMFS is taking this action to allow a controlled fishery to occur, thereby preventing the overharvest of the C seasonal allowance of the pollock TAC designated in accordance with the EIR establishing Steller sea lion protection measures for pollock off Alaska.

NMFS also is extending the C fishing season by inseason adjustment to delay the start of the D fishing season until the agency has determined whether sufficient amounts of the C season allowance remains unharvested to allow another opening within the C fishing season prior to the harvest of the pollock authorized for the D season. In accordance with § 679.20(a)(5)(ii)(C), underages from the C fishing season also may be applied to the D fishing season, provided that the revised D fishing seasonal allowance does not exceed 30 percent of the annual TAC.

While the potential catching capacity for vessels delivering pollock for processing by the inshore component is large enough to limit the first opening during the C fishing season to 6 hours, that limitation may reduce interest in participating in the fishery. If the catch during the C fishing season is very limited, the potential exists for a substantial amount of the C seasonal allowance of the pollock TAC not to be caught and to be eligible for harvest during the D fishing season. Therefore, in accordance with § 679.25(a)(1)(i) and (a)(2)(i)(C), NMFS is extending the C fishing season to prevent the underharvest of that seasonal allowance of the pollock TAC until NMFS has determined the C seasonal allowance has been harvested, or October 1, 1999, whichever occurs first.

In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 1800 hrs, A.l.t., September 1, 1999, after a 6-hour opening, and extending the C fishing season, is the least restrictive management adjustment to achieve the C seasonal allowance of the pollock TAC and will allow other fisheries to continue in noncritical areas and time periods. Pursuant to § 679.25(b)(2), NMFS has considered data regarding catch per unit of effort and rate of harvest in making this adjustment.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this action is impracticable and contrary to the public interest. Without this inseason adjustment, NMFS could not allow this fishery, and the C seasonal allowance of the pollock TAC in Statistical Area 610 of the GOA would not be harvested in accordance with the regulatory schedule, resulting in a seasonal loss of more than $1.0 million. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 15, 1999.

This action is required by §§ 679.20 and 679.25 and is exempt from review under E.O. 12866.

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

Dated: August 30, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–23085 Filed 8–31–99; 4:41 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 083099D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment prohibiting directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) and extending the C fishing season for pollock in Statistical Area 630 until further notice. This adjustment is necessary to manage the C seasonal allowance of the pollock total allowable catch (TAC), given the existence of excessive harvesting capacity.

DATES: Directed fishing for pollock in Statistical Area 630 will be closed at 1200 hrs, A.l.t., September 2, 1999. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 15, 1999.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 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.

As of August 21, 1999, 7,400 metric tons (mt) of pollock remain in the C seasonal allowance of the pollock TAC in Statistical Area 630 of the GOA. That amount will be available for harvest at 1200 hrs, A.l.t., September 1, 1999. The emergency interim rule establishing Steller sea lion protection measures for pollock off Alaska (64 FR 3437, January 22, 1999, and extended at 64 FR 39087, July 21, 1999) defines the C fishing season for pollock in Statistical Area 630 of the GOA as starting from 1200 hrs, A.l.t., September 1, 1999, until the directed fishery is closed or 1200 hrs, A.l.t. October 1, 1999, whichever comes first. The D fishing season is to begin 5 days after the closure of the C fishing season in Statistical Area 630.

NMFS also is extending the C fishing season by inseason adjustment to delay the start of the D fishing season until the agency has determined whether sufficient amounts of the C season allowance remains unharvested to allow another opening prior to the harvest of the pollock authorized for the D season. In accordance with § 679.20(a)(5)(ii)(C), underages from the C fishing season also may be applied to the D fishing season, provided that the revised D fishing seasonal allowance does not exceed 30 percent of the annual TAC.

While the potential catching capacity for vessels delivering pollock for processing by the inshore component is large enough to limit the first opening during the C fishing season to 24 hours, that limitation may reduce interest in participating in the fishery. If the catch during the C fishing season is very limited, the potential exists for a substantial amount of the C seasonal allowance of the pollock TAC not to be caught and to be eligible for harvest during the D fishing season. Therefore, in accordance with § 679.25(a)(1)(i) and (a)(2)(i)(C), NMFS is extending the C fishing season to prevent the underharvest of that seasonal allowance of the pollock TAC until NMFS has determined the C seasonal allowance has been harvested or October 1, 1999, whichever occurs first.

In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 1200 hrs, A.l.t., September 2, 1999, after a 24-hour opening, and extending the C fishing season is the least restrictive management adjustment to achieve the C seasonal allowance of the pollock TAC and will allow other fisheries to continue in noncritical areas and time periods. Pursuant to § 679.25(b)(2), NMFS has considered data regarding catch per unit of effort and rate of harvest in making this adjustment.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this action is impracticable and contrary to the public interest. Without this inseason adjustment, NMFS could not allow this fishery, and the C seasonal allowance of the pollock TAC in Statistical Area 630 of the GOA would not be harvested in accordance with the regulatory schedule, resulting in a seasonal loss of more than $1.0 million. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 15, 1999.

This action is required by §§ 679.20 and 679.25 and is exempt from review under E.O. 12866.

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

Dated: August 30, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–23086 Filed 8–31–99; 4:41 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 171
Friday, September 3, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 31

Public Meeting on Implementation Issues Related to the Proposed Rule on Generally Licensed Devices

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will conduct a public meeting to discuss issues related to the control and accountability of generally licensed devices. This will include discussion of implementation issues related to the proposed rule (64 FR 40295; July 26, 1999), which would establish additional requirements for general licensees under 10 CFR 31.5, and for vendors of devices used by these licensees.

DATES: The meeting will be held on October 1, 1999, from 8:00 a.m. to 5:00 p.m. Written comments on the proposed rule should be submitted by October 12, 1999.

ADDRESSES: The meeting will be held at NRC Headquarters, Two White Flint North Auditorium, 11545 Rockville Pike, Rockville, Maryland 20852. Written comments on the proposed rule may be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington D.C. 20555–0001, Attn: Rulemakings and Adjudications Staff.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron (301) 415–1642, or Susanne Woods (301) 415–7267, U.S. Nuclear Regulatory Commission, Washington D.C. 20555.

SUPPLEMENTARY INFORMATION: NRC is in the process of developing additional requirements for users and distributors of radioactive material in certain generally licensed measuring, gauging, and controlling devices. The planned amendments would establish a registration program, and are intended to provide greater assurance that users of these devices will properly handle and dispose of them, thus reducing the potential for unnecessary radiation exposure to the public, or contamination of property. A copy of the proposed rule is available at http://ruleforum.llnl.gov/cgi-bin/rulemake under the title ''Proposed Rulemaking—Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material.''

The objective of the public meeting on October 1 is to gather information on implementation issues related to the proposed rule on generally licensed devices. In this facilitated meeting, the NRC proposed rule will be described, and a series of implementation issues will be initially addressed by a panel of device vendors. The panel will be comprised of representatives of various vendor categories, reflecting a broad spectrum of interests. After a facilitated discussion by the vendor panel on an agenda item, the facilitator will open the discussion of that issue to the audience. It is expected that the audience will include people with interests which may be affected by the rule; for example: users of devices, other industries, Agreement States, citizen groups, and the public. The panel of vendors will be used to focus the discussion on a particular agenda item as a foundation for further discussion by the audience. The meeting commentary will be transcribed and made available to meeting participants and the public.

Dated at Rockville, Maryland, this 30th day of August 1999.

For the Nuclear Regulatory Commission.

John W. Hickey,

Chief, Materials Safety and Inspection Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Materials Safety and Safeguards.

[FR Doc. 99–23076 Filed 9–2–99; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–335–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–101, –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 adoption of a new airworthiness directive (AD) that is applicable to all Bombardier Model DHC–8–101, –102, –103, –106, –201, –202, –301, –311, and –315 series airplanes. This proposal would require repetitive detailed visual inspections and high frequency eddy current inspections to detect cracking of the wing upper skin and ladder plates at over wing access panels between certain stations; and repair, 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 detect and correct fatigue cracking of the wing ladder plates, which, if not corrected, could reduce the structural integrity of the wing.

DATES: Comments must be received by October 4, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–335–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: Franco Pieri, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7526; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

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–335–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–335–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on all Bombardier Model DHC–8–101, –102, –103, –106, –201, –202, –301, –311, and –315 series airplanes. The TCCA advises that fatigue cracking of the wing ladder plate has been found on DHC–8 series airplanes. This cracking has been attributed to repeated fatigue load cycles. This condition, if not corrected, could result in reduced structural integrity of the wing.

Explanation of Relevant Service Information

Bombardier has issued de Havilland Temporary Revision TR MTC–15, dated September 18, 1998, of the de Havilland Maintenance Program Manual PSM 1–8–7 (for Model DHC–8–100 series airplanes); de Havilland Temporary Revision TR MTC 2–14, dated September 18, 1998, of the de Havilland Maintenance Program Manual PSM 1–82–7 TC (for Model DHC–8–200 series airplanes); and de Havilland Temporary Revision TR MTC 3–14, dated September 18, 1998, of the de Havilland Maintenance Program Manual PSM 1–83–7 TC (for Model DHC–8–300 series airplanes). These temporary revisions describe procedures for repetitive detailed visual inspections and high frequency eddy current (HFEC) inspections to detect cracking of the wing upper skin and ladder plates at over wing access panels between station YW42.00 and YW171.20.

Bombardier also has issued de Havilland Airworthiness Limitations List Temporary Revision TR AWL–59, dated September 10, 1998, of the de Havilland Maintenance Program Manual PSM 1–8–7 (for Model DHC–8–100 series airplanes); de Havilland Airworthiness Limitations List Temporary Revision TR AWL2–11, dated September 10, 1998, of de Havilland Maintenance Program Manual PSM 1–82–7 (for Model DHC–8–200 series airplanes); and de Havilland Airworthiness Limitations List Temporary Revision TR AWL3–64, dated September 10, 1998, of de Havilland Maintenance Program Manual PSM 1–83–7 (for Model DHC–8–300 series airplanes). These temporary revisions describe the compliance times associated with the repetitive detailed visual inspections and HFEC inspections described previously.

Accomplishment of the actions specified in the temporary revisions is intended to adequately address the identified unsafe condition. The TCCA classified these temporary revisions as mandatory and issued Canadian airworthiness directive CF–98–30, dated August 31, 1998, in order to assure the continued airworthiness of these airplanes in Canada.

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, the TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of the 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 require accomplishment of the actions specified in the temporary revisions described previously, except as discussed below.

Differences Between Proposed Rule and Service Information

Operators should note that, although the Canadian airworthiness directive and the temporary revisions specify that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or the TCCA (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the TCCA would be acceptable for compliance with this proposed AD.

Operators also should note that, although the Canadian airworthiness directive affects Bombardier Model DHC–8–314 series airplanes, Bombardier Model DHC–8–314 series airplanes are not type certificated in the United States. Therefore, the proposed AD does not affect those airplanes.

Cost Impact

The FAA estimates that 166 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 40 work hours per airplane to accomplish the proposed inspections, 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 $398,400, or $2,400 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:

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket 98–NM–335–AD.

Applicability: All Model DHC–8–101, –102, –103, –106, –201, –202, –301, –311, and –315 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the wing ladder plates, which if not corrected, could reduce the structural integrity of the wing, accomplish the following:

Inspection for DHC–8–100 and –300 Series Airplanes

(a) At the applicable compliance time listed in paragraph (a)(1), (a)(2), or (a)(3) of this AD, perform a detailed visual inspection to detect cracking of the skin and a high frequency eddy current (HFEC) inspection of the ladder plates at over wing access panels between station YW42.00 and YW171.20, in accordance with de Havilland Temporary Revision TR MTC–15, dated September 18, 1998, of the de Havilland Maintenance Program Manual PSM–1–8–7 TC (for Model DHC–8–100 series airplanes); or de Havilland Temporary Revision TR MTC 3–14, dated September 18, 1998, of the de Havilland Maintenance Program Manual PSM 1–83–7 (for Model DHC–8–300 series airplanes); as applicable. Repeat the inspections thereafter at intervals not to exceed 10,000 flight cycles.

(1) For airplanes that have accumulated 5,000 or fewer total flight cycles as of the effective date of this AD, accomplish the inspection prior to the accumulation of 10,000 total flight cycles.

(2) For airplanes that have accumulated more than 5,000 total flight cycles, but fewer than 38,501 total flight cycles as of the effective date of this AD, accomplish the inspection prior to the accumulation of [5,522 + (0.8955 x N Accumulated)] total cycles. ''N Accumulated'' is defined as the total number of flight cycles as of the effective date of this AD.

(3) For airplanes that have accumulated 38,501 or more total flight cycles as of the effective date of this AD, accomplish the inspection within 1,500 flight cycles after the effective date of this AD.

Note 2: For the purposes of this AD, a detailed visual 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.''

Inspection for DHC–8–200 Series Airplanes

(b) At the applicable compliance time listed in paragraph (b)(1) or (b)(2) of this AD, perform a detailed visual inspection of the skin and an HFEC inspection to detect cracking of the ladder plates at over wing access panels between station YW42.00 and YW171.20, in accordance with de Havilland Temporary Revision TR MTC 2–14, dated September 18, 1998, of the de Havilland Maintenance Program Manual PSM 1–82–7. Repeat the inspections thereafter at intervals not to exceed 10,000 flight cycles.

(1) For airplanes that have accumulated 5,000 or fewer total flight cycles as of the effective date of this AD, accomplish the inspection prior to the accumulation of 10,000 total flight cycles.

(2) For airplanes that have accumulated more than 5,000 total flight cycles, but fewer than 38,501 total flight cycles as of the effective date of this AD, accomplish the inspection prior to the accumulation of [5,522 + (0.8955 x N Accumulated)] total cycles, where ''N Accumulated'' is defined as the total number of flight cycles as of the effective date of this AD.

Repair

(c) If any crack is detected during any inspection required by this AD, prior to further flight, repair in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate; or the Transport Canada Civil Aviation (TCCA) (or its delegated agent). For a repair method to be approved by the Manager, New York ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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

(e) 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–98–30, dated August 31, 1998.

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

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–23064 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 111

[Docket No. 96N–0417]

Dietary Supplements; Center for Food Safety and Applied Nutrition; Public Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Announcement of public meetings.

SUMMARY: The Food and Drug Administration (FDA) is announcing two public meetings to solicit comments that will assist the Center for Food Safety and Applied Nutrition (CFSAN) to understand the economic impact that any proposal to establish current good manufacturing practices (CGMP) regulations for dietary supplements may have on small businesses in the dietary supplement industry. These meetings are intended to give interested persons, including small businesses, an opportunity to comment on the economic impact that such a proposal may have on small businesses.

DATES: The public meetings will be held on Tuesday, September 28, 1999, from 1 p.m. to 5 p.m. and Thursday, October 21, 1999, from 7 p.m. to 10 p.m. You should register at least 5 days prior to the meeting you will attend. You may submit written comments until November 21, 1999.

ADDRESSES: The public meeting on September 28, 1999, will be held at the Marriott Hotel, 75 South West Temple, Wasatch Room, Salt Lake City, UT 84101. The public meeting on October 21, 1999, will be held at the Holiday Inn–Inner Harbor, 301 West Lombard St., Baltimore, MD 21201. Submit written comments to the Dockets Management Branch (HFA–305), Docket No. 96N–0417, Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Two copies of any comments are to be submitted, except that individuals may submit one copy.

FOR FURTHER INFORMATION CONTACT: Peter J. Vardon, Center for Food Safety and Applied Nutrition (HFS–726), Food and Drug Administration, 330 C St. SW., Washington, DC 20204, 202–205–5329, FAX 202–260–0794, or e-mail pvardon@bangate.fda.gov.

SUPPLEMENTARY INFORMATION: These public meetings will provide an opportunity for an open discussion of the manufacturing practices of small businesses in the dietary supplement industry. These meetings are intended to provide interested parties an opportunity to comment on the economic effects of a possible proposed regulation on CGMP's in the dietary supplement industry. These public meetings are also intended to fulfill part of the outreach requirement of the Small Business Regulatory Enforcement Fairness Act of 1996. The agenda will include topics regarding the small business entities' manufacturing practices and standard operating procedures for: (1) Personnel; (2) buildings and facilities; (3) equipment; (4) laboratory operations; (5) production and process controls; and (6) warehousing, distribution and post-distribution of raw, intermediate and final products. The meeting will also include a discussion about the verification of the identity, purity, and composition of dietary supplements and dietary supplement ingredients.

If you would like to attend a public meeting, you should register at least 5 days prior to the meeting by faxing or e-mailing your name, title, firm name, address, and telephone number to Peter J. Vardon (address above). FDA encourages individuals or firms with relevant data or information to present such information at the meeting or in written comments to the record. If you would like to request to speak at these meetings, you may notify Peter J. Vardon (address above) when you register. There is no registration fee for these public meetings, but early registration is suggested because space may be limited.

You may request a transcript of the public meeting from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting. The transcript of the public meeting and submitted comments will be available for public examination at the Dockets Management Branch (address above) between 9 a.m. and 4 p. m., Monday through Friday.

Dated: August 27, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–23008 Filed 8–31–99; 11:38 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Federal Prison Industries

28 CFR Part 302

[BOP 1081–P]

RIN 1120–AA84

Federal Prison Industries, Inc. (FPI) Standards and Procedures That Facilitate FPI's Ability To Accomplish Its Mission

AGENCY: Federal Prison Industries, Inc., Justice.

ACTION: Proposed rule; withdrawal.

SUMMARY: Federal Prison Industries, Inc. (FPI) is withdrawing the proposed codification of its ''Standards and Procedures that Facilitate FPI's ability to Accomplish its Mission''.

DATES: The withdrawal is effective September 3, 1999.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Marianne S. Cantwell, Corporate Counsel, Federal Prison Industries, Inc., phone (202) 305–3501.

SUPPLEMENTARY INFORMATION: Federal Prison Industries, Inc. (FPI) is withdrawing its proposed rule codifying its standards and procedures that facilitate FPI's ability to accomplish its mission. The proposed rule was published in the **Federal Register** on January 7, 1999 (64 FR 1082). The comment period for the rulemaking was reopened on March 10, 1999 (64 FR 11821). FPI subsequently announced that final action for the rulemaking would not occur before September 1, 1999 (64 FR 24547). Legislation to substantially change the statutes governing FPI's operations may be acted upon by Congress this session. Thus, it is not productive to pursue the issuance of rules related to FPI's current statute. Therefore, FPI is hereby withdrawing its proposed rule.

Steve Schwalb,

Chief Operating Officer, Federal Prison Industries, Inc.

[FR Doc. 99–23066 Filed 9–2–99; 8:45 am]

BILLING CODE 4410–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–19–01–5892b; A–1–FRL–6421–7]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Volatile Organic Compound Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes reasonably available control technology (RACT) emission limits for certain industrial categories. In the Final Rules section of this **Federal Register**, EPA is fully approving the majority of the Commonwealth's SIP revision. With regard to Massachusetts Regulation 310 CMR 7.18(17), however, EPA is granting approval to this regulation only as it is applicable to the Springfield Massachusetts ozone nonattainment area (Berkshire, Franklin, Hampden, and Hampshire counties). EPA is approving these regulations as a direct final rule without prior proposal because the Agency anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, the direct final rule will not take effect and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before October 4, 1999.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, Suite 1100, One Congress Street, Boston, MA 022114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Jeanne Cosgrove, (617) 918–1669.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: June 23, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99–22932 Filed 9–2–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 3

[IB Docket No. 98–96, DA 99–1653]

Maritime Radio Accounting Authorities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the time to file comments concerning the Commission's Further Notice of Proposed Rulemaking (''Further Notice'') adopted on June 21, 1999. Comments on the Further Notice were due on or before August 23, 1999, and Reply Comments were due on or before September 8, 1999. In response to a request for an extension of time, on August 18, 1999, the Commission extended the time to file comments.

DATES: Comments must be submitted on or before October 25, 1999; reply comments must be submitted on or before November 29, 1999.

ADDRESSES: All supplemental comments and supplemental reply comments should be addressed to: Office of the Secretary, Federal Communications Commission, 445 12th St., S.W., Washington, D.C. 20554. All comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Information Center (Room CY–A257) at 445 12th St., S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Copes, Attorney-Advisor, Multilateral and Development Branch, Telecommunications Division, International Bureau, (202) 418–1478.

SUPPLEMENTARY INFORMATION:

1. On August 16, 1999, the National Telecommunications and Information Administration (NTIA) filed a motion to extend the date for filing comments in the captioned proceeding from August 23, 1999, to October 25, 1999; and to extend the date for filing reply comments from September 8, 1999, to November 29, 1999. NTIA asserts that it needs more time to prepare cost information The Further Notice of Proposed Rulemaking required it to submit.

2. Although we do not routinely grant extensions of time, See 47 CFR 1.46(a), we believe that extending the comment date in this case will serve the public interest by allowing NTIA to prepare its cost information. We believe that an extension to October 25, 1999, will provide sufficient time for NTIA to prepare its comments. Interested parties may view the comments filed in this proceeding from the Commission's Reference Information Center (Room CY–A257) at 445 12th St., S.W., Washington, D.C. 20554. 0554. Copies of the comments filed in this proceeding are also available for purchase from the Commission's copy contractor, International Transcription Services, Inc. (''ITS''), 1231 20th Street, NW, Washington, DC 20037.

3. Accordingly, *it is ordered*, pursuant to 47 CFR 0.261, that the date for filing comments in this proceeding is extended until October 25, 1999, and that the date for filing reply comments is extended until November 29, 1999.

Federal Communications Commission.

Roderick Kelvin Porter,

Deputy Chief, International Bureau.

[FR Doc. 99–23070 Filed 9–2–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[I.D. 082099A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Applications for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of experimental fishing proposal; request for comments.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), is considering approval of two EFPs to conduct experimental fishing activities. EFPs would allow vessels to conduct operations otherwise restricted by

regulations governing the black sea bass fishery, and would exempt vessels from possession and size restrictions. Two EFPS would be required to conduct experimental fishing activities involving the possession and retention of 2,500 sublegal wild stock black sea bass (*Centropristis striata*) in areas of the Raritan and Sandy Hook Bays with industry-standard black sea bass fish pots. The collection of these specimens will augment a cultured black sea bass collection obtained from the University of Rhode Island. This study is being conducted to support the applied portion of a customized aquaculture training program designed to educate fishers on the basics of fish and shellfish culture. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act provisions require publication of this document to provide interested parties the opportunity to comment on the proposed EFPs.

DATES: Comments on this notice must be received by September 20, 1999.

ADDRESSES: Comments should be sent to the Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Proposed Experimental Fisheries.''

FOR FURTHER INFORMATION CONTACT: Bonnie VanPelt, Fishery Management Specialist, 978–281–9244.

SUPPLEMENTARY INFORMATION: The Rutgers Cooperative Extension of Ocean County (RCE) has submitted a proposal to enlist two federally permitted vessels to collect 2,500 sublegal (3 to 6 in (7.6 to 15.2 cm)) black sea bass (*Centropristis striata*) using approximately 150 black sea bass pots from the Raritan and Sandy Hook Bays, New Jersey. Specifically, the study will encompass the area bound by the following coordinates: 40° 26'N. latitude on the South to 40° 30'N. latitude on the north, and 73°52'W. longitude on the east to 74°04'W. longitude on the west.

This applied segment of an industry-based aquaculture training program intends to address two main objectives: (1) Broaden the participant's knowledge of the growth and survival rates of cultured and wildstock black sea bass in a recirculating system; and (2) evaluate the economic efficacy of juvenile black sea bass grow out in a recirculating system operating under full capacity, and the associated cost-benefit ratio. The black sea bass will be harvested in industry standard vinyl coated wire pots with mesh sizes of 1 in x 1–1/4 in (2.54 cm x 3.2 cm). The black sea bass pots will not be modified in any way, except that the escape vents will be closed to retain the undersized black sea bass. Once caught, the sublegal black sea bass will be transported to the Port of Belford, New Jersey, and placed in 4, 15–gallon (56.77 liter) recirculating tanks for grow out and eventual sale to the market.

The RCE had previously requested that the New Jersey Department of Environmental Protection (NJDEP) agree to exempt the black sea bass taken under this exempted fishing permit from the state's landing quota. However, the NJDEP decided that once the black sea bass is sold to market at legal size (10 in (25.4 cm)), it would count against the state's landing quota.

The students (commercial vessel operators) participating in the training program will be under the supervision of RCE personnel during all phases of at-sea operations.

The NJDEP has granted the RCE a harvesting permit to collect fish in the marine, fresh, and estuarine waters of the State. The two federally permitted vessels participating in this program will commence collection of sublegal-size black sea bass in Federal waters as soon as the RCE receives the necessary authorizations from NMFS. It is anticipated that the collection of sublegal-size black sea bass will take approximately one month. No other species besides black sea bass will be harvested. Any regulated species caught incidental to black sea bass will be returned immediately to the sea.

EFPs would be issued to participating vessels to exempt them from the possession and size restrictions (see 50 CFR § 648.143) of the Fishery Management Plan for Summer Flounder, Scup and Black Sea Bass.

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

Dated: August 30, 1999.

Bruce Morehead,

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

[FR Doc. 99–23087 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 64, No. 171

Friday, September 3, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

South Dakota Petroleum Release Compensation Fund Program; Determination of Primary Purpose of Program Payments for Consideration as Excludable From Income Under Section 126 of the Internal Revenue Code of 1954

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of Determination.

SUMMARY: The Secretary of Agriculture has determined that all grant payments made under the South Dakota Petroleum Release Compensation Fund program are made primarily for the purpose of conserving soil and water resources and protecting or restoring the environment. This determination is made in accordance with Section 126 of the Internal Revenue Code of 1954, as amended. The determination permits recipients of these payments to exclude them from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Dennis D. Rounds, Executive Director, South Dakota Petroleum Release Compensation Fund, 124 E. Dakota, Pierre, South Dakota 57501; or Director, Conservation Operations Division, Natural Resources Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 720–1845.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 126, provides that certain payments made to persons under state conservation programs may be excluded from the recipient's gross income for federal income tax purposes if the Secretary of Agriculture determines that the payments are made ''primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.'' The Secretary of Agriculture evaluates these conservation programs on the basis of criteria set forth in 7 CFR part 14, and makes a ''primary purpose'' determination for payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that payments made under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments.

The South Dakota petroleum Release Compensation Fund (PRCF) was enacted through HB 1253 in the 1988 South Dakota state legislature. From 1988 to 1995, the PRCF was attached to the Department of Commerce and Regulation and was administered by a five-member citizen's board appointed by the Governor. In 1995, through executive reorganization (Executive Order 95–5), the PRCF was attached to the Department of Transportation and the board's role was changed to advisory. Although attached to the Department of Transportation, the PRCF is temporarily administered by the Department of Commerce and Regulation through a joint-powers agreement. The program is funded by a petroleum release compensation and tank inspection fee of $20.00/1,000 gallons on products introduced and sold within the state. The fee is imposed on the first state licensed distributor who transfers title of a petroleum product to another within the state. The PRCF receives 58% of the revenues generated by the fee.

The purpose of the program is to prevent and clean up petroleum spills through the establishment of a fund which financially assists owners or operators of storage tanks with necessary and reasonable expenses incurred in order to clean up pollution caused by the release of petroleum into the environment. The objectives of this program are achieved by reimbursing owners or operators of storage tanks for expenses incurred for the cleanup of petroleum released into the environment, thereby protecting the public from contamination of drinking water.

Only expenses directly related to the cleanup are eligible for reimbursement under the PRCF. The following expenses are reimbursable if the director determines them to qualify under the criteria established in statute:

(1) labor;
(2) testing;
(3) use of machinery;
(4) materials and supplies;
(5)professional services authorized by the director;
(6) costs incurred by order of federal, state or local government; and
(7) any other expenses that the board finds to be reasonable and necessary to remediate a petroleum spill or release

Costs are eligible for reimbursement only if they are for activities that have been described in a site assessment plan or a corrective action plan and have received prior approval from the director.

Procedural Matters

The authorizing legislation, regulations, and operating procedures for the South Dakota PETROLEUM RELEASE COMPENSATION FUND have been examined using criteria set forth in 7 CFR part 14. The U.S. Department of Agriculture has concluded that the grant payments made under this program are made to provide financial assistance to eligible persons primarily for the purpose of conserving soil and water resources and protecting or restoring the environment.

A ''Record of Decision, South Dakota PETROLEUM RELEASE COMPENSATION FUND: Primary Purpose Determination for Federal Tax Purposes'' has been prepared and is available upon request from the Director, Conservation Operations Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013, or Director, South Dakota Petroleum Release Compensation Fund, 124 E. Dakota, Pierre, S.D. 57501.

Determination

As required by Section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulations, and operating procedures regarding the South Dakota PETROLEUM RELEASE COMPENSATION FUND. In accordance with the criteria set out in 7 CFR Part 14, I have determined that all grant payments for cleanup of petroleum releases associated with petroleum storage tanks made under this program are primarily for the purpose of conserving soil and water resources and

protecting or restoring the environment. Subject to further determination by the Secretary of the Treasury, this determination permits grant payment recipients to exclude from gross income, for Federal income tax purposes, all or part of such payments made under the South Dakota Petroleum Release Compensation Fund.

Signed at Washington, DC, on April 2, 1998.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 99–23063 Filed 9–2–99; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket Number FV–98–305]

United States Standards for Grades of Oranges (California and Arizona), United States Standards for Grades of Grapefruit (California and Arizona), United States Standards for Grades of Tangerines and the United States Standards for Grades of Lemons

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening and extension of the comment period.

SUMMARY: Notice is hereby given that the comment period on proposed changes to the United States Standards for Grades of Oranges (California and Arizona), United States Standards for Grades of Grapefruit (California and Arizona), United States Standards for Grades of Tangerines and the United States Standards for Grades of Lemons is reopened and extended.

DATES: Comments must be received by September 20, 1999.

ADDRESSES: Written comments may be submitted to Kenneth R. Mizelle, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2065, South Building, STOP 0240, P.O. Box 96456, Washington, D.C. 20090–6456; faxed to (202) 720–8871; or e-mailed to fpb.docketclerk@usda.gov.

Comments should reference the date and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at the above address during regular business hours.

The current grade standards for these citrus crops, along with proposed changes, are available either through the above addresses or by accessing AMS' Home Page on the Internet at www.ams.usda.gov/standards/frutmrkt.htm.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Mizelle at (202) 720–2185.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** (64 FR 32666; June 17, 1999) requesting comments on changes to the United States Standards for Grades of Oranges (California and Arizona), United States Standards for Grades of Grapefruit (California and Arizona), United States Standards for Grades of Tangerines and the United States Standards for Grades of Lemons. The notice would change the standards to provide a minimum 25-count sample to be applied to tolerances for defects. Additionally, to promote greater uniformity and consistency in the standards, AMS proposed further revisions which will bring the standards into conformity with current cultural and marketing practices. The comment period ended August 16, 1999.

A request from an industry association representing wholesale receivers requested that additional time be provided for interested persons to comment on the proposed changes. The association intended to comment but did not do so prior to the close of the comment period. The association believes that its response, on behalf of wholesale agricultural receivers, is critical to the evaluation of any proposed standards changes.

After reviewing the request, the Department is reopening and extending the comment period in order to allow sufficient time for all interested persons, including the association, to file comments.

Authority: 7 U.S.C. 1621–1627.

Dated: August 30, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–23013 Filed 9–2–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Spar and Lake Forest Health Project Kootenai National Forest, Lincoln County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA-Forest Service will prepare an Environmental Impact Statement (EIS) for the Spar and Lake Forest Health Project to disclose the effects of timber management, prescribed fire, and road management including reconstruction, Best Management Practices (BMP) compliance, and decommissioning. The Spar and Lake project area encompasses the Lake Creek drainage immediately south of Troy, Montana, including Iron, Keeler, Twilight, Stanley, Ross, Camp, Madge, Spring and Noggle drainages as well as several small tributaries to Lake Creek. The purpose and need for action is to: (1) Improve overall forest health by stimulating natural processes that encourage more stable and resilient conditions. This includes salvaging trees with high levels of mortality from insect and disease as well as addressing stand density and species competition concerns; (2) Improve winter range conditions; (3) Improve growing conditions and long term management options for overstocked sapling/pole stands; (4) Improve water quality; and (5) Provide a sustained yield of timber.

The DEIS is expected to be filed with the EPA and available for public review by February, 2000.

DATES: Written comments and suggestions should be received on or before October 4, 1999.

ADDRESSES: Written comments and suggestions concerning the scope of the analysis should be sent to Michael L. Balboni, District Ranger, Three Rivers Ranger District, 1437 Hwy 2, Troy, MT 59935.

FOR FURTHER INFORMATION CONTACT: Contact Michael Donald, Interdisciplinary Team Leader, Three Rivers Ranger District, Phone: (406) 295–4693.

SUPPLEMENTARY INFORMATION: The project area is approximately 135,000 acres and has a favorable climate and good site conditions for forest vegetation. Proposed activities within the decision area include portions of the following areas: T28N, R33W, sec 2, 4–8; T28N, R34W, sec 1–4, 11, 12; T29N, R33W, sec 3, 4, 6, 9, 18, 19; T29N, R34W, sec 1–3, 8, 11, 13, 15–17, 23–25, 27, 34, 35; T30N, R33W, sec 19, 27, 30, 31, 33; T30N, R34W, sec 1, 3, 10–17, 20–28, 30, 32–35; T31N, R33W, sec 20; and T31N, R34W, sec 34. Activities would take place in Management Areas (MA) 2, 8, 10, 10og, 11, 12, 13, 18, 18og, 19, 24 as defined by the Kootenai National Forest Plan. Average annual precipitation ranges from 29 to 100 inches. At the higher elevations, most precipitation falls as snow. The Lake creek valley is a unique combination of open-growth ponderosa pine and Douglas-fir, multistoried western larch/Douglas-fir, and dense stands of western red cedar and western hemlock with pockets of lodgepole pine. The upland areas vary from even-aged Douglas-fir/

grand fir stands to multi-storied forests of mixed conifers and uniform lodgepole pine stands.

Wildfire historically played a role in interrupting forest succession and creating much of the vegetative diversity that is apparent. Since the early 1900s, a policy of wildfire suppression has been in place on National Forest lands, interrupting the natural vegetation cycle. Existing stands in general have a higher stocking level than occurred naturally and are dominated by Douglas-fir which is susceptible to bark beetles and root disease when stressed. In the project area many mature Douglas-fir stands are experiencing bark beetle-caused mortality. Once a dominant feature of this area, western white pine has been severely impacted as a result of the blister rust fungus; western larch is also less prevalent due to its age and lack of fire-induced site preparation that enables natural regeneration.

1. Treatments to improve forest health for salvage and restoration include:

- Stand improvement cutting in the majority of treatment areas to reduce overall stand densities, improve species composition and quality, and reduce the high risk of continued mortality. Restoration of the forest structure would be addressed in part through the salvage of dead and dying trees.
- Prescribed burning would be applied in some areas following harvest to restore the fire dependent ecosystems, reduce fuels, prepare the site for planting, and/or improve vegetative conditions.
- Removal of trees would be accomplished primarily with a helicopter due to the steep slopes. Temporary roads may be needed to access units to be harvested with ground-based systems. These temporary roads would be decommissioned after timber sale activities are accomplished.
- Post treatment reforestation within regeneration units would include planting a mix of conifer species, including blister rust-resistant western white pine, ponderosa pine, western larch, and Engelmann spruce.
- In order to implement this proposal and provide for grizzly bear security during the proposed timber harvest activity, several miles of road currently restricted to public access would be opened to access harvest units and available for public use. One road currently open to public access, the Hiatt Creek road overlooking Spar Lake, would be considered for closing with an earth berm to meet core habitat standards for grizzly bear. Several more roads which are currently restricted to public vehicular access with a gate (in the Twilight, Thicket, NF Keeler and Upper Iron Creek drainages) would be earthbermed to meet grizzly bear core habitat standards. Berming these already gated roads would have no direct effect on public access.
- Prescribed burning without timber harvest would be utilized over approximately 3,300 acres to improve big game habitat, reduce fuels, improve vegetative conditions, and restore important ecological processes.

2. Vegetative treatments, as described in #1 above, are designed to also improve big game habitat conditions through reduction of stand density and underburning.

3. Approximately 400 acres of overstocked sapling size trees would be precommercially thinned. These areas are within managed plantations and natural stands that have regenerated after wildfire. Lynx habitat will not be precommercially thinned.

4. Watershed rehabilitation activities would be implemented to reduce water routing and sediment transport from existing roads. This would be accomplished through application of Best Management Practices and activities such as outsloping, waterbarring, culvert replacement or removal and/or removal of the actual prism to restore a more natural surface flow pattern to the landscape.

5. The timber harvest described under #1 above would also contribute timber products to local and regional markets.

The Kootenai Forest Plan provides guidance for management activities within the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. A portion of the Scotchman Peaks Inventoried Roadless Area is included within the project area, approximately 500 acres of which are proposed for prescribed burning.

The proposed action includes project-specific forest plan amendments to meet the goals of the Kootenai National Forest Plan.

MA–10; Big Game Winter Range/ Unsuitable Timber Lands

The proposed harvest near Stanley Mountain, Pheasant Point and Northeast of Keeler Mountain is largely in Management Area 10. A Forest Plan amendment would be necessary to suspend wildlife and fish standard #3 for MA 10 harvest in order to enhance wildlife habitat by increasing forage. Some salvage opportunity also exists to retard the spread of insect and disease. These areas contain existing standing dead trees. Although the intent is to protect as much of the existing cavity habitat as possible, it cannot be guaranteed that all the cavity habitat would be retained since some of the existing snags may need to be felled for safety reasons to meet OSHA requirements. New snags may be created by girdling live trees after the harvest operations.

MA–12; Big-game Summer Range/ Timber

The proposed harvest in Sec. 23, T29N, R34W could result in an opening of over 40 acres when considered with adjacent past harvest (of 34 acres) which does not yet provide hiding cover for big game species. A Forest Plan Amendment would be needed to suspend wildlife and fish standard #7 and timber standard #2 for this area. These standards state that movement corridors and adjacent hiding cover be retained. In this situation, high levels of bark beetle caused mortality precludes alternative treatment. Snags and down woody material would be left to provide wildlife habitat and maintain soil productivity.

Range of Alternatives

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative in which none of the proposed activities will be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest lands will be considered. The EIS will disclose the analysis of site-specific mitigation measures, if needed, and their effectiveness.

Preliminary Issues: Tentatively, several preliminary issues of concern have been identified. These issues are briefly described below:

Transportation Systems: The implementation of the proposed action would change access within the Spar and Lake Analysis Area which may affect the public's ability to use traditional routes.

Visual Resources: Implementation of the proposed action may alter the existing scenic resource within the project area. Even though the proposed action is planned to improve the visuals of the past harvest activities, some members of the public may feel that it will have additional scenic impacts.

Watershed: Past management activities and those associated with the implementation of the Proposed Action

may result in increased peak flows and sediment production. Water Quality Limited Segments (WQLS), as defined by the state of Montana, exist within the analysis area.

Fish: While the intent is to improve long term water quality, bull trout may experience short term impacts.

Wildlife: The proposed action could potentially reduce existing cavity habitat in snags and reduce suitable hiding cover for wildlife security.

Decisions To Be Made: The Kootenai Forest Supervisor will decide the following:

- Whether or not to harvest timber and, if so, identify the selection of, and site-specific location of, appropriate timber management practices (silvicultural prescription, logging system, fuels treatment, and reforestation), road construction/reconstruction necessary to provide access and to achieve other resource objectives, and appropriate mitigation measures.
- Whether or not water quality improvement projects (including road decommissioning) should be implemented and, if so, to what extent.
- Whether or not wildlife enhancement projects (including prescribed burning) should be implemented and, if so, to what extent.
- Whether road access restrictions or other actions are necessary to meet big game wildlife security needs.
- Whether or not project specific Forest Plan amendments for MA 10 and 12 are necessary to meet the specific purpose and need of this project, and whether those amendments are significant under NFMA.
- What, if any, specific project monitoring requirements would be needed to assure mitigation measures are implemented and effective.

Public Involvement and Scoping

In September of 1998, preliminary efforts were made to involve the public in looking at management opportunities within the Spar Sub-unit analysis area. Comments received prior to this notice will be included in the documentation for the EIS. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action. This input will be used in preparation of the draft and final EIS. The scoping process will include:

- Identifying potential issues.
- Identifying major issues to be analyzed in depth.
- Identify alternatives to the proposed action.
- Explore additional alternatives which will be derived from issues recognized during scoping activities.
- Identify potential environmental effects of this project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

Estimated Dates for Filing: While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by February, 2000. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed by May, 2000. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F.Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate in the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most helpful, comments on the drafts EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official

As the Forest Supervisor of the Kootenai National Forest, 1101 US Highway 2 West, Libby, MT 59923, I am the Responsible Official. As the Responsible Official I will decide if the proposed project will be implemented. I will document the decision and reasons for the decision in the Record of Decision. I have delegated the responsibility to prepare the EIS to Michael L. Balboni, District Ranger, Three Rivers Ranger District.

Dated: August 27, 1999.

Bob Castaneda,

Forest Supervisor Kootenai National Forest.

[FR Doc. 99–22975 Filed 9–2–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Spar and Lake Forest Health Project; Kootenai National Forest, Lincoln County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA-Forest Service will prepare an Environmental Impact Statement (EIS) for the Spar and Lake Forest Health Project to disclose the effects of timber management, prescribed fire, and road management including reconstruction, Best Management Practices (BMP) compliance, and decommissioning. The Spar and Lake project area encompasses the Lake Creek drainage immediately south of Troy, Montana, including Iron, Keeler, Twilight, Stanley, Ross, Camp, Madge, Spring and Noggle drainages as well as several small tributaries to Lake Creek. The purpose and need for action is to: (1) Improve overall forest health by stimulating natural processes that encourage more stable and resilient conditions. This includes salvaging trees with high levels of mortality from insect and disease as well as addressing stand density and species competition

concerns; (2) Improve winter range conditions; (3) Improve growing conditions and long term management options for overstocked sapling/pole stands; (4) Improve water quality; and (5) Provide a sustained yield of timber.

The DEIS is expected to be filed with the EPA and available for public review by February, 2000.

DATES: Written comments and suggestions should be received on or before October 4, 1999.

ADDRESSES: Written comments and suggestions concerning the scope of the analysis should be sent to Michael L. Balboni, District Ranger, Three Rivers Ranger District, 1437 Hwy 2, Troy, MT 59935.

FOR FURTHER INFORMATION CONTACT: Michael Donald, Interdisciplinary Team Leader, Three Rivers Ranger District. Phone: (406) 295–4693.

SUPPLEMENTARY INFORMATION:

The project area is approximately 135,000 acres and has a favorable climate and good site conditions for forest vegetation. Proposed activities within the decision area include portions of the following areas: T28N, R33W, sec 2, 4–8; T28N, R34W, sec 1–4, 11, 12; T29N, R33W, sec 3, 4, 6, 9, 18, 19; T29N, R34W, sec 1–3, 8, 11, 13, 15–17, 23–25, 27, 34, 35; T30N, R33W, sec 19, 27, 30, 31, 33; T30N, R34W, sec 1, 3, 10–17, 20–28, 30, 32–35; T31N, R33W, sec 20; and T31N, R34W, sec 34. Activities would take place in Management Areas (MA) 2, 8, 10, 10og, 11, 12, 13, 18, 18og, 19, 24 as defined by the Kootenai National Forest Plan. Average annual precipitation ranges from 29 to 100 inches. At the higher elevations, most precipitation falls as snow. The Lake Creek valley is a unique combination of open-grown ponderosa pine and Douglas-fir, multistoried western larch/Douglas-fir, and dense stands of western red cedar and western hemlock with pockets of lodgepole pine. The upland areas vary from even-aged Douglas-fir/grand fir stands to multi-storied forests of mixed conifers and uniform lodgepole pine stands.

Wildfire historically played a role in interrupting forest succession and creating much of the vegetative diversity that is apparent. Since the early 1900s, a policy of wildfire suppression has been in place on National Forest lands, interrupting the natural vegetation cycle. Existing stands in general have a higher stocking level than occurred naturally and are dominated by Douglas-fir which is susceptible to bark beetles and root disease when stressed. In the project area many mature Douglas-fir stands are experiencing bark beetle-caused mortality. Once a dominant feature of this area, western white pine has been severely impacted as a result of the blister rust fungus; western larch is also less prevalent due to its age and lack of fire-induced site preparation that enables natural regeneration.

1. Treatments to improve forest health for salvage and restoration include:

- Stand improvement cutting in the majority of treatment areas to reduce overall stand densities, improve species composition and quality, and reduce the high risk of continued mortality. Restoration of the forest structure would be addressed in part through the salvage of dead and dying trees.
- Prescribed burning would be applied in some areas following harvest to restore the fire dependent ecosystems, reduce fuels, prepare the site for planting, and/or improve vegetative conditions.
- Removal of trees would be accomplished primarily with a helicopter due to the steep slopes. Temporary roads may be needed to access units to be harvested with ground-based systems. These temporary roads would be decommissioned after timber sale activities are accomplished.
- Post treatment reforestation within regeneration units would include planting a mix of conifer species, including blister rust-resistant western white pine, ponderosa pine, western larch, and Engelmann spruce.
- In order to implement this proposal and provide for grizzly bear security during the proposed timber harvest activity, several miles of road currently restricted to public access would be opened to access harvest units and available for public use. One road currently open to public access, the Hiatt Creek road overlooking Spar Lake, would be considered for closing with an earth berm to meet core habitat standards for grizzly bear. Several more roads which are currently restricted to public vehicular access with a gate (in the Twilight, Thicket, NF Keeler and Upper Iron Creek drainages) would be earthbermed to meet grizzly bear core habitat standards. Berming these already gated roads would have no direct effect on public access.
- Prescribed burning without timber harvest would be utilized over approximately 3,300 acres to improve big game habitat, reduce fuels, improve vegetative conditions, and restore important ecological processes.

2. Vegetative treatments, as described in #1 above, are designed to also improve big game habitat conditions through reduction of stand density and underburning.

3. Approximately 400 acres of overstocked sapling size trees would be precommercially thinned. These areas are within managed plantations and natural stands that have regenerated after wildfire. Lynx habitat will not be precommercially thinned.

4. Watershed rehabilitation activities would be implemented to reduce water routing and sediment transport from existing roads. This would be accomplished through application of Best Management Practices and activities such as outsloping, waterbarring, culvert replacement or removal and/or removal of the actual prism to restore a more natural surface flow pattern to the landscape.

5. The timber harvest described under #1 above would also contribute timber products to local and regional markets.

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The proposed action includes project-specific forest plan amendments to meet the goals of the Kootenai National Forest Plan.

MA–10; Big Game Winter Range/ Unsuitable Timber Lands

The proposed harvest near Stanley Mountain, Pheasant Point and Northeast of Keeler Mountain is largely in Management Area 10. A Forest Plan amendment would be necessary to suspend wildlife and fish standard #3 for MA 10 harvest in order to enhance wildlife habitat by increasing forage. Some salvage opportunity also exists to retard the spread of insect and disease. These areas contain existing standing dead trees. Although the intent is to protect as much of the existing cavity habitat as possible, it cannot be guaranteed that all the cavity habitat would be retained since some of the existing snags may need to be felled for safety reasons to meet OSHA requirements. New snags may be created by girdling live trees after the harvest operations.

MA–12; Big-Game Summer Range/ Timber

The proposed harvest in Sec. 23, T29N, R34W could result in an opening of over 40 acres when considered with adjacent past harvest (of 34 acres) which does not yet provide hiding cover for big game species. A Forest Plan Amendment would be needed to

suspend wildlife and fish standard #7 and timber standard #2 for this area. These standards state that movement corridors and adjacent hiding cover be retained. In this situation, high levels of bark beetle caused mortality precludes alternative treatment. Snags and down woody material would be left to provide wildlife habitat and maintain soil productivity.

Range of Alternatives

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative in which none of the proposed activities will be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and project activities on both private and National Forest lands will be considered. The EIS will disclose the analysis of site-specific mitigation measures, if needed, and their effectiveness.

Preliminary Issues: Tentatively, several preliminary issues of concern have been identified. These issues are briefly described below:

Transportation Systems: The implementation of the proposed action would change access within the Spar and Lake Analysis Area which may affect the public's ability to use traditional routes.

Visual Resources: Implementation of the proposed action may alter the existing scenic resource within the project area. Even though the proposed action is planned to improve the visuals of the past harvest activities, some members of the public may feel that it will have additional scenic impacts.

Watershed: Past management activities and those associated with the implementation of the Proposed Action may result in increased peak flows and sediment production. Water Quality Limited Segments (WQLS), as defined by the state of Montana, exist within the analysis area.

Fish: While the intent is to improve long term water quality, bull trout may experience short term impacts.

Wildlife: The proposed action could potentially reduce existing cavity habitat in snags and reduce suitable hiding cover to wildlife security.

Decisions To Be Made: The Kootenai Forest Supervisor will decide the following:

- Whether or not to harvest timber and, if so, identify the selection of, and site-specific location of, appropriate timber management practices (silvicultural prescription, logging system, fuels treatment, and reforestation), road construction/reconstruction necessary to provide access and to achieve other resource objectives, and appropriate mitigation measures.
- Whether or not water quality improvement projects (including road decommissioning) should be implemented and, if so, to what extent.
- Whether or not wildlife enhancement projects (including prescribed burning) should be implemented and, if so, to what extent.
- Whether road access restrictions or other actions are necessary to meet big game wildlife security needs.
- Whether or not project specific Forest Plan amendments for MA 10 and 12 are necessary to meet the specific purpose and need of this project, and whether those amendments are significant under NFMA.
- What, if any, specific project monitoring requirements would be needed to assure mitigation measures are implemented and effective.

Public Involvement and Scoping: In September of 1998, preliminary efforts were made to involve the public in looking at management opportunities within the Spar Sub-unit analysis area. Comments received prior to this notice will be included in the documentation for the EIS. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action. This input will be used in preparation of the draft and final EIS. The scoping process will include:

- Identifying potential issues.
- Identifying major issues to be analyzed in depth.
- Identifying alternatives to the proposed action.
- Explore additional alternatives which will be derived from issues recognized during scoping activities.
- Identify potential environmental effects of this project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

Estimated Dates for Filing: While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by February, 2000. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed by May, 2000. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations: The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most meaningful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official: As the Forest Supervisor of the Kootenai National Forest, 1101 US Highway 2 West, Libby, MT 59923, I am the Responsible Official. As the Responsible Official I will decide if the proposed project will

be implemented. I will document the decision and reasons for the decision in the Record of Decision. I have delegated the responsibility to prepare the EIS to Michael L. Balboni, District Ranger, Three Rivers Ranger District.

Dated: August 13, 1999.

Bob Castaneda,

Forest Supervisor, Kootenai National Forest.

[FR Doc. 99–22983 Filed 9–2–99; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletion from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a commodity previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 4, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Candle, Illuminating
6260–00–161–4296
NPA: Concho Resource Center, San Angelo, Texas

Bookcase, Steel, Contemporary
7110–00–601–9821
7110–00–601–9822
7110–00–135–1997
7110–00–135–1998
(Requirements for GSA Zones 2 and 3 only)
NPA: Knox County ARC, Knoxville, Tennessee

Services

Full Food and Dining Facility Attendant Service, Fort Leonard Wood, Missouri
NPA: MGI Services Corporation, St. Louis, Missouri

Furniture Rehabilitation

GSA National Furniture Center, Arlington, Virginia (50% of the Government requirement)
NPA: J. M. Murray Center, Inc. Cortland, New York

Janitorial/Custodial

VA Outpatient Clinic, Daytona Beach, Florida
NPA: ACT, CORP., Daytona Beach, Florida

Janitorial/Custodial

New River Valley Memorial USARC, Dublin, Virginia
NPA: New River Valley Workshop, Inc., Radford, Virginia

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodity to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for deletion from the Procurement List.

The following commodity has been proposed for deletion from the Procurement List: Case, Medical, Instrument and Supply Set 6545–00–912–9890.

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–23068 Filed 9–2–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: October 4, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION:

On April 2, July 9, and 23, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 15954, 37098, 39968 and 39969) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below

are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Stapler
7520–00–281–5895
7520–00–281–5896
7520–00–139–6170
7520–00–243–1780

Services

Acquisition and Distribution of C-Cell Batteries (6135–00–985–7846)
Defense Supply Center—Richmond, Richmond, Virginia
Duplication of Official Use Document (GPO Program C492–S)
Government Printing Office, North Capitol & H Street, NW, Washington, DC

Janitorial/Custodial

Fort Hamilton Proper, Fort Hamilton Manor and Fort Hamilton Tenants, Fort Hamilton, New York

Mailing Services

National Council on Disability, 1331 F Street, NW, Washington, DC
Storage and Distribution of Tape, Webbing and Other Accouterments
Defense Supply Center—Philadelphia, Philadelphia, Pennsylvania
Telephone Switchboard Operations, Barksdale Air Force Base, Louisiana

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action may result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Cabinet, Tool, Mobile & Tool Box, Portable
5140–01–010–4776
5140–00–030–6617
5140–00–870–4796
5140–00–319–5079
5140–00–494–2015
Tool Box, Portable
5140–01–010–4861
Mirror, Glass
7105–00–496–9866

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–23069 Filed 9–2–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Proposed Additions to Procurement List; Correction

In the document appearing on page 45506, F.R. Doc. 99–21669, in the issue of August 20, 1999, in the second column, the service listed as Laundry Service, Naval Air Station, Brunswick, Maine and Portsmouth, New Hampshire should read Laundry Service, Naval Air Station, Brunswick, Maine and Portsmouth Naval Shipyard, Portsmouth, New Hampshire.

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–23067 Filed 9–2–99; 8:45 am]

BILLING CODE 6353–01–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: September 14, 1999; 9:00 a.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., S.W., Washington, D.C. 20547.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b. (c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b. (c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b. (c)(2) and (6))

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or John Lindburg at (202) 401–3736.

Dated: September 1, 1999.

John A. Lindburg,

Legal Counsel and Acting Executive Director.

[FR Doc. 99–23162 Filed 9–1–99; 1:03 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

February 1999 Sunset Review: Final Results and Revocation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Sunset Review and Revocation of Antidumping Duty Order: Fresh Cut Flowers from Ecuador (A–331–602).

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on fresh cut flowers from Ecuador. Because the domestic interested parties have

withdrawn, in full, their participation in the ongoing sunset review, the Department is revoking this order.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Darla A. Brown or Melissa G. Skinner, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–5050 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department issued an antidumping duty order on fresh cut flowers from Ecuador (52 FR 8494, March 18, 1987). Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department initiated a sunset review of this order by publishing notice of the initiation in the **Federal Register** (64 FR 4840, February 1, 1999). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for this proceeding to inform them of the automatic initiation of a sunset review on this order.

In the sunset review of the antidumping duty order on fresh cut flowers from Ecuador, we received a notice of intent to participate from Mr. Timothy Haley, President of Pikes Peak Greenhouses, the Floral Trade Council (''FTC''), the FTC's Committee on Standard Carnations, Committee on Standard Chrysanthemums, and Committee on Pompom Chrysanthemums (collectively, ''the FTC and its Committees'') by the February 16, 1999, deadline. We also received a complete substantive response from the FTC and its Committees by the March 3, 1999, deadline (*see* section 351.218(d)(1)(i) of *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13520 (March 20, 1998) (''*Sunset Regulations*'')).

On August 27, 1999, we received a notice from the FTC and its Committees withdrawing in full their participation in the five-year (sunset) review of the antidumping duty order on fresh cut flowers from Ecuador. The FTC and its Committees further expressed that they no longer have an interest in maintaining the antidumping duty order. As a result, the Department determined that no domestic party intends to participate in the sunset review and, on August 30, 1999, we notified the International Trade Commission that we intended to issue a final determination revoking this antidumping duty order.

Determination To Revoke

Pursuant to section 751(c)(3)(A) of the Act and section 351.218(d)(1)(iii)(B)(3) of the *Sunset Regulations*, if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the finding or order or terminating the suspended investigation. Because the FTC and its Committees withdrew both their notice of intent to participate and their complete substantive response from the review process, and no other domestic interested party filed a substantive response (*see* sections 351.218(d)(1)(i) and 351.218(d)(3) of the *Sunset Regulations*), we are revoking this antidumping duty order.

Effective Date of Revocation and Termination

Pursuant to section 751(c)(6)(A)(iv) of the Act, the Department will instruct the United States Customs Service to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse from warehouse, on or after January 1, 2000. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23036 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

February 1999 Sunset Reviews: Final Results and Revocations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of sunset reviews and revocations of antidumping duty orders: standard carnations from Chile (A–337–602), fresh cut flowers from Mexico (A201–601) and of countervailing duty orders on standard carnations from Chile (C–337–601) and pompon chrysanthemums from Peru (C–333–601).

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty order on standard carnations from Chile and fresh cut flowers from Mexico and on the countervailing duty orders on standard carnations from Chile and pompon chrysanthemums from Peru. Because the domestic interested parties have withdrawn, in full, their participation in the ongoing sunset reviews, the Department is revoking these orders.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Darla A. Brown or Melissa G. Skinner, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department issued antidumping duty orders on standard carnations from Chile (52 FR 8939, March 20, 1987) and fresh cut flowers from Mexico (52 FR 13491, April 23, 1987). The Department issued countervailing duty orders on standard carnations from Chile (52 FR 3313, March 19, 1987) and pompon chrysanthemums from Peru (52 FR 13491, April 23, 1987). Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department initiated sunset reviews of these orders by publishing notice of the initiation in the **Federal Register** (64 FR 4840, February 1, 1999). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for this proceeding to inform them of the automatic initiation of a sunset review on each of these orders.

In the sunset reviews of these orders, we received notices of intent to participate from Mr. Timothy Haley, President of Pikes Peak Greenhouses, the Floral Trade Council (''FTC''), the FTC's Committee on Standard Carnations, Committee on Standard Chrysanthemums, and Committee on Pompom Chrysanthemums (collectively, ''the FTC and its Committees'') by the February 16, 1999, deadline. We also received complete substantive response from the FTC and its Committees by the

March 3, 1999, deadline (*see* section 351.218(d)(1)(i) of *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13520 (March 20, 1998) (''*Sunset Regulations*'')).

On August 30, 1999, we received notice from the FTC and its Committees withdrawing in full their participation in the five-year (sunset) reviews of these antidumping and countervailing duty orders on flowers. The FTC and its Committees further expressed that they no longer have an interest in maintaining the antidumping and countervailing duty orders discussed above. As a result, the Department determined that no domestic party intends to participate in the sunset reviews and, on August 30, 1999, we notified the International Trade Commission that we intended to issue final determinations revoking these antidumping and countervailing duty orders.

Determination To Revoke

Pursuant to section 751(c)(3)(A) of the Act and section 351.218(d)(1)(iii)(B)(*3*) of the *Sunset Regulations*, if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the finding or order or terminating the suspended investigation. Because the FTC and its Committees withdrew both their notices of intent to participate and their complete substantive responses from the review process, and no other domestic interested party filed a substantive response in any of these reviews (*see* sections 351.218(d)(1)(i) and 351.218(d)(3) of the *Sunset Regulations*), we are revoking these antidumping and countervailing duty orders.

Effective Date of Revocation and Termination

Pursuant to section 751(c)(6)(A)(iv) of the Act, the Department will instruct the United States Customs Service to terminate the suspension of liquidation of the merchandise subject to these orders entered, or withdrawn from warehouse, on or after January 1, 2000. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping or countervailing duty deposit requirements. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

These five-year (''sunset'') reviews and this notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23037 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–601]

Final Results of Expedited Sunset Review: Brass Sheet and Strip From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Brass Sheet and Strip from Italy.

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on brass sheet and strip from Italy (64 FR 4840) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act''). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of domestic interested parties and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Result of Review'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

This order covers shipments of brass sheet and strip, other than leaded and tinned, from Italy. The chemical composition of the covered products is currently defined in the Copper Development Association (''C.D.A.'') 200 Series or the Unified Numbering System (''U.N.S.'') C2000. This review does not cover products with chemical compositions that are defined by anything other than either the C.D.A. or U.N.S. series. In physical dimensions, the products covered by this review have a solid rectangular cross section over .0006 inches (.15 millimeters) through .1888 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule (''HTS'') item numbers 7409.21.00.50, 7409.21.00.75, 7409.21.00.90, 7409.29.00.50, 7409.29.00.75, and 7409.29.0090. The HTS numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

History of the Order

The antidumping duty order on brass sheet and strip from Italy was published in the **Federal Register** on March 6, 1987 (52 FR 6997). In that order, the Department estimated that the weighted-average dumping margins for all entries of brass sheet and strip from Italy was 12.08 percent.[1] While amending the order, on April 8, 1987 (52 FR 11299), the Department lowered the weighted-average margin for La Metalli Industries, SpA (''LMI'') and ''all-others'' to 9.74 percent.[2] In another

[1] In the original determination, the only subject of the investigation was La Metalli Industriale SpA (''LMI'') because, according to the Department, LMI represented ''virtually all exports'' of the subject merchandise to the United States, *see Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From Italy*, 52 FR 816 (January 9, 1987).

[2] *See Amendment to Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip*

amendment, on May 21, 1991 (56 FR 23272), the Department further lowered the weighted-average margin to 5.44 percent.[3] Since that time, the Department has completed three administrative reviews.[4] The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On February 1, 1999, the Department initiated a sunset review of the antidumping order on brass sheet and strip from Italy (64 FR 4840), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Heyco Metals, Inc. (''Heyco''), Hussey Copper Ltd. (''Hussey''), Olin Corporation-Brass Group (''Olin''), Outokumpu American Brass (''OAB''), PMX Industries, Inc. (''PMX''), Revere Copper Products, Inc. (''Revere''), the International Association of Machinists and Aerospace Workers, the United Auto Workers (Local 2367), and the United Steelworkers of America (AFL/CIO) (collectively the ''domestic interested parties'') on February 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. The domestic interested parties claimed interested party status under sections 771(9)(C) and 771(9)(D) of the Act as U.S. brass mills, rerollers, and unions whose workers are engaged in the production of subject brass sheet and strip in the United States.

In their Notice of Intent to Participate, while indicating that Heyco, Hussey, Olin, and Revere are not related to a foreign producer or a foreign exporter under section 771(4)(B) of the Act, the domestic interested parties acknowledge that OAB is related to Outokumpu Copper Strip BV and Outokumpu Copper Rolled Products AB (''OBV''), a Dutch and Swedish producer/exporter of the subject merchandise, respectively; PMX is related to Poongsan Corp., a Korean producer of the domestic like products; and Wieland is related to Wieland Werke Metallwerke AG, a German producer and exporter of the domestic like products. Moreover, American Brass, PMX, and Wieland stipulate that they have had experience of importing the subject merchandise and/or the domestic like products.

We received a complete substantive response from the domestic interested parties on March 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). In their substantive response, the domestic interested parties indicate that most of their members were parties to the original investigation with a few exceptions: Heyco did not participate in the original investigation but fully supports the instant review, and PMX was established after the original petitions were filed. The domestic parties also note that OAB was formerly known as American Brass Company.

We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.[5]

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995, *see* section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on brass sheet and strip from Italy is extraordinarily complicated. Therefore, on June 7, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than August 30, 1999, in accordance with section 751(c)(5)(B) of the Act.[6]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, domestic interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead

From Italy and Amendment to Antidumping Duty Order, 52 FR 11299 (April 8, 1987). This downward adjustment was due to ministerial errors.

[3] *See Amendment to Final Determination of Sales at Less Than Fair Value and Amendment of Antidumping Duty Order in Accordance with Decision Upon Remand: Brass Sheet and Strip from Italy*, 56 FR 23272 (May 21, 1991). This amendment reflects a decision by the United States Court of Appeals for the Federal Circuit.

[4] *See, Certain Brass Sheet and Strip From Italy; Final Results of Antidumping Duty Administrative Review*, 57 FR 9325 (March 17, 1992); and *Brass Sheet and Strip From Italy; Final Results of Antidumping Duty Administrative Review*, November 23, 1992 (57 FR 54969).

[5] The domestic interested parties filed comments, pertaining to the Department's decision to conduct an expedited (120-day) sunset review for the present review, in which the domestic parties concurred with the Department's decision, *see* May 12, 1999 the domestic interested parties' comments on the Adequacy of Responses and the Appropriateness of Expedited Sunset Review at 2.

[6] *See Porcelain-on-Steel Cooking Ware From the People's Republic of China, Porcelain-on-Steel Cooking Ware From Taiwan, Top-of-the-Stove Stainless Steel Cooking Ware From Korea (South) (AD & CVD), Top-of-the-Stove Stainless Steel Cooking Ware From Taiwan (AD & CVD), Standard Carnations From Chile (AD & CVD), Fresh Cut Flowers From Mexico, Fresh Cut Flowers From Ecuador, Brass Sheet and Strip From Brazil (AD & CVD), Brass Sheet and Strip From Korea (South), Brass Sheet and Strip From France (AD & CVD), Brass Sheet and Strip From Germany, Brass Sheet and Strip From Italy, Brass Sheet and Strip From Sweden, Brass Sheet and Strip From Japan, Pompon Chrysanthemums From Peru: Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 30305 (June 7, 1999).

to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive response, the domestic interested parties contend that revocation of the order will likely lead to continuation or recurrence of dumping of brass sheet and strip from Italy (*see* March 3, 1999 Substantive Response of the domestic interested parties at 31). In support of their argument, the domestic interested parties point out, first, that import volumes of the subject merchandise have declined dramatically since the issuance of the order, and that dumping of the subject merchandise has continued and is presently persisting above the *de minimis* level, *id.* 39–40. As a result, the domestic interested parties conclude, dumping will continue were the order revoked.

Next, with respect to import volumes of the subject merchandise, the domestic interested parties compare a three-year (1983–1985) average import volume prior to the issuance of the order with a three-year (1987–1989) average import volume subsequent to the order: 7.6 million pounds verses 1.4 million pounds—an 81.5 percent decline. In addition, the domestic interested parties emphasize that since 1988, imports of the subject merchandise have never exceeded 810,000 pounds annually, *id.*

In conclusion, the domestic interested parties urge that the Department should find dumping would be likely to continue if the order is revoked because dumping margins have existed significantly above the *de minimis* level over the life of the order for all producers/exporters of the subject merchandise, and because imports of the subject merchandise have declined dramatically since the imposition of the order. The aforementioned two circumstances, according to the domestic interested parties, provide a strong indication that the Italian producers/exporters are unable to sell in the United States without dumping; namely, Italian producers/exporters are likely to dump were the order revoked.

As indicated in section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and House Report at 63–64, the Department considered whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in previous administrative reviews, the Department agrees with the domestic interested parties that weighted-average dumping margins at a level above *de minimis* have persisted over the life of the order and currently remain in place for all Italian producers and exporters of brass sheet and strip.[7]

With respect to the import volumes of the subject merchandise, the data supplied by the domestic interested parties and those of the United States Census Bureau IM146s and the United Stated International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have declined substantially: the import volume in 1987 was just over 3 million pounds, down from over 7 million pounds in 1986. In 1988, the import volume of the subject merchandise fell even further, to slightly over 800,000 pounds. Moreover, for the period (1994–1998), although imports of the subject merchandise fluctuated, the import volumes have never risen in any substantial amount and continue to remain relatively low. Therefore, the Department determines that the import volumes of the subject merchandise decreased significantly after the issuance of the order.

Given that dumping has continued over the life of the order; that the import volumes of the subject merchandise decreased significantly after the issuance of the order; that respondent interested parties have waived their right to participate in this review; and that there are no arguments and/or evidence to the contrary, the Department agrees with the domestic interested parties' contention that Italian producers/exporters are incapable of selling a substantial quantity of the subject merchandise in the United States at fair value. Consequently, the Department determines that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final determination of sales at less than fair value, published a weighted-average dumping margin for all entries of brass sheet and strip from Italy: 12.08 percent, 52 FR 816 (January 9, 1987). This rate was amended twice: first to 9.74 percent and then amended once again to 5.44 percent.[8] There have also been three administrative reviews.[9] We note that, to date, the Department has not issued any duty absorption findings in this case.

While citing section II.B.2 of *Sunset Policy Bulletin*, which allows the Department to choose a more recently calculated margin if a particular company increases its dumping in order to maintain or increase market share, the domestic interested parties urge the Department to supply the Commission the margins from the most recent administrative review: 9.49 percent for both LMI and all-others.

The Department disagrees with the domestic interested parties' suggestion that the Department should select a more recently calculated margin from the most recent administrative review. The continuous and rather consistent decline of the import volumes of the subject merchandise, since the issuance of the order, evinces that Italian producers/exporters have not really attempted to enhance their market share in the United States by increasing dumping. Furthermore, the fluctuations that have occurred in import volumes since the imposition of the order simply manifest a downward trend rather than illustrate a concerted attempt by Italian producers/exporters to expand market share by increasing dumping. Therefore, the Department sees no reason to deviate from its normal pattern of selecting the rate from the original

[7] *See* footnote 4, supra, for the list of final determinations of administrative reviews in which the Department found above *de minimis* weighted-average margins for Italian producers/exporters in all periods of investigation. Also, *see* domestic interest parties substantive response at 39–40.

[8] *See Amendment to Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From Italy and Amendment to Antidumping Duty Order*, 52 FR 11299 (April 8, 1987); and *Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order in Accordance with Decision Upon Remand: Brass Sheet and Strip From Italy*, 56 FR 23272 (May 21, 1991).

[9] See footnote 4, supra.

investigation and, consequently, determines that the rate from the original investigation, as amended, is the proper one to report to the Commission as the rate that is likely to prevail if the order is revoked. Therefore, the Department will report to the Commission the company-specific and all-others rates contained in the *Final Results of Review* section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
La Metalli Industriale SpA	5.44
All Others	5.44

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23042 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–603; A–427–602; A–580–603]

Final Results of Expedited Sunset Reviews: Brass Sheet and Strip From Brazil, France and Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of final results of expedited sunset reviews: brass sheet and strip from Brazil, France and Korea.

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on brass sheet and strip from Brazil, France and Korea (64 FR 4840) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of the notices of intent to participate and adequate substantive responses filed on behalf of domestic interested parties and inadequate responses (in these cases, no responses) from respondent interested parties, the Department determined to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

These orders cover shipments of coiled, wound-on-reels (traverse wound), and cut-to-length brass sheet and strip (not leaded or tinned) from Brazil, France and Korea. The subject merchandise has, regardless of width, a solid rectangular cross section over 0.0006 inches (0.15 millimeters) through 0.1888 inches (4.8 millimeters) in finished thickness or gauge. The chemical composition of the covered products is defined in the Copper Development Association (''C.D.A.'') 200 Series or the Unified Numbering System (''U.N.S.'') C2000; these reviews do not cover products with chemical compositions that are defined by anything other than C.D.A. or U.N.S. series. The merchandise is currently classified under Harmonized Tariff Schedule (''HTS'') item numbers 7409.21.00 and 7409.29.00. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

These reviews cover all producers and exporters of brass sheet and strip from Brazil, France and Korea.

History of the Orders

In the original investigations, covering the period October 1, 1985, through March 31, 1986, the Department determined the average margin for Eluma Corporation, the Brazilian company investigated, to be 40.62 percent *ad valorem* (52 FR 1214; January 12, 1987). On March 6, 1987, the Department determined the weighted-average margin for Trefimetaux S.A., the French company investigated, to be 42.24 percent *ad valorem* (52 FR 6995). There was one scope ruling (59 FR 54888; November 2, 1994) in which the Department determined that brass circles from Brazil that were imported for use in the production of vent valves for air ventilation in boiler systems were outside the scope of the order (*id.*). There have been no administrative reviews of the Brazilian and French orders.

On January 12, 1987, the Department determined the weighted-average margin for Poongsan Metal Corporation (''Poongsan''), the Korean company investigated, to be 7.17 percent *ad valorem* (52 FR 1215). In the only administrative review of this order, covering the period August 22, 1986, through December 31, 1987,[1] the Department determined that a margin of 7.34 percent exists for Poongsan.

The orders cited above remain in effect for all Brazilian, French and Korean producers and exporters, respectively, of the subject merchandise.

Background

On February 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on brass sheet and strip from Brazil, France and Korea (64 FR 4840), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate in each of these reviews on behalf of Heyco Metals, Inc. (''Heyco''), Hussey Copper Ltd. (''Hussey''), Olin Corporation-Brass Group (''Olin''), Outokumpu American Brass (''Outokumpu''), PMX Industries,

[1] *See Brass Sheet and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 54 FR 33257 (August 14, 1989).

Inc. (''PMX''), Revere Copper Products, Inc. (''Revere''), the International Association of Machinists and Aerospace Workers, the United Auto Workers (Local 2367), and the United Steelworkers of America (AFL/CIO–CLC) (hereinafter, collectively ''domestic interested parties'') on February 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*.[2] In their substantive responses, the domestic interested parties claimed interested-party status under sections 771(9)(C) and (D) of the Act as domestic brass mills, rerollers, and unions engaged in the production of brass sheet and strip. Further, with the exception of Heyco and PMX, all of the aforementioned parties were the original petitioners in these cases.

We received complete substantive responses from domestic interested parties for each of these reviews on March 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i); we did not receive a substantive response from any government or respondent interested party in these proceedings. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct expedited, 120-day, reviews of these orders.

The Department determined that the sunset reviews of the antidumping duty orders on brass sheet and strip from Brazil, France and Korea are extraordinarily complicated. In accordance with 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.,* an order in effect on January 1, 1995). (*See* section 751(c)(6)(C) of the Act.) Therefore, on June 7, 1999, the Department extended the time limit for completion of the final results of these reviews until not later than August 30, 1999, in accordance with section 751(c)(5)(B) of the Act.[3]

[2] PMX Industries, Inc., is a wholly owned subsidiary of Poongsan Metal Corporation, the respondent covered by the Korean antidumping order. PMX indicated that it does not support the continuation of the antidumping duty order against Korea. *See* Substantive Response of the domestic interested parties, March 3, 1999, at 3 (footnote 2) and 6.

[3] *See Porcelain-on-Steel Cooking Ware From the People's Republic of China, Porcelain-on-Steel Cooking Ware From Taiwan, Top-of-the-Stove Stainless Steel Cooking Ware From Korea (South) (AD & CVD), Top-of-the-Stove Stainless Steel Cooking Ware From Taiwan (AD & CVD), Standard Carnations From Chile (AD &CVD), Fresh Cut Flowers From Mexico, Fresh Cut Flowers From Ecuador, Brass Sheet and Strip From Brazil (AD & CVD), Brass Sheet and Strip From Korea (South), Brass Sheet and Strip From France (AD & CVD), Brass Sheet and Strip From Germany, Brass Sheet and Strip From Italy, Brass Sheet and Strip From Sweden, Brass Sheet and Strip From Japan, Pompon Chrysanthemums From Peru: Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 30305 (June 7, 1999).

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty orders, and it shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, the domestic interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In these instant reviews, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations,* this constitutes a waiver of participation.

In their substantive responses, the domestic interested parties argue that revocation of the orders will likely lead to continuation or recurrence of dumping of brass sheet and strip from Brazil, France and Korea (*see* March 3, 1999 Substantive Response of domestic interested parties for Brazil, France and Korea at 34, 37–38 and 41–42, respectively). With respect to whether dumping of subject merchandise continued at any level above *de minimis,* the domestic interested parties do not comment. However, they note that the Department has not conducted any administrative reviews of the orders covering subject merchandise from Brazil and France.

With respect to whether imports of subject merchandise ceased after the issuance of the orders, the domestic interested parties assert that, although imports of Brazilian and French brass sheet and strip dropped significantly, they have not been eliminated since the imposition of dumping duties under their orders in 1988 and 1987, respectively, and continue to remain at a very low levels (*see* March 3, 1999, Substantive Response of domestic interested parties for Brazil, France and Korea at 34, 37–38 and 41–42, respectively). Korean imports have been almost non-existent since the 1986 order, and annual volumes have never risen to a level even close to one percent of their pre-petition average (*id.*).

With respect to whether dumping was eliminated after the issuance of the orders and import volumes declined significantly, the domestic interested parties, citing Commerce IM146 reports, assert that, for each of these countries, the imposition of the order was followed by a significant decrease in the average volume of imports. In the three years following the petitioners' filings, the volume of Brazilian imports was 97 percent lower than that of the pre-petition period (*see* March 3, 1999, Substantive Response of domestic interested parties at 34); for France, the

volume fell by 99.4 percent (*id.* at 37–38); and Korean post-order imports decreased by 83 percent of their pre-petition levels (*id.* at 41–42).

In conclusion, the domestic interested parties argue that the Department should determine that there is a likelihood of continuation or recurrence of dumping in each of these cases if the orders were revoked because dumping margins have existed over the lives of the orders and continue to exist at above *de minimis* levels for all producers and exporters of the subject merchandise, and because imports of the subject merchandise have declined dramatically since the imposition of the orders,

As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. Dumping margins presently remain in place for producers and exporters in each of these cases and, therefore, dumping margins above *de minimis* levels continue to exist for shipments of the subject merchandise from all Brazilian, French and Korean producers and exporters of the subject merchandise.

Consistent with section 752(c) of the Act, the Department also considered the import volumes before and after issuance of the orders. The import statistics provided by the domestic industry in each of these cases demonstrate that import volumes of the subject merchandise declined dramatically immediately following the imposition of the orders and continue to remain at very low levels.

Based on this analysis, the Department finds that the existence of dumping margins after the issuance of these orders is highly probative of the likelihood of continuation or recurrence of dumping. Deposit rates above a *de minimis* level continue in effect for exports of the subject merchandise for all producers and exporters. Therefore, given that dumping has continued over the life of the orders, imports declined significantly, respondent interested parties have waived their right to participate in these reviews before the Department, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if these orders were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin,* the Department states that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation (*see* section II.B.1 of the *Sunset Policy Bulletin*). Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations (*see* sections II.B.2 and 3 of the *Sunset Policy Bulletin*).

In its November 10, 1986, final determination of sales at less than fair value, the Department published a weighted-average dumping margin for one Brazilian producer/exporter of the subject merchandise, Eluma Corporation, of 40.62 percent (51 FR 40831). The Department also published an ''all others'' rate of 40.62 percent. Similarly, the Department published a dumping margin for one French producer/exporter of the subject merchandise, Trefimetaux S.A., of 42.24 percent (52 FR 812, January 9, 1987), and an ''all others'' rate, also 42.24 percent. In its final determination of sales at less than fair value, the Department published a weighted-average dumping margin for one Korean producer/exporter of the subject merchandise, Poongsan Metal Corporation, of 7.17 percent (51 FR 40833, November 10, 1986), and an ''all others'' rate, also 7.17 percent. In the only administrative review of this case, the margin was revised upward to 7.34 percent for Poongsan (54 FR 33257, August 14, 1989). To date, the Department has not issued any duty-absorption findings in these cases.

With respect to the orders on Brazil and France, the domestic interested parties argue that the Department, consistent with the SAA and the *Sunset Policy Bulletin* should provide to the Commission the weighted-average margin from the original investigations as the magnitude of dumping margin likely to prevail if the order were revoked (*see* March 3, 1999, Substantive Response of domestic interested parties at 46). Moreover, the domestic interested parties, citing the SAA at 890 and the *Sunset Policy Bulletin,* note that the Department normally will provide the Commission with the dumping margins ''from the investigation, because that is the only calculated rate that reflects the behavior of exporters * * * without the discipline of the order * * * in place.''

The Department agrees with the domestic interested parties' arguments concerning the choice of the margin rates to report to the Commission. Since there have been no administrative reviews of the orders on Brazil and France and considering that dumping has continued over the life of the orders, the rates from the original investigations are the only ones available to the Department.

With respect to Korean exporters and producers, the Department disagrees with the domestic interested parties' argument that, since Poongsan has continued to dump at the slightly higher margin of 7.34 percent, the more recent margin is the appropriate rate to present to the Commission. The *Sunset Policy Bulletin* states that a company may choose to increase dumping in order to maintain or increase market share. As a result, increasing margins may be more representative of a company's behavior in the absence of an order. [4] In this case, Korean imports have been declining since the imposition of the order. Additionally, the domestic interested parties do not argue that Poongsan is attempting to increase its market share or that the company's declining imports indicate its attempt to increase market share.

Therefore, we determine that the margins determined in the original investigations are probative of the behavior of Brazilian, French and Korean producers and exporters of brass sheet and strip if the orders were revoked.

Final Results of Reviews

As a result of these reviews, the Department finds that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Brazil:	
Eluma Corporation	40.62
All Others	40.62
France:	
Trefimetaux, S.A.	42.24
All Others	42.24
Korea:	
Poongsan Metal Corporation	7.17
All Others	7.17

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial

[4] *See Sunset Policy Bulletin* at section II.B.2

protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing five-year (''sunset'') reviews and notices in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23046 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Final Results of Expedited Sunset Reviews: Color Picture Tubes From Canada, Japan, the Republic of Korea, and Singapore

A–122–605, A–588–609, A–580–605, A–559–601]

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of Final Results of Expedited Sunset Reviews: Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore

SUMMARY: On March 1, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on color picture tubes (''CPTs'') from Canada, Japan, the Republic of Korea, and Singapore (64 FR 9970) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of notices of intent to participate and adequate substantive comments filed on behalf of the domestic interested parties and inadequate response (in these cases, no response) from respondent interested parties, the Department determined to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping orders would be likely to lead to continuation or recurrence of dumping at the levels indicated in the *Final Results of Review* section of this notice.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to these antidumping duty orders is color picture tubes from Canada, Japan, the Republic of Korea (''Korea''), and Singapore. The subject merchandise is defined as cathode ray tubes suitable for use in the manufacture of color television receivers or other color entertainment display devices intended for television viewing. Where a CPT is shipped and imported together with all parts necessary for assembly into a complete television receiver (*i.e.,* as a ''kit''), the CPT is excluded from the scope of these orders. In other words, a kit and a fully assembled television are a separate class or kind of merchandise from the CPT. Accordingly, the Department determined that, when CPTs are shipped together with other parts as television receiver kits, they are excluded from the scope of the order. With respect to CPTs which are imported for customs purposes as incomplete televison assemblies, we determined that these entries are included within the scope of these investigations unless both of the following criteria are met: (1) the CPT is ''physically integrated'' with other television receiver components in such a manner as to constitute one inseparable amalgam and (2) the CPT does not constitute a significant portion of the cost or value of the items being imported.[1] Such merchandise was classifiable under Harmonized Tariff Schedule (HTS) item numbers 8540.11.00.10, 8540.11.00.20, 8540.11.00.30, 8540.11.00.40, 8540.11.00.50 and 8540.11.00.60. However, due to changes in the HTS, the subject merchandise is currently classifiable under HTS items 8540.11.10, 8540.11.24, 8540.11.28, 8540.11.30, 8540.11.44, 8540.11.48, and 8540.11.50. The HTS item numbers are provided for convenience and customs purposes only. The written description remains dispositive.

These reviews cover imports from all manufacturers and exporters of CPTs from Canada, Japan, Korea, and Singapore.

History of the Orders

Canada

The Department published its final affirmative determination of sales at less than fair value (''LTFV'') with respect to imports of CPTs from Canada on November 18, 1987 (52 FR 44161). In this determination, the Department published a weighted-average dumping margin for one company as well as an ''all others'' rate. These margins were subsequently amended when the Department issued its antidumping duty order on CPTs from Canada on January 7, 1998 (53 FR 429).[2] The Department has conducted no administrative reviews of this order since its imposition. The order remains in effect for all manufacturers and exporters of the subject merchandise from Canada.

Japan

On November 18, 1987, the Department issued its affirmative final determination of sales at LTFV regarding CPTs from Japan (52 FR 44171). In this determination, the Department published weighted-average dumping margins for four companies and an ''all others'' rate. Two of the company-specific margins as well as the ''all others'' margin were later amended when the antidumping order on CPTs from Japan was published in the **Federal Register** on January 7, 1988 (53 FR 430). Since the order was issued, the Department has conducted two administrative reviews with respect to CPTs from Japan.[3] In both the first and second administrative reviews, the Department calculated one company-specific margin and an ''all others'' rate. The order remains in effect for all manufacturers and exporters of the subject merchandise from Japan.

Korea

The Department published its affirmative final determination of sales

[1] *See Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value; Color Picture Tubes From Japan,* 53 FR 430 (January 7, 1988).

[2] See *id.*

[3] *See Color Picture Tubes from Japan; Final Results of Antidumping Duty Administrative Review,* 55 FR 37915 (September 14, 1990), and *Color Picture Tubes from Japan; Final Results of Antidumping Duty Administrative Review,* 62 FR 34201 (June 25, 1997).

at LTFV with regard to CPTs from Korea on November 18, 1987 (52 FR 44186). In this determination, the Department published weighted-average dumping margin for one company as well as an ''all other'' rate. The antidumping duty order was issued on January 7, 1988 (53 FR 431). The Department has since conducted one administrative review of the order with respect to CPTs from Korea.[4] In this review, the Department calculated two company-specific margins, one of which was later amended, as well as an ''all others'' rate. The order remains in effect for all Korean manufacturers and exporters of the subject merchandise.

Singapore

On November 18, 1987, the Department issued its final affirmative determination of sales at LTFV with respect to imports of CPTs from Singapore (52 FR 44190). In this determination, the Department published a weighted-average dumping margin for one company as well as an ''all others'' rate. Since the imposition of the order, no administrative reviews of the antidumping order on CPTs Singapore have been conducted. The order remains in effect for all manufacturers and exporters of the subject merchandise from Singapore.

On March 7, 1991, the Department published a negative final determination of circumvention of the antidumping duty orders on CPTs from Canada, Japan, Korea, and Singapore (56 FR 9667).

Background

On March 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on CPTs from Canada, Japan, Korea, and Singapore (64 FR 9970), pursuant to section 751(c) of the Act. The Department received Notices of Intent to Participate, in each of the four sunset reviews, on behalf of Philips Display Components Company, Thomson Americas Tube Operations, the International Brotherhood of Electrical Workers and the International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers (AFL–CIO/CLC) (collectively, ''domestic interested parties''), on March 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* Pursuant to sections 771(9)(C) and (D) of the Act, the domestic interested parties claimed interested party status as U.S. manufacturers and unions whose workers are engaged in the production of domestic like products. Moreover, the domestic interested parties stated that both the International Brotherhood of Electrical Workers and the International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers (AFL–CIO/CLC) were petitioners in the original investigation. The Department received complete substantive responses from the domestic interested parties on March 31, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). On March 22, 1999, the Department received an untimely notice of intent to participate on behalf of Sharp Electronics Corporation in the case involving CPTs from Japan. We did not receive a substantive response from any respondent interested party to these proceedings. On March 30, 1999, the Department received a waiver of participation on behalf of the Electronic Industries Association of Korea. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct expedited, 120-day reviews of these orders.

The Department determined that the sunset reviews of the antidumping duty orders on CPTs from Canada, Japan, Korea, and Singapore are extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). (*See* section 751(c)(6)(C) of the Act.) Therefore, on July 6, 1999, the Department extended the time limit for completion of the final results of these reviews until not later than August 30, 1999, in accordance with section 751(c)(5)(B) of the Act.[5]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margins of dumping likely to prevail if the orders were revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, the domestic interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2). In addition, the Department indicated that it normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In these instant reviews, the Department did not receive a substantive response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations,* this constitutes a waiver of

[4] *See Color Picture Tubes from South Korea; Final Results of Antidumping Duty Administrative Review,* 56 FR 19084 (April 25, 1991), as amended by *Color Picture Tubes from South Korea; Amended Final Results of Antidumping Duty Administrative Review,* 56 FR 29215 (June 26, 1991).

[5] *See Solid Urea From Armenia, Solid Urea From Belarus, Solid Urea From Estonia, Solid Urea From Lithuania, Solid Urea From Romania, Solid Urea From Russia, Solid Urea From Tajikistan, Solid Urea From Turkmenistan, Solid Urea From Ukraine, Solid Urea From Uzbekistan, Color Picture Tubes From Canada, Color Picture Tubes From Japan, Color Picture Tubes From Korea (South), Color Picture Tubes From Singapore: Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 36333 (July 6, 1999).

participation. Further, we received a waiver of participation from the Electronic Industries Association of Korea.

In their substantive responses, the domestic interested parties argue that the substantial decline in the volume of imports of CPTs from the subject countries following the issuance of the orders demonstrates the inability of the producers from subject countries to sell in the U.S. market in any significant volume without dumping. The domestic interested parties argue further that revocation of the antidumping duty orders would likely lead to a continuation or recurrence of dumping by Canadian, Japanese, Korean, and Singaporean producers/manufacturers. They support this argument with evidence in the form of tables showing that, since imposition of the orders, respondents have generally reduced their sales to the United States (*see* March 31, 1999, Substantive Response of the Domestic Interested Parties at Attachment 2). Therefore, they assert, were the antidumping orders revoked, it is likely that Canadian, Japanese, Korean, and Singaporean producers would need to dump in order to sell their subject color pictures tubes in any significant quantities in the United States (*see id.* at 17).

Canada

With respect to subject merchandise from Canada, the domestic interested parties maintain that in the year the order was imposed, 1988, imports from Canada fell from approximately 219,000 units the year before to just over 80,000 units (*see id.* at 19 and Attachment 2). They also argue that, in the three years following the imposition of the order (1988–1990), average import volumes of the subject merchandise were almost 80 percent lower than in the three years preceding the final determination of sales at LTFV (1984–1986) (*see id.* at 18–19).

Moreover, the domestic interested parties point out that dumping margins above de minimis remain in place for one Canadian company.

Japan

According to the domestic interested parties, the imposition of the antidumping duty order had a dramatic effect on subject import volumes from Japan. They indicate that in the years following the imposition of the order, imports of the subject merchandise from Japan declined by almost 70 percent. Moreover, they assert, import volumes of the subject CPTs from Japan have remained low relative to the pre-order levels. The domestic interested parties also argue that dumping margins remain in place for at least one Japanese producer of the subject merchandise. In sum, the domestic interested parties maintain, the dramatic decline in import volumes following the imposition of the order, in conjunction with the fact that only one Japanese respondent has ever requested an administrative review of the original dumping margins, provides clear evidence that the Japanese producers are incapable of selling at fair value in the U.S. market and that revocation of the current order would result in continued dumping and massive increases in Japanese import volumes (*see id.* at 20).

Korea

With respect to imports of the subject merchandise from Korea, the domestic interested parties assert that imports declined significantly after the imposition of the order. In fact, the domestic interested parties argue, post-order imports from Korea averaged just 2.9 percent of their pre-order levels (*see id.* at 21). Furthermore, the domestic interested parties argue, since 1988, imports of CPTs from Korea have been virtually non-existent and annual volumes have never risen to even five percent of their pre-order levels. Therefore, the domestic interested parties assert, the minimal volumes of imports of CPTs in the period since the order was imposed indicate that the Koreans are incapable of selling the subject merchandise in the United States at fair value (*see id.* at 21).

Singapore

The domestic interested parties state that imports of the subject CPTs from Singapore also declined significantly following the imposition of the order. In fact, the domestic interested parties argue, while U.S. imports from Singapore averaged approximately 139,000 units annually in the three years prior to the imposition of the order (1984–1986), in the three years following the imposition of the order (1988–1990) such imports averaged just 810 units annually (*see id.* at 21 and Attachment 2).

As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, if companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. As discussed above, dumping margins above de minimis continue to exist for shipments of the subject merchandise from Canada, Japan, Korea, and Singapore.

Consistent with section 752(c) of the Act, the Department also considers the volume of imports before and after issuance of the order. As outlined in each respective section above, the domestic interested parties argue that a significant decline in the volume of imports of the subject merchandise from Canada, Japan, Korea, and Singapore since the imposition of the orders provides further evidence that dumping would continue if the orders were revoked. In their substantive responses, the domestic interested parties provided statistics demonstrating the decline in import volumes of CPTs from Canada, Japan, Korea, and Singapore (*see* March 31, 1999, Substantive Response of the Domestic Interested Parties at Attachment 2). Using the Department's statistics, including IM146 reports, on imports of the subject merchandise from these countries, we agree with the domestic interested parties' assertions that imports of the subject merchandise fell sharply after the orders were imposed and, in most cases, never regained pre-order volumes.

As noted above, in conducting its sunset reviews, the Department considers the weighted-average dumping margins and volume of imports when determining whether revocation of an antidumping duty order would lead to the continuation or recurrence of dumping. Based on this analysis, the Department finds that the existence of dumping margins above de minimis levels and a reduction in export volumes after the issuance of the orders is highly probative of the likelihood of continuation or recurrence of dumping. A deposit rate above a de minimis level continues in effect for exports of the subject merchandise by all known Canadian, Japanese, Korean, and Singaporean manufacturers/exporters. Therefore, given that dumping has continued over the life of the orders, import volumes declined significantly after the imposition of the orders, respondent parties waived participation, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the orders were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin,* the Department stated that it normally will provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a

margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.) We note that, to date, the Department has not issued any duty absorption findings in any of these four cases.

In their substantive responses, the domestic interested parties recommended that, consistent with the *Sunset Policy Bulletin*, the Department provide to the Commission the company-specific margins from the original investigations. Moreover, regarding companies not reviewed in the original investigation, the domestic interested parties suggested that the Department report the ''all others'' rates included in the original investigations.

The Department agrees with the domestic interested parties. The Department finds that the margins calculated in the original investigation are probative of the behavior of Canadian, Japanese, Korean, and Singaporean producers/exporters if the orders were revoked as they are the only margins which reflect their behavior absent the discipline of the order. Therefore, the Department will report to the Commission the company-specific and all others rates from the original investigations as contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping orders would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Canada	
Mitsubishi Electronics Industries Canada, Inc	0.63
All Others	0.63
Japan	
Hitachi, Ltd	22.29
Matsushita Electronics Corporation	27.46
Mitsubishi Electric Corporation	1.05
Toshiba Corporation	33.50
All Others	27.93
Korea	
Samsung Electron Devices Company, Ltd	1.91
All Others	1.91
Singapore	
Hitachi Electronic Devices, Pte., Ltd	5.33
All Others	5.33

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These five-year (''sunset'') reviews and notices are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23038 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–831–801; A–822–801; A–447–801; A–451–801; A–821–801; A–823–801; A–842–801; A–843–801; A–844–801]

Final Results of Expedited Sunset Reviews: Solid Urea from Armenia, Belarus, Estonia, Lithuania, Russia, Ukraine, Tajikistan, Turkmenistan, and Uzbekistan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset reviews: solid urea from Armenia, Belarus, Estonia, Lithuania, Russia, Ukraine, Tajikistan, Turkmenistan, and Uzbekistan.

SUMMARY: On March 1, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on solid urea from Armenia, Belarus, Estonia, Lithuania, Russia, Ukraine, Tajikistan, Turkmenistan, and Uzbekistan (64 FR 9970) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of the notices of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate responses from respondent interested parties, the Department determined to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to these antidumping duty orders is solid urea. This merchandise was previously subject to an antidumping duty order on solid urea from the Union of Soviet Socialist Republics (U.S.S.R.). However, with the dissolution of the U.S.S.R., the order was subsequently transferred to all 15 republics (57 FR 28828, June 29, 1992). This merchandise is currently classifiable under the Harmonized Tariff Schedule (''HTS'') of the United States, item number 3201.10.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

On May 26, 1987, the Department issued a final determination of sales at less than fair value with respect to

imports of solid urea from the U.S.S.R.[1] In the final determination and subsequent antidumping duty order, the Department applied three weighted-average dumping margins: 68.26 percent for Soyupromexport (SPE), 53.23 percent for Philipp Brothers, Inc., and an all others rate of 64.93 percent.[2]

On December 1991, the U.S.S.R. divided into fifteen independent states. On June 29, 1992, the Department transferred the antidumping duty orders on solid urea from the U.S.S.R. to the Commonwealth of Independent States and the Baltic States and announced a change in the names and case numbers of the antidumping duty orders. The Department announced a country-wide rate of 68.26 percent for each new state and stated that the substance of each new order would not change from the original order and its amended administrative review (*see* 54 FR 39219).[3] The Department conducted one administrative review prior to the division of the U.S.S.R.,[4] and one administrative review after the division of the U.S.S.R.[5]

These reviews cover all producers and exporters of solid urea from Armenia, Belarus, Estonia, Lithuania, Russia, the Ukraine, Tajikistan, Turkmenistan, and Uzbekistan (collectively, ''the Former Soviet States'').

Background

On March 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on solid urea from the former Soviet States (''FSS'') (64 FR 9970), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate for each of these reviews on behalf of the Ad Hoc Committee of Domestic Nitrogen Producers (the ''Committee'') and Agrium U.S. Inc. (''Agrium'') (collectively the ''domestic parties'') on March 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.*

We received complete substantive responses from both the Committee and Agrium on March 30, 1999, and March 31, 1999, respectively, for each of these cases, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). In each of its substantive responses, the Committee claimed interested-party status under section 771(9)(C) of the Act as a coalition of domestic producers of nitrogen fertilizers who produce domestic like product.[6] In each of its responses, Agrium claimed interested-party status under section 771(9)(C) of the Act and as a manufacturer, producer, or wholesaler in the United States of solid urea. Additionally, both the Committee and Agrium were involved in the original investigation and in the sole administrative review that the Department conducted of these orders. We did not receive a complete substantive response from any respondent interested party in any of these proceedings. We received an incomplete and, therefore, inadequate response from the Embassy of Belarus on April 8, 1999. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department is conducting expedited, 120-day, reviews of these orders.

On July 6, 1999, the Department determined that the sunset review of the antidumping duty orders on urea from the FSS are extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). *See* section 751(c)(6)(C) of the Act. Therefore, the Department extended the time limit for completion of the final results of these reviews until not later than August 30, 1999, in accordance with section 751(c)(5)(B) of the Act.[7]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. As noted above, with the exception of Belarus, in these instant reviews, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset*

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[1] *See Urea From the Union of Soviet Socialist Republics; Final Determination of Sales at Less Than Fair Value,* 52 FR 19557 (May 26, 1987).

[2] *See Urea From the Union of Soviet Socialist Republics; Final Determination of Sales at Less Than Fair Value,* 52 FR 19557 (May 26, 1987).

[3] *See Solid Urea From the Union of Soviet Socialist Republics; Transfer of the Antidumping Duty Orders on Solid Urea From the Union of Soviet Socialist Republics to the Commonwealth of Independent States and the Baltic States and Opportunity to Comment,* 57 FR 28828–02 (June 29, 1992).

[4] *See Final Results of Antidumping Duty Administrative Review; Solid Urea From the Union of Soviet Socialist Republics,* 54 FR 33262 (August 14, 1989), and *Amendment to Final Results of Antidumping Duty Administrative Review; Solid Urea From the Union of Soviet Socialist Republics,* 54 FR 39219 (September 25, 1989).

[5] *See Final Results of Antidumping Duty Administrative Review; Solid Urea From Estonia,* 59 FR 25606 (May 17, 1994).

[6] The Ad Hoc Committee of Domestic Nitrogen Producers is comprised of the following members: CF Industries, Inc., Coastal Chem, Inc., Mississippi Chemical Corporation, PCS Nitrogen, Inc., and Terra Industries, Inc. J.R. Simplot Co. is also a member of the Ad Hoc Committee, but is not a producer of solid urea and, therefore, is not participating in these reviews.

[7] *Extension of Time Limit for Final Results of Five-Year Reviews,* 54 FR 36333 (July 6, 1999).

Regulations, this constitutes waivers of participation.

In their respective substantive responses, both the Committee and Agrium argue that revocation of the antidumping duty orders on solid urea would be likely to lead to continuation or recurrence of dumping of solid urea from the FSS. (*See* the Substantive Response of the Committee at 6 and the Substantive Response of Agrium at 3.) With respect to whether dumping margins continued in existence after the issuance of the order, the domestic parties argue that dumping margins above *de minimis* continue to exist for all producers from all nine countries. (*See* Substantive Response of the Committee at 10 and the Substantive Response of Agrium at 5.) The Committee also states that a dumping margin of 68.26 percent remains in existence for imports of solid urea from all nine countries and that, as such, dumping is likely to continue if the orders were revoked.

With respect to whether imports of the subject merchandise ceased after the issuance of the original order, the domestic parties argue that, following the imposition of the order, imports of solid urea, first from the U.S.S.R. and, subsequently, from the FSS, have declined and have ceased with the exception of one or two shipments in very small volumes from Russia and Ukraine. The Committee argues that, prior to the imposition of the order in 1987, imports of solid urea from the U.S.S.R. ranged from 418,000 short tons to 843,000 short tons. (*See* Substantive Response of the Committee at 8.) In 1988, the year following the imposition of the order, there were no imports of solid urea from the U.S.S.R. Following the break-up of the U.S.S.R. and subsequent transfer of the order, the Committee argues that there have been no shipments at all from Armenia, Estonia, Tajikistan, Turkmenistan, and Uzbekistan. With respect to Belarus, Lithuania, Russia, and the Ukraine, however, the Committee argues that it ''believes that *no* * * * urea has been imported into the United States since 1987.'' (*See* Substantive Response of the Committee at 8.)

Regarding Russia, the Committee argues that, although U.S. Census data report imports of solid urea from Russia in 1995, 1996, and 1998, it is unlikely that any of these shipments were actually shipments of urea. According to the Committee, shipments of Russian urea in 1998 were analyzed by the Department and found to have been incorrectly classified by the U.S. Census Bureau as imports of solid urea when, in fact, the majority of the shipments were of either ammonium nitrate or urea-ammonium nitrate, neither of which is subject to this order. The result is that, of the 56,638 short tons originally classified as solid urea, only 24 short tons remain classified as solid urea, with the rest of the shipment being classified as a separate product. (*See* the Substantive Response of the Committee at Exhibit 2.)

With regard to Belarusian, Lithuanian, and Ukrainian imports of solid urea, the Committee raises the same issue. The Committee asserts, in its substantive responses, that it believes that the other shipments from Russia in 1995 and 1996, as well as any other shipments from Belarus, Lithuania, and Ukraine, are also incorrectly classified and, therefore, argues that the Department can correctly determine that imports have ceased since the imposition of the orders. (*See* Substantive Response of the Committee at 9.) Barring that decision, however, the Committee argues that imports have declined dramatically or have ceased and that, as such, the Department must find that there is a likelihood of continuation or recurrence of dumping if these orders were revoked.

Agrium also addressed the issue of whether imports of solid urea declined significantly or ceased after the issuance of the order. Agrium argues that in 1986, the year immediately preceding the issuance of the order, imports of Soviet solid urea totaled 843,374 short tons. In the year immediately following imposition of the order, however, Agrium argues that there was a complete cessation of imports and that, from 1988 (the year of the order) until 1994, there were commercially insignificant quantities, if there were any imports of urea, from the FSS. From 1995 to 1998, Agrium argues that, when there were imports from the FSS, the import volumes were quite small, measuring only between 2 and 9 percent of import volumes from the U.S.S.R. prior to the imposition of the order. (*See* Substantive Response of Agrium at 4.) Therefore, Agrium argues that, because import volumes have virtually ceased since the imposition of the order, the Department should find that there is a likelihood of continuation or recurrence of dumping if these orders were revoked.

In conclusion, the domestic parties argue that there is a likelihood of continuation or recurrence of dumping of solid urea from the FSS if these orders were revoked. The domestic parties argue that the continued existence of dumping margins above a *de minimis* level and that the virtual cessation of imports of solid urea after the imposition of the order, first from the U.S.S.R. and later from these individual countries, is highly probative of the likelihood of continuation or recurrence of dumping.

As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. Dumping margins above a *de minimis* level have existed and continue to exist for imports of solid urea from all producers/exporters from each of the FSS.

Consistent with section 752(c) of the Act, the Department also considered the volume of imports before and after issuance of the order. The import statistics provided by the domestic parties, specifically by the Committee, in each of these cases, and confirmed by the Department using import statistics from U.S. Census Bureau IM146s, indicate that imports of the subject merchandise from the U.S.S.R. ceased following the imposition of the order. Following the break-up of the U.S.S.R., the imports from Armenia, Estonia, Tajikistan, Turkmenistan, and Uzbekistan have remained at zero and imports from the other FSS have been at very low volumes. While the Committee has argued that the Department should find that there has been a complete cessation of imports of subject merchandise, it is clear that, even with the incorrectly classified merchandise, imports have continued from some FSS, albeit at significantly lower levels than the pre-imposition levels.

Based on this analysis, the Department finds that the almost complete cessation of imports after the issuance of the orders coupled with the existence of dumping margins after the issuance of these orders is highly probative of the likelihood of continuation or recurrence of dumping. Deposit rates above a *de minimis* level continue in effect for exports of the subject merchandise for all producers/exporters. Therefore, given the almost complete cessation of imports, that margins above *de minimis* levels have continued over the life of the orders, respondent interested parties have waived their right to participate in these reviews before the Department, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if these orders were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it normally will provide to the Commission the company-specific margin from the investigation for each company. Further for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determination. (*See* section II.B.2 and 3 of the *Sunset Policy Bulletin*.)

With respect to the magnitude of the margin likely to prevail if the antidumping duty orders were revoked, the domestic parties argue that the Department should report to the Commission the margin from the original investigation of 68.26 percent. This rate is the weighted-average dumping margin found in the investigation for the Soviet exporter, and it subsequently became the uniform cash deposit rate transferred to the fifteen independent states. The domestic parties assert that the 68.26 percent rate continues to reflect the behavior of exporters without the discipline of the antidumping duty orders.

The Department agrees with the domestic parties as to the magnitude of the margin likely to prevail should the antidumping duty orders on solid urea be revoked. While dumping margins from the original investigation were determined by the Department, prior to the U.S.S.R.'s disbanding, the dumping rate was officially transferred. This rate continues to be applied to each of the independent states.

Therefore, consistent with the Department's *Sunset Policy Bulletin*, we determine that the 68.26 percent rate that we calculated in the investigation, and subsequently transferred after the U.S.S.R ceased to exist, best reflects the behavior of urea producers and exporters without the discipline of the order in place with the exception of imports from Phillipp Brothers, Ltd., and Phillipp Brothers, Inc., the Department finds that the dumping margin of 53.23 percent, assigned in the original investigation, is the rate likely to prevail if the order were revoked.

The Department will report to the Commission the rates at the level indicated in the Final Results of Review section of this notice.

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/Exporter/Importer	Margin (percent)
Soyuzpromexport (SPE)	68.26
Phillipp Brothers, Ltd. & Phillipp Brothers, Inc.	53.23
Country-wide rate	*68.26

*This rate is the new rate that applies to all former Soviet Union countries subject to these orders.

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this five-year (''sunset'') review and notice in accordance with sections 751(c), 752 and 777(i)(1) of the Act.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23049 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–601]

Final Result of Expedited Sunset Review: Solid Urea from Romania

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Final Result of Expedited Sunset Review on Solid Urea from Romania.

SUMMARY: On March 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on solid urea from Romania pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of the domestic interested parties and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited sunset review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW, Washington, D.C. 20230; telephone (202) 482–5050 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations

This review was conducted pursuant to section 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to the antidumping duty order is solid urea from Romania. Solid urea is a high-nitrogen content fertilizer which is produced by reacting ammonia with carbon dioxide. During the original investigation the merchandise was classified under item number 480.3000 of the Tariff Schedule of the United States Annotated (''TSUSA''). This merchandise is currently classifiable under item number 3102.10.00 of the Harmonized Tariff Schedule (''HTS''). The HTS item number is provided for convenience and customs purposes. The written description of the scope remains dispositive.

History of the Order

On May 26, 1987, the Department issued its final determination that solid urea from Romania was being sold in the United States at less-than-fair-value. The weighted-average dumping margin

was 90.71 percent.[1] On July 14, 1987, the Department's antidumping duty order was published.[2]

The Department has conducted one administrative review since the issuance of this order, covering the period January 1987 through June 1988, and found no shipments.[3] The order remains in effect for all Romanian producers and exporters of the subject merchandise. We note that, to date, the Department has not issued any duty absorption findings in this case.

Background

On March 1, 1999, the Department initiated a sunset review of the antidumping order on solid urea from Romania pursuant to section 751(c) of the Act. On March 16, 1999, the Department received a Notice of Intent to Participate on behalf of Agrium US, Inc. (''Agrium'') and from the members of the Ad Hoc Committee of Domestic Nitrogen Producers[4] (the ''Committee''), collectively the (''domestic parties''), within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* We received complete substantive responses from the domestic parties, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). The domestic parties claimed interested party status under section 771(9)(C) of the Act as United States producers, manufacturers, or wholesalers of the domestic like product. The Department did not receive a response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act, and our regulations (19 C.F.R. 351.218(e)(1)(ii)(C)(*2*)), we are conducting an expedited sunset review on this order.

On July 6, 1999, the Department determined that the sunset review of the antidumping duty order on solid urea from Romania is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). *See* section 751(c)(6)(C) of the Act. As a result of this determination, the Department extended the time limit for completion of the final results of this review until not later than August 30, 1999, in accordance with section 751(c)(5)(B) of the Act.[5]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would likely lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and magnitude of the margin are discussed below. In addition, the domestic interested parties' comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2 of the *Sunset Policy Bulletin*). In addition, the Department normally will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3 of the *Sunset Policy Bulletin*).

In addition to considering the guidance on likelihood cited above, section751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives it participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interest party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive responses the domestic parties assert that revocation of the antidumping duty order of solid urea from Romania would likely result in the continuation or resumption of dumping. The domestic parties argue that imports of the subject merchandise ceased after the issuance of the order and provide import statistics to support their claim.

The domestic parties maintain that the Department should conclude that because imports of Romanian urea into the United States ceased after the issuance of the order, Romanian producers and exporters cannot sell solid urea in the U.S. markets without dumping.

In addition, the domestic parties argue that the dumping margin of 90.71 percent has remained unchanged since the investigation. The domestic parties assert that no Romanian urea producer or exporter has ever sought a review to obtain a reduced margin. Therefore, the domestic parties assert, the magnitude and longevity of the original antidumping margin indicates that Romania urea cannot be sold in the U.S. market at non-dumped prices.

For the reasons stated above, the domestic parties conclude that if the order on solid urea from Romania be revoked, there is likelihood of continuation and recurrence of dumping.

As discussed in Section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. Further, if imports ceased after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without

[1] *See Urea From the Socialist Republic of Romania; Final Determination of Sales at Less-Than-Fair-Value,* 52 FR 19557 (May 26, 1987).

[2] *See Antidumping Duty Order; Urea From the Socialist Republic of Romania,* 52 FR 26367 (July 14, 1987).

[3] *See Final Results of Antidumping Duty Administrative Review; Solid Urea From Romania,* 54 FR 39558 (September 27, 1989).

[4] The Committee maintains that it is comprised of a coalition of U.S. producers of nitrogen fertilizers and identifies its current members : CF Industries, Inc., Costal Chemical, Inc., Mississippi Chemical Corp., PCS Nitrogen, Inc., and Terra Industries, Inc. The Committee notes that J.R. Simplot Co. is a Committee member, but not producer of solid urea. *See* Substantive Response of the Committee, March 30, 1999, at 1 and 2.

[5] *See Extension of Time Limit for Final Results of Five-Year Reviews,* 54 FR 36333 (July 6, 1999).

dumping and that to reenter the U.S. market, they would have to resume dumping. In this case we find that imports ceased after the issuance of the order and dumping margins continued to exist. Therefore, given that imports ceased, dumping margins continue to exist, respondent interested parties waived their right to participate in this review, and absent argument and evidence to the contrary, the Department determines that dumping of solid urea from Romania is likely to continue or recur if the order were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the country-wide rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy permit the use of a more recently calculated margin, when appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

With respect to the magnitude of the margin likely to prevail if the antidumping duty orders were revoked, the domestic parties argue that the Department should provide the Commission the dumping margin from the final results of the original investigation, 90.71 percent. The domestic parties assert that this margin is the only rate that has been calculated by the Department and it is the only rate that reflects the behavior of Romanian producers and exporters of urea without the discipline of the order.

The Department agrees with the domestic parties concerning the choice of the dumping margin to report to the Commission. In our final determination of sales at less-than-fair-value, we reported a weighted-average dumping margin of 90.71 percent for I.C.E. Chimica (the only company investigated) and for all others. Therefore, consistent with the Department's *Sunset Policy Bulletin* we determine that the original margin, is probative of the behavior of the Romanian producers and exporters of solid urea if the order were revoked. We will report to the Commission the rate from the original investigation contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the margins listed below:

Manufacturers/ Exporters	Margin (percent)
I.C.E. Chimica	90.71
All Others	90.71

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are published in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23048 Filed 9–2–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–085]

Final Results of Full Sunset Review: Sugar and Syrups From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Full Sunset Review: Sugar and Syrups from Canada.

SUMMARY: On April 26, 1999, the Department of Commerce (''the Department'') published a notice of preliminary results of the full sunset review of the antidumping duty order on sugar and syrups from Canada (64 FR 20253) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). We provided interested parties an opportunity to comment on our preliminary results. We received comments from both domestic and respondent interested parties. As a result of this review, the Department finds that revocation of this order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The merchandise subject to the antidumping duty order is sugar and syrups from Canada produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar.[1] The subject merchandise is currently classified under Harmonized Tariff Schedule of the United States (''HTSUS'') item numbers 1701.99.0500, 1701.99.1000, 1701.99.5000, 1702.90.1000, and 1702.90.2000. Although the subheadings are provided for convenience and customs purposes, the written description remains dispositive.

On March 24, 1987, the Department revoked the order, in part, with respect to Redpath Sugar Ltd. (''Redpath'') (52 FR 9322). On January 7, 1988, the Department revoked the order, in part, with respect to Lantic Sugar, Ltd. (''Lantic'') (53 FR 434). In 1996, the Department determined that Rogers Sugar, Ltd. (''Rogers''), was the successor in interest to British Columbia Sugar Refining Company, Ltd. (''BC

[1] This order excludes icing sugar decorations as determined in the U.S. Customs Classification of January 31, 1983 (CLA–2 CO:R:CV:G).

Sugar'').[2] In its November 2, 1998, substantive response, the United States Beet Sugar Association and its individual members (collectively, the ''USBSA'') stated that three companies in Canada constitute the Canadian domestic industry: Lantic, Redpath, and Rogers. Because the order was revoked with respect to Lantic and Redpath, only Rogers is currently subject to the order.

Background

On April 26, 1999, the Department issued the Preliminary Results of Full Sunset Review: Sugar and Syrups from Canada (64 FR 20253). Based on the continued absence of a dumping margin for Rogers, the sole producer/exporter subject to the order, and the continued existence of imports from Rogers in substantial quantities, in our preliminary results we found that revocation of the order is not likely to lead to continuation or recurrence of dumping.

We conducted verification in Taber, Alberta, of Rogers' response on May 12, 1999, and issued our verification report on May 19, 1999. On June 8, 1999, within the deadline specified in 19 CFR 351.309(c)(1)(i), we received comments on behalf of the USBSA and on behalf of Rogers. On June 15, 1999, within the deadline specified in 19 CFR 351.309(d), the Department received rebuttal comments from both the USBSA and Rogers. The Department held a public hearing on June 18, 1999.

As a result of the comments, we have changed our determination. We have addressed the comments received below.

Likelihood of Continuation or Recurrence of Dumping

Comment 1: The USBSA asserts that sugar produced at Rogers' Taber facility will have to be sold below constructed value (''CV'') and therefore will be dumped when it enters the U.S. market. The USBSA asserts that, despite repeated requests, the Department did not conduct a CV analysis in which an accurate calculation of CV could be compared to Rogers' selling price on current U.S. sales. Relying on the 1998 cost of production (''COP'') contained in the verification report, which the USBSA asserts does not include all costs, the USBSA states that it calculated a CV. The USBSA asserts that this and evidence of Rogers' pricing in 1996, which is on the record, demonstrates that Rogers sold sugar in the United States at prices below CV. Additionally, the USBSA argues, the recent improvements made at Rogers' Taber facility will increase its COP and force Rogers to sell sugar at below cost prices. Asserting that the recent downward spiral in world prices makes dumping by Rogers more pervasive, the USBSA requests that the Department revisit the CV analysis and conclude that dumping is likely to continue or recur if the order is revoked.

In its rebuttal brief Rogers cites to the Department's Policy Bulletin 94–1 regarding COP and asserts that the Department found USBSA's allegations of below-cost sales speculative correctly, thereby falling short of the standard for providing reasonable grounds for suspecting that Rogers made sales at below cost prices. Further, Rogers argues, the Department is not required to do a COP investigation in reviews when there is no earlier determination of below-cost sales and there has been no reasonable evidence submitted which suggests that sales at prices less than COP were made.

Rogers notes that the Department looked correctly at the cost basis for sugar beet production and at the audited financial statements of Rogers during verification. Rogers asserts that the verified information confirmed its submissions showing sales in Canada and the United States at prices significantly above the COP. Additionally, Rogers asserts that the verified information shows that profits were made and distributed by Rogers in every year of the period covered by the Department's sunset review. With respect to the Taber facility expansion, Rogers argues that the consolidation and expansion of its facilities has only increased its cost efficiencies. Rogers provided information from an independent audit of the expansion in support of this assertion. Further, Rogers argues that the wholly speculative CV constructed by USBSA does not reflect actual numbers provided to, and verified by, the Department. In conclusion Rogers asserts that there is no credible evidence on the record that would lead to a decision by the Department to conduct a CV analysis.

Department's Position: The Department's *Sunset Policy Bulletin* notes that the Department will consider other factors (such as prices and costs) in full sunset reviews where an interested party identifies good cause through the provision of information or evidence that would warrant consideration of such factors. In our preliminary results, we determined that the USBSA did not provide evidence of good cause to support our consideration of other factors.

Rogers, in its November 3, 1998, substantive response, provided information to the Department concerning its COP for processed beets to support its argument that prices were above cost. Although we had not requested the information and had determined for the preliminary results that there was no basis to consider such additional information, because Rogers had presented the information in its substantive and rebuttal responses, we conducted an on-site verification of this information on May 12, 1999 (*see* Memorandum to Jeffrey May, Re: Sunset Review: Sugar and Syrups from Canada, dated May 19, 1999). Therefore, we agree with both parties that verified information related to Rogers' 1998 COP is now on the record in this review. In addition, verified information on Rogers' Canadian and U.S. sales prices for the years 1993 through 1997 is on the record.

As noted above, the USBSA's pre-hearing brief contained an allegation of sales below cost, based on verified information already on the record. Rogers did not rebut this allegation; rather, Rogers claimed that its verified submissions show sales in Canada and the United States at prices significantly above COP. For the purpose of our final results we considered this allegation.

We have analyzed the verified information and find that it provides sufficient support for a determination that dumping is likely to continue or recur if the order were revoked. The Department normally will not, and has no reason to, conduct a cost investigation in the context of a sunset review. However, both USBSA and Rogers' arguments concerning likelihood of continuation of dumping revolve around whether or not pricing and cost data indicate that dumping has been taking place. The Department, therefore, has conducted a sort of abbreviated cost test with the limited data on the record.

Specifically, using the verified information, the Department constructed a COP and CV (per metric ton) of processed sugar (*see* Memorandum to File, Re: Cost of Production, dated August 20, 1999). Section 773(b)(1) of the Act provides that the Department will disregard below cost sales made within an extended period of time in substantial quantities and which were not made at prices which permit recovery of all costs within a reasonable period of time. We compared Rogers' verified weighted-average home market price to the COP and found that it was below the COP.

[2] *See* Sugar and Syrups from Canada; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 61 FR 51275 (October 1, 1996).

Specifically, we compared a weighted-average home market price, based on 1997 price data supplied by Rogers, with a COP based on 1998 costs derived from Rogers' data. We found the weighted-average price to be below the COP. Based on this limited data, we determine, therefore, that Rogers made below cost sales within an extended period of time in substantial quantities at prices which did not permit recovery of all costs within a reasonable period of time. Because there are, in essence, no remaining above cost sales, we compared Rogers' verified average U.S. export selling price to the CV. We found that this average price was below CV. Based on this comparison, we conclude that at least some of Rogers sales to the United States are at prices below CV.[3] These calculations, using verified information, therefore, provide a sufficient basis for determining that dumping is likely to continue or recur if the order were revoked.

Comment 2: The USBSA disagrees with the Department's preliminary decision that revocation of the order would not be likely to lead to continuation or recurrence of dumping. The USBSA argues that the Department incorrectly and unlawfully equated the domestic industry's decision not to request an administrative review of this order over the past 16 years as a lack of interest in the order. Furthermore, the USBSA argues that its decision not to request an administrative review does not indicate an absence of dumping by Rogers.

Rogers, in its rebuttal comments, argues that the USBSA admits that it was satisfied with the status quo and the status quo, with respect to this order, was a deposit rate of zero. If the USBSA was satisfied with this zero deposit rate, according to Rogers, it must have believed that no dumping was occurring. Rogers argues further that it has been the Department's practice to revoke orders where there have been several years of zero margins. With respect to this sunset review, Rogers argues that the burden is on the domestic industry to demonstrate why the existence of a zero percent deposit rate for 16 years coupled with exports of the subject merchandise in substantial quantities is not sufficient to determine that revocation of the order would not be likely to lead to continuation or recurrence of dumping.

Department's Position: We disagree with the USBSA's assertion that we equated the domestic industry's decision not to request an administrative review with a lack of interest in the order. Nowhere in our preliminary results did we state that the domestic industry's decision not to request an administrative review over the last 16 years was tantamount to having no interest in the continuation of this order. In our preliminary results we attempted to ascertain the likelihood of continuation or recurrence of dumping. In doing so, the Department examined the deposit rates over the life of the order for Rogers, the only producer/exporter of Canadian sugar still subject to the order. The deposit rate for Rogers has been zero percent for the past 16 years. Because there has been no request by the domestic industry for an administrative review of this order for the past 16 years, we had no reason to believe that Rogers had dumped sugar in the United States during any part of this time period.

Furthermore, the preamble to the Department's regulations concerning revocation of orders states that ''it is reasonable to presume that if subject merchandise, shipped in commercial quantities, is being dumped or subsidized, domestic interested parties will react by requesting an administrative review to ensure that duties are assessed and that cash deposit rates are revised upward from zero. If domestic interested parties do not request a review, presumably it is because they acknowledge that subject merchandise continues to be fairly traded'' (Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27326 (May 19, 1997)).

Therefore, this factor points to a finding of no dumping since the issuance of the zero deposit rate. This would generally be our conclusion, except where, as here, information on the record is sufficient to determine dumping is likely to continue or recur.

Comment 3: The USBSA argues that the Department erred by making its likelihood determination on an order-wide basis. It argues that, although the Statement of Administrative Action (''the SAA'')[4] at 879 states expressly that the Department will make its sunset determinations on an order-wide basis, the Department improperly compared recent import data for only one respondent (Rogers) to data following the issuance of the order for one respondent (BC Sugar). If the Department had made the proper comparison of total pre-order imports to total post-order imports, according to the USBSA, the Department would have no alternative but to conclude that import volumes have declined significantly during the life of the order.

Rogers did not address this comment.

Department's Position: The Department disagrees with the USBSA. Prior to the issuance of the order, Rogers was not the only exporter of subject merchandise. Other Canadian producers and exporters were subject to the original investigation and subsequent order. In its November 2, 1998, substantive response, however, the USBSA acknowledges that only Rogers is currently subject to this antidumping duty order (November 2, 1998, Substantive Response from the USBSA at 9). Therefore, comparison of Rogers' pre-and post-order import volumes was approriate.

On October 1, 1996, the Department determined that Rogers was the successor in interest to BC Sugar. In this determination, the Department found that BC Sugar changed its name legally to Rogers Sugar, Ltd. Because the structure and organization of the company did not change and Rogers was, for all intents and purposes, BC Sugar, the Department also determined that the deposit rate assigned to BC Sugar was applicable to Rogers. Therefore, the Department determined that, for the purposes of this antidumping duty order, BC Sugar and Rogers were predecessor and successor companies, respectively, of the same entity.

Because Rogers (formerly BC Sugar) is the only producer/exporter of sugar and syrups from Canada still subject to the order, the Department finds that it would be unreasonable to compare the present import volumes of Rogers with the pre-order import volumes of the four (or more) producers/exporters which were subject to the order in 1980. If it made this comparison, the Department would almost certainly find that total imports had decreased over the life of the order not only because there are fewer producers/exporters which are currently subject to the order but also because the tariff rate quota (TRQ) currently in effect restricts imports. Generally speaking, the purpose of the Department's comparison of current and pre-order import volumes is to determine whether companies (or the company) have been able to consistently and continually sell subject merchandise in the United States without dumping. Here, we compared the volume of BC Sugar's 1979 exports to the volume of Rogers' recent exports. Current imports of subject merchandise from Rogers (formerly BC Sugar) are

[3] Absent specific information, we did not make any adjustments to U.S. prices, as we would in an investigation or administrative review conducted for the purpose of measuring dumping. Such adjustments typically would result in a reduction of U.S. price and, therefore, an increase in the magnitude of the dumping margin.

[4] H.R. Doc. No. 103–316, vol. 1 (1994).

substantially greater than the pre-order levels of BC Sugar (now Rogers). Therefore, our examination of import levels of BC Sugar/Rogers over the life of the order was appropriate.

Comment 4: The USBSA argues that the Department should have confirmed whether Canadian producers and refiners of subject merchandise have imported at dumped prices since the discipline of the order went into effect. The USBSA asserts that the Department's comparison should have included imports of refined cane and beet sugar from all Canadian exporters, except Lantic and Redpath, for which the order has been revoked. Furthermore, the USBSA argues that the Department never attempted to verify whether new Canadian sugar refiners have entered the market and instead limited its review to those producers previously involved in the initial investigation.

Department's Position: In its November 2, 1998, substantive response, the USBSA itself stated that only Rogers was subject to this antidumping duty order (November 2, 1998, Substantive Response from the USBSA at 9). There is no evidence on the record in this case of any other Canadian producer/exporter of cane or beet sugar which is currently subject to the order. Therefore, because we had no reason to doubt the USBSA's claim that Rogers is the only producer/exporter of subject merchandise still subject to this antidumping duty order, we have not investigated whether other Canadian producers exported subject merchandise to the United States.

Comment 5: The USBSA argues that the Department included non-subject merchandise in its examination of imports of sugar and syrups from Canada. The USBSA states further that increases in the imports of non-subject merchandise are irrelevant to this sunset review and their inclusion in the Department's examination is misrepresentation of the true amount of imports of subject merchandise.

Department's Position: Increases or decreases in non-subject merchandise are irrelevant to our sunset determination. For this reason, the Department has endeavored to determine an accurate amount of import volumes of the subject merchandise.

In the instant case, however, there are limitations to the data which do not make an exact accounting of the import volumes possible. The HTS item numbers used by the U.S. Census Bureau and the U.S. Customs Service with respect to imports of sugar and syrups from Canada include some non-subject merchandise. Furthermore, the age of this information in question and changes in the HTS system over the life of this order make estimation of imports of subject merchandise necessary. As noted above, the Department recognizes that there are data limitations. The Department has, nevertheless, attempted to compile the most accurate calculation of import volumes of subject merchandise over the life of the order.

Comment 6: The USBSA argues that the TRQ is no longer an effective means of preventing surges in dumped sugar from entering the U.S. market. The USBSA argues further that the U.S. Sugar Program is under assault in an attempt to expand access to the U.S. market significantly.

Department's Position: We agree with the USBSA that the TRQ has been effective in the past at limiting all imports of sugar. The TRQ, as part of the U.S. Sugar program, was designed to provide protection from imports of foreign sugar. However, the USBSA misunderstands the intent behind the creation and implementation of an antidumping duty order. The purpose behind this order is not to provide blanket protection from all imports of Canadian sugar; rather, its purpose is to counteract the effects of unfairly traded imports. This is evidenced by the fact that this order has been revoked with respect to Redpath and Lantic because the Department determined that these companies were not selling sugar in the United States at less than fair value. In the same vein, the TRQ was not created to be a substitute for an antidumping duty order, nor should it be viewed as such. The TRQ provides the U.S. industry protection from all imported sugar. It was not intended to act as an antidumping duty order on sugar from all of the world's sugar producers, whether their sugar was being sold at dumped prices or not.

The only issue in this sunset review is whether Canadian sugar and syrups are likely to be dumped in the United States in the foreseeable future. Whether the TRQ is no longer effective in limiting imports, dumped or not, is irrelevant to this sunset review.

Comment 7: The USBSA argues that the sugar market has fallen to unprecedented levels and shows no signs of recovery in the foreseeable future. The USBSA argues further that the Department, in its preliminary results, quickly dismissed the USBSA's argument as speculative when the conduct of sunset reviews is inherently speculative.

Rogers rebuts that an analysis of long-term trends in the history of the international sugar market shows that price peaks and troughs are characteristically short-lived. It states that the most recent severe price trough was in 1985 when the annual average price for raw sugar was $0.04/lb. Furthermore, Rogers argues that the current price trough appears to have bottomed out in April 1999 at about $0.04/lb. for raw sugar.

Rogers continues by reiterating that the USBSA's arguments concerning the declining world price for sugar are speculative and subjective which, Rogers notes the USBSA admits, may change depending on unpredictable events and changes in circumstances in producing and importing countries.

Department's Position: Sunset determinations are inherently speculative and predictive and, in our preliminary results, we stated that the USBSA's arguments concerning the decreases in world sugar prices were speculative. We also believe that, since sunset reviews are inherently predictive, the best predictor of future behavior is past behavior. In examining the world sugar prices over the life of the order, we find that, although prices in early 1999 are at their lowest point in 12 years, generally prices have fluctuated over this time, with prices in fiscal year 1998 being only marginally below fiscal year 1993 prices. We also find that the current prices for refined sugar are not unprecedented, as Rogers' information concerning 1985 raw sugar prices demonstrates.

Comment 8: The USBSA argues that the recent downward spiral of the world refined-sugar price has a direct impact on Canadian prices and incentives to export to the United States. According to the USBSA, with a world price standing near $0.09/lb. and a Canadian price that Rogers argues mimics the world price, it is inescapable that Rogers' home market sales in Canada are today priced at less than cost and will be so priced in the future. As the record in this proceeding shows, the USBSA contends, not even the most efficient sugar producers can produce sugar for around $0.09/lb.

Rogers argues that it has had a zero margin through 16 years of world price fluctuations, including times of prices lower than at present, while maintaining a dumping margin of zero. It states that the Department verified its information and that the verification demonstrated that sales in Canada and the United States are at prices significantly above cost of production.

Furthermore, Rogers states that, since prices in the United States were verified as higher than prices in Canada, there is no credible way Rogers could have been selling below the COP.

Department's Position: The recent decreases in the world refined-sugar price undoubtedly affected the Canadian price of refined sugar because the Canadian price parallels the world price. Although the Canadian price parallels the world price, it is not the same as the world price. Therefore, it is quite reasonable to assume, given Rogers' costs of manufacturing and the transportation costs associated with the location of its sales within Canada, that the selling price of its product could be above its cost of manufacturing and still be competitive with other producers/exporters.

The world price of refined sugar obviously affects the selling price of sugar in Canada and, thus, indirectly, may affect Rogers' selling price. Nevertheless, the salient issue for this sunset review is not the world price of refined sugar but, rather, Rogers' costs and prices. Thus, we have limited our examination to Rogers' costs and prices.

Comment 9: The USBSA states that, as the United States slowly reduces the Canadian tier-2 tariff rate through 2008, the U.S. market will become increasingly vulnerable to imports of Canadian sugar if the world price of sugar falls below certain levels. Specifically, the USBSA argues that, given the world refined price of $0.0913/lb., the ability of Canadian producers to export refined sugar to the United States profitably while paying the tier-2 tariff is already becoming a reality.

Rogers argues that, given the current U.S. selling price of $0.28/lb., with the addition of the tier-2 duty of $0.1621/lb., Rogers would be required to sell in the United States at prices significantly below the lowest price it now receives for the same product in Canada. Furthermore, Rogers asserts, its production is not in excess of market demand in Western Canada. Finally, according to Rogers, the refusal of sugar beet growers to participate and support prices low enough to take account of the tier-2 level (which would be necessary to sell any product in the United States) would make such sales prohibitive.

Department's Position: The Department finds no evidence to suggest that Rogers would sell sugar in the United States above the country-specific quota established for Canada (i.e., paying the tier-2 tariff rate).[5] In order for Rogers to sell sugar in the United States and pay the tier-2 tariff rate, Rogers would have to sell its product (1) at prices substantially less than the lowest price it receives for a similar product sold in Canada, (2) at prices far below its costs of production, and (3) at prices far below the current world price of refined sugar. The Department finds it extremely unlikely that Canadian producers could export refined sugar to the United States *profitably* while paying the tier-2 tariff.

Magnitude of the Margin

Neither party addressed this issue in its case or rebuttal briefs. Therefore, we have relied on the arguments submitted prior to the preliminary results.

Comment 1: In its substantive response, the USBSA argued that the dumping margin likely to prevail is at least as large as the margin that prevailed at the time of the original investigation; the highest dumping margin established in the original investigation was US$0.0237/lb.[6] Further, based on current U.S. and Canadian pricing, the USBSA estimated dumping margins ranging from 9.3 percent to 409.0 percent. As noted above, the USBSA did not comment on the margin likely to prevail in either its case or rebuttal brief.

In its substantive response, Rogers argued that, given the price spread between the U.S. supply-managed sugar market and the Canadian market based on world pricing, the dumping margin likely to prevail if the order were to be revoked is zero. Rogers argued that, because of its limited access to the U.S. market, it is motivated to sell subject merchandise at U.S. refined-sugar prices to maximize returns. Rogers provided a chart depicting sugar prices in the Canadian and U.S. markets and its price into the United States for the past eight years, as well as a calculation for producing processed beet sugar at its facility in Canada. Rogers contended that the chart indicates that Rogers' price into the United States has been above its prices in Western Canada. In its case and rebuttal briefs, Rogers also asserted that there is no likelihood of continuation or recurrence of dumping if the order were to be revoked.

Department's Position: The Department disagrees with Rogers. As discussed in detail above, evidence placed on the record of this sunset review by Rogers, and verified by the Department, indicates that there is a likelihood that dumping would continue or recur if the order were to be revoked.

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the International Trade Commission (the ''Commission'') the margin that was determined in the final determination in the original investigation because that is the only calculated rate that reflects the behavior of exporters absent the discipline of the order. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

In our preliminary results, we determined that the use of a more recently calculated rate was appropriate and that such rate reflected an absence of dumping. However, as noted above, for our final results, we find that verified information demonstrates the likelihood of dumping. Therefore, we conclude that the more recently calculated rate from an administrative review can no longer be considered the magnitude of the margin likely to prevail if the order were revoked.

We agree with the USBSA that the dumping margin likely to prevail if the order were to be revoked is at least as high as the dumping margin determined in the original investigation for BC Sugar. We recognize that our dumping calculation for purposes of determining likelihood of future dumping is not as accurate as a determination which would reflect the adjustments typically made in an investigation or administrative review. Therefore, the Department finds that the margins calculated in the original investigation (45 FR 24126, April 9, 1980)[7] are probative of the behavior of Canadian producers/exporters of the subject merchandise. As such, the Department will report to the Commission the company-specific and all others rates from the original investigation as the magnitude of the margin likely to prevail if the order were revoked.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the margins listed below:

[5] The Department notes that the USBSA has examined the effects of the Canadian tier-2 tariff rate on the possibility of increased imports from Canada through the year 2008. However, the USBSA has stringently argued that the TRQ will be phased out by the year 2002.

[6] *See Antidumping Duty Order; Sugar and Syrups from Canada*, 45 FR 24128 (April 9, 1980).

[7] As the Department noted in its preliminary results (*see Preliminary Results of Full Sunset Review: Sugar and Syrups from Canada*, 64 FR 20253 (April 26, 1999)) and above, Rogers (formerly BC Sugar) is the only known producer/exporter of the subject merchandise currently subject to the order.

Manufacturer/exporter	Margin
Rogers (B.C. Sugar)	$0.010105/lb.
All Others	0.023700/lb.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 27, 1999.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–23039 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–604]

Final Results of Expedited Sunset Review: Brass Sheet and Strip From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: brass sheet and strip from Brazil.

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty order on brass sheet and strip from Brazil (64 FR 4840) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of the domestic interested parties, as well as inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited (120 day) review. As a result of this review, the Department finds that termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

This order covers shipments of coiled, wound-on-reels (traverse wound), and cut-to-length brass sheet and strip (not leaded or tinned) from Brazil. The subject merchandise has, regardless of width, a solid rectangular cross section over 0.0006 inches (0.15 millimeters) through 0.1888 inches (4.8 millimeters) in finished thickness or gauge. The chemical composition of the covered products is defined in the Copper Development Association (''C.D.A.'') 200 Series or the Unified Numbering System (''U.N.S.'') C2000; this review does not cover products with chemical compositions that are defined by anything other than C.D.A. or U.N.S. series. The merchandise is currently classified under Harmonized Tariff Schedule (''HTS'') item numbers 7409.21.00 and 7409.29.00. The HTS item numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

History of the Order

In the original investigation, the Department received information on two Brazilian producers and exporters that accounted for substantially all exports of brass sheet and strip to the United States during the period of investigation. In its final affirmative countervailing duty determination (52 FR 1218, January 12, 1987), the Department concluded that the Government of Brazil was providing countervailable subsidies to exporters of the subject merchandise through four programs: (1) Preferential Working Capital Financing for Exports (CACEX); (2) Income Tax Exemption for Export Earnings; (3) Export Financing Under the CIC–CREGE 14–11 Circular; and (4) Import Duty Exemption Under Decree-Law 1189 of 1979.[1] We estimated the net subsidy to be 6.13 percent *ad valorem*, and, on the basis of a program-wide change in the Preferential Working Capital Financing for exports program which occurred prior to the preliminary determination, we established a cash deposit rate of 3.47 percent *ad valorem* for all manufacturers, producers, or exporters of brass sheet and strip from Brazil.

The Department has since conducted one administrative review (56 FR 56631 (November 6, 1991)) of this countervailing duty order, covering the period January 1, 1990, through December 31, 1990. In the Department's preliminary results of the administrative review, and supported by the Department's final results of the administrative review, the Department determined that each of the four programs found to provide countervailable benefits in the investigation had been terminated. Preferential Working Capital Financing for Exports was terminated, effective August 30, 1990, by Central Bank Resolution 1744. Loans under this program were officially suspended on February 22, 1989, until the program was terminated. The program of Income Tax Exemption for Export Earnings, which eliminated the tax exemption and established a prevailing tax rate of 30 percent for domestic and export earnings for 1991, was effectively terminated by Decree Law 8034, April 12, 1990. Export Financing Under the CIC–CREGE 14–11 Circular (which became CIC–OPCRE 6–2–6) was deemed to be terminated as it had set interest rates equal to those of market rate loans as of September 20, 1988, and there is no evidence of current or future changes. Finally, the Import Duty Exemption Under Decree Law 1189 was officially terminated by the Government of Brazil by Decree Law 7988, Article 7, on December 28, 1989. In its final results of review, the Department noted that substantial documentation, including verification reports, confirmed the termination without replacement of these four

[1] *See Final Affirmative Countervailing Duty Determination: Brass Sheet and Strip From Brazil,* November 10, 1986 (51 FR 40837).

countervailable subsidy programs.[2] As a result of the review, the Department set the duty deposit at zero. No additional reviews have been conducted.

Background

On February 1, 1999, the Department initiated a sunset review of the countervailing duty order on brass sheet and strip from Brazil (64 FR 4840), pursuant to section 751(c) of the Act. On February 16, 1999, the Department received a Notice of Intent to Participate on behalf of Heyco Metals, Inc. (''Heyco''), Hussey Copper Ltd. (''Hussey''), Olin Corporation-Brass Group (''Olin''), Outokumpu American Brass (''Outokumpu'') (formerly American Brass Company), PMX Industries, Inc. (''PMX''), Revere Copper Products, Inc. (''Revere''), the International Association of Machinists and Aerospace Workers, the United Auto Workers (Local 2367), and the United Steelworkers of America (AFL/CIO–CLC) (hereinafter, collectively ''domestic interested parties''), within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act as domestic brass mills, rerollers, and unions engaged in the production of brass sheet and strip. With the exception of Heyco, all of the aforementioned parties were original petitioners in this case.

We received a complete substantive response from the domestic interested parties on March 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i); we did not receive a substantive response from any government or respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.

The Department determined that the sunset review of the countervailing duty order on brass sheet and strip from Brazil is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). (*See* section 751(c)(6)(C) of the Act.) Therefore, on June 7, 1999, the Department extended the time limit for completion of the final results of this review until not later than August 30, 1999, in accordance with section 751(c)(5)(B) of the Act.[3]

Determination

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission (''the Commission'') the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall provide to the Commission information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and Countervailing Measures (''Subsidies Agreement'').

The Department's determinations concerning continuation or recurrence of a countervailable subsidy are discussed below. In addition, the domestic interested parties' comments with respect to these issues are addressed within the respective sections.

Continuation or Recurrence of a Countervailable Subsidy

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically, the Statement of Administrative Action (''SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section III.A.2 of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of a countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy where (a) a subsidy program continues, (b) a subsidy program has been only temporarily suspended, or (c) a subsidy program has been only partially terminated (*see* section III.A.3.a of the *Sunset Policy Bulletin*). Exceptions to this policy are provided where a company has a long record of not using a program (*see* section III.A.3.b of the *Sunset Policy Bulletin*).

In addition to considering the guidance cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. Moreover, pursuant to the SAA, at 881, in a review of a countervailing duty order, when the foreign government has waived participation, the Department shall conclude that revocation of the order would be likely to lead to a continuation or recurrence of a countervailable subsidy for all respondent interested parties.[4] In the instant review, the Department did not receive a response from the foreign government or from any other respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive response, the domestic interested parties assert that, consistent with the Act and SAA, and absent significant evidence to the contrary, continuation, temporary suspension or partial termination of a subsidy program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies (*see* March 3, 1999 Substantive Response of domestic interested parties at 33).

In their March 12, 1999 comments, the domestic interested parties assert that the Department should find that revocation of the countervailing duty order on brass sheet and strip from Brazil will result in the continuation or recurrence of a countervailable subsidy on the basis of the failure of respondent interested parties to file a complete

[2] *See Brass Sheet and Strip From Brazil; Final Results of Countervailing Duty Administrative Review*, 56 FR 56631 (November 6, 1991).

[3] *See Porcelain-on-Steel Cooking Ware From the People's Republic of China, Porcelain-on-Steel Cooking Ware From Taiwan, Top-of-the-Stove Stainless Steel Cooking Ware From Korea (South) (AD & CVD), Top-of-the-Stove Stainless Steel Cooking Ware From Taiwan (AD & CVD), Standard Carnations From Chile (AD & CVD), Fresh Cut Flowers From Mexico, Fresh Cut Flowers From Ecuador, Brass Sheet and Strip From Brazil (AD & CVD), Brass Sheet and Strip From Korea (South), Brass Sheet and Strip From France (AD & CVD), Brass Sheet and Strip From Germany, Brass Sheet and Strip From Italy, Brass Sheet and Strip From Sweden, Brass Sheet and Strip From Japan, Pompon Chrysanthemums From Peru: Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 30305 (June 7, 1999).

[4] *See* 19 CFR 351.218(d)(2)(iv).

substantive response to the Department's notice of initiation.

The domestic interested parties argue that this is consistent with 19 U.S.C. 1675(c)(4)(B) and the SAA, which provide that, where the government waives participation, the Department will conclude that revocation or termination would be likely to lead to continuation of countervailable subsidies (*see* March 12, 1999 comments of domestic interested parties at 3).

In this sunset review, as argued by the domestic interested parties, the Department is required by section 751(c)(4)(B) of the Act to find likelihood on the basis that the government of Brazil and the respondents waived their right to participate in this review. The participation of the government that has provided subsidies is necessary to determine that the producers/exporters of subject merchandise no longer receive subsidies and, without such participation, we must conclude that the producers/exporters continue to be subsidized. Therefore, consistent with the statute and SAA, the Department determines that revocation of the order is likely to result in continuation or recurrence of a countervailable subsidy.

Net Countervailable Subsidy

In the *Sunset Policy Bulletin*, the Department states that, consistent with the SAA and House Report, the Department normally will select a rate from the investigation because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place. However, the *Sunset Policy Bulletin* also allows for adjustments to be made to the net subsidy rate likely to prevail where programs have either been terminated, with no residual benefits, and where the Department has found new countervailable programs to exist.[5] Additionally, where the Department determined company-specific countervailable subsidy rates in the original investigation, the *Sunset Policy Bulletin* states that the Department will report to the Commission company-specific rates for those companies from the original investigation as well as an ''all others'' rate (*see Sunset Policy Bulletin* at section III.A.4).

The domestic interested parties cite the SAA statement that the Administration intends that Commerce normally will select the rate from the investigation because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place (see March 3, 1999 Substantive Response of domestic interested parties at 45). Therefore, the domestic interested parties argue that the Department should determine that the net countervailable subsidy likely to prevail should be the country-wide rate of 3.47 percent, the rate set forth in the original investigation.

The Department disagrees with the domestic interested parties' position with respect to the appropriate subsidy rate to be reported to the Commission. As acknowledged by the domestic interested parties, in this case, the Department found that all of the countervailable subsidy programs have been terminated, without likelihood of reinstatement. Absent information on usage of other countervailable subsidy programs, the Department has no basis on which to determine the net countervailable subsidy likely to prevail.

Nature of the Subsidy

In the *Sunset Policy Bulletin*, the Department states that, consistent with section 752(a)(6) of the Act, the Department will provide information to the Commission concerning the nature of the subsidy and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. In their March 3, 1999 substantive response, the domestic interested parties, did not address this issue. However, since all of the known countervailable programs have been terminated, there is no nature of the subsidy to report to the Commission.

Final Results of Review

As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. However, as a result of termination of all known countervailable programs, the Department is unable to determine the net countervailable subsidy likely to prevail.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23045 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See* sections III.B.1, III.B.3.A, and III.B.3.C of the *Sunset Policy Bulletin.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–603]

Final Results of Expedited Sunset Review: Brass Sheet and Strip from France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Brass Sheet and Strip from France.

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty order on brass sheet and strip from France (64 FR 4840) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties, as well as inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited (120 day) review. As a result of this review, the Department finds that termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the ''Final Results of Review'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, US Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the

conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

This order covers shipments of coiled, wound-on-reels (traverse wound), and cut-to-length brass sheet and strip (not leaded or tinned) from France. The subject merchandise has, regardless of width, a solid rectangular cross section over 0.0006 inches (0.15 millimeters) through 0.1888 inches (4.8 millimeters) in finished thickness or gauge. The chemical composition of the covered products is defined in the Copper Development Association (''C.D.A.'') 200 Series or the Unified Numbering System (''U.N.S.'') C2000; this review does not cover products with chemical compositions that are defined by anything other than the C.D.A. or U.N.S. series. The merchandise is currently classified under Harmonized Tariff Schedule (''HTS'') item numbers 7409.21.00 and 7409.29.00. The HTS item numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

This review covers all producers and exporters of brass sheet and strip from France.

History of the Order

The Government of France, Pechiney S.A. (''Pechiney'') and Trefimeteaux S.A (''Trefimeteaux'') participated in the original investigation. Two programs were found to confer subsidies: (1) Government Equity Infusion and Other Financial Assistance to Trefimetaux, and (2) Certain Financing from Credit National.

The Department published its final affirmative countervailing duty determination on brass sheet and strip from France in the **Federal Register** on January 12, 1987 (52 FR 1218) and issued the countervailing duty order on March 6, 1987 (52 FR 6996). The Department determined the estimated net subsidy to be 7.24 percent and the order remains in effect for all producers and exporters of brass sheet and strip from France. The Department has not conducted any administrative reviews since the issuance of the order.

Background

On February 1, 1999, the Department initiated a sunset review of the countervailing duty order on brass sheet and strip from France (64 FR 4840), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Heyco Metals, Inc. (''Heyco''), Hussey Copper Ltd. (''Hussey''), Olin Corporation-Brass Group (''Olin''), Outokumpu American Brass (''Outokumpu'') (formerly American Brass Company), PMX Industries, Inc. (''PMX''), Revere Copper Products, Inc. (''Revere''), the International Association of Machinists and Aerospace Workers, the United Auto Workers (Local 2367), and the United Steelworkers of America (AFL/CIO-CLC) (hereinafter, collectively ''domestic interested parties'') on February 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* We received a complete substantive response from the domestic interested parties on March 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i).

The domestic interested parties claimed interested party status under 19 U.S.C. 1677(9)(C) and (D) as well as under sections 771(9)(C) and (D) of the Act, as domestic brass mills, rerollers, and unions engaged in the production of brass sheet and strip. With the exception of Heyco, all of the aforementioned parties were original petitioners in this case.

We did not receive a substantive response from any respondent interested party to this proceeding. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulation, this constitutes a waiver of participation. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.

The Department determined that the sunset review of the countervailing duty investigation on brass sheet and strip from France is extraordinarily complicated. In accordance with 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (i.e., an order in effect on January 1, 1995). (*See* section 751(c)(6)(C) of the Act.) Therefore, on June 7, 1999, the Department extended the time limit for completion of the final results of this review until not later than August 30, 1999, in accordance with section 751(c)(5)(B) of the Act.[1]

Determination

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy has occurred and is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission (''the Commission'') the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall provide to the Commission information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and Countervailing Measures (''Subsidies Agreement'').

The Department's determinations concerning continuation or recurrence of a countervailable subsidy, the net countervailable subsidy likely to prevail if the order is revoked, and nature of the subsidy are discussed below. In addition, the domestic interested parties' comments with respect to each of these issues are addressed within the respective sections.

Continuation or Recurrence of a Countervailable Subsidy

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the SAA, H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S.

[1] *See Porcelain-on-Steel Cooking Ware From the People's Republic of China, Porcelain-on-Steel Cooking Ware From Taiwan, Top-of-the-Stove Stainless Steel Cooking Ware From Korea (South) (AD & CVD), Top-of-the-Stove Stainless Steel Cooking Ware From Taiwan (AD & CVD), Standard Carnations From Chile (AD &CVD), Fresh Cut Flowers From Mexico, Fresh Cut Flowers From Ecuador, Brass Sheet and Strip From Brazil (AD & CVD), Brass Sheet and Strip From Korea (South), Brass Sheet and Strip From France (AD & CVD), Brass Sheet and Strip From Germany, Brass Sheet and Strip From Italy, Brass Sheet and Strip From Sweden, Brass Sheet and Strip From Japan, Pompon Chrysanthemums From Peru: Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 30305 (June 7, 1999).

Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section III.A.2 of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of a countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy where (a) A subsidy program continues, (b) a subsidy program has been only temporarily suspended, or (c) a subsidy program has been only partially terminated (*see* section III.A.3.a of the *Sunset Policy Bulletin*). Exceptions to this policy are provided where a company has a long record of not using a program (*see* section III.A.3.b of the *Sunset Policy Bulletin*).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. Pursuant to the SAA, at 881, in a review of a countervailing duty order, when the foreign government has waived participation, the Department shall conclude that revocation of the order would be likely to lead to a continuation or recurrence of a countervailable subsidy for all respondent interested parties.[2] In the instant review, the Department did not receive a response from the foreign government or from any other respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

The domestic interested parties argue that revocation of the countervailing duty order on brass sheet and strip from France will result in the continuation or recurrence of a countervailable subsidy. Citing the SAA, the domestic interested parties assert that continuation, temporary or partial termination of a subsidy program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies, absent significant evidence to the contrary (*see* March 3, 1999 Substantive Response of domestic interested parties at 33). The domestic interested parties assert that there is no indication that the French government's subsidy programs have been modified or eliminated (*see* March 3, 1999 Substantive Response of domestic interested parties at 38), and they submit as support the fact that the order has never been subject to an administrative review.

In its final countervailing duty determination (January 12, 1987; 52 FR 1218), the Department concluded that the Government of France was providing countervailable subsidies to exporters of the subject merchandise through two different programs: (1) Government Equity Infusion and Other Financial Assistance and (2) Certain Financing from Credit National. Trefimetaux, the sole producer/exporter reviewed by the Department, was determined to be receiving subsidies through both of these programs.

There have been no administrative reviews of this order, nor has any evidence been submitted to the Department demonstrating the termination of these programs that conferred countervailable subsidies. Therefore, it is reasonable to assume that these programs continue to exist and are utilized. Absent argument and evidence to the contrary, the Department determines that there is a likelihood of continuation or recurrence of a countervailable subsidy if the order were revoked.

Net Countervailable Subsidy

In the *Sunset Policy Bulletin*, the Department stated that, consistent with the SAA and House Report, the Department normally will select a rate from the investigation, because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place. The Department noted that this rate may not be the most appropriate rate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.[3]

The domestic interested parties, citing the SAA, note that the Administration intends that Commerce normally will select the rate from the investigation, because that is the only calculated rate that reflects the behavior or exporters and foreign governments without the discipline of an order in place (*see* March 3, 1999 Substantive Response of domestic interested parties at 45). Therefore, the domestic interested parties argue that the Department should determine that the net countervailable subsidy likely to prevail is 7.24 percent, the rate set forth in the original investigation.

The rate determined in the original investigation was 7.24 percent for all imports of brass sheet and strip from France, and, as noted above, there have been no administrative reviews of this order. Absent administrative review, the Department has never found that substantive changes have been made to the programs found to be countervailable. Therefore, since no changes have been made to any of the French subsidy programs, and absent any argument and evidence to the contrary, the Department determines that the net countervailable subsidy that would be likely to prevail in the event of revocation of the order would be 7.24 percent. This rate is for all producers and exporters of the subject merchandise from France.

Nature of the Subsidy

In the *Sunset Policy Bulletin*, the Department states that, consistent with section 752(a)(6) of the Act, the Department will provide to the Commission information concerning the nature of the subsidy, and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. The domestic interested parties did not address this issue in their substantive response of March 3, 1999.

Because the receipt of benefit under one of the two programs is contingent on exports, this program falls within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement. The remaining program, although not falling within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement, could be found to be inconsistent with Article 6 if the net countervailable subsidy exceeds five percent, as measured in accordance with Annex IV of the Subsidies Agreement. The Department, however, has no information with which to make such a calculation, nor do we believe it appropriate to attempt such a calculation in the course of a sunset review. Rather, we are providing the Commission with the following program descriptions.

Certain Financing from Credit National. Trefimetaux received countervailable subsidies under a program of loans provided by Credit National, which has a strong relationship with the Government (the President of France appoints the General Manager). In this case, the Department found that Trefimetaux received special loans from Credit National between 1976 and 1985.

[2] *See* 19 CFR 351.218(d)(2)(iv).

[3] *See* section III.B.3 of the *Sunset Policy Bulletin*.

Specifically, Credit National provided to Trefimetaux a loan with an interest reduction contingent upon increasing exports, including the subject merchandise. Therefore, the Department determines that this program constituted an export subsidy.

Government Equity Infusion and Other Financial Assistance to Trefimetaux. This program enabled Trefimetaux to receive equity infusions and other financial assistance from Pechiney, its parent company, from 1982 to 1985. Pechiney received direct equity infusions from the Government of France, and provided them to Trefimetaux through (1) equity infusions, (2) loans on terms inconsistent with commercial considerations, and (3) government grants during a period when Trefimetaux was determined by the Department to be neither equity nor credit-worthy.

Final Results of Review

As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy has been determined to be:

Manufacturer/Exporter	Margin (percent)
Trefimetaux S.A.	7.24
All Others	7.24

The Government of France's subsidy programs, as determined in the original investigation, have been deemed to be countervailable subsidies within the definitions provided by Article 3 and Article 6.1 of the Subsidies Agreement, and all of these subsidy programs, as determined in the original investigation, remain in place today.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23047 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Final Results of Expedited Sunset Review: Top-of-the-Stove Stainless Steel Cookware From Taiwan

[C–583–604]

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Top-of-the-Stove Stainless Steel Cookware from Taiwan.

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty order on top-of-the-stove stainless steel cookware from Taiwan (64 FR 4840) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of domestic interested parties and an inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the *Final Results of Review* section of to this notice.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW., Washington, D.C. 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations:

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''Sunset Regulations''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) *(''Sunset Policy Bulletin'').*

Scope

The merchandise subject to this countervailing duty order is top-of-the-stove stainless steel cookware (''cookware'') from Taiwan. The subject merchandise is all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper or carbon steel for more even heat distribution. The subject merchandise includes skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers.

Excluded from the scope of the orders are stainless steel oven ware and stainless steel kitchen ware. ''Universal pan lids'' are not within the scope of the order (57 FR 57420, December 4, 1992).

Cookware is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 7323.93.00 and 9604.00.00. The HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

History of the Order

The countervailing duty order on cookware from Taiwan was published in the **Federal Register** on January 20, 1987 (52 FR 2141).

In the original investigation of cookware from Taiwan, the Department determined the following four programs conferred countervailable export subsidies:

(1) Export Loss Reserve—0.001 percent ad valorem;

(2) 25 Percent Income Tax Ceiling for Big Trading Companies—0.010 percent ad valorem;

(3) Over-Rebate of Duty Drawback on Imported Materials Physically Incorporated in Export Merchandise—2.128 percent ad valorem; and

(4) Rebate of Import Duties and Indirect Taxes on Imported Materials Not Physically Incorporated in Export Merchandise—0.002 percent ad valorem.[1]

[1] Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Cooking Ware from Taiwan, 51 FR 42891(November 26, 1986).

The Department determined that these four programs conferred a bounty or grant, the net amount of which was calculated to be 2.14 percent ad valorem for all Taiwanese exporters/producers of cookware.

Since the original investigation, the Department has conducted no administrative reviews of the order. The order, therefore, remains in effect for all known manufacturers and exporters of the subject merchandise from Taiwan.

Background

On February 1, 1999, the Department initiated a sunset review of the countervailing duty order on cookware from Taiwan (64 FR 4840), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of the Stainless Steel Cookware Committee, whose current members are Regal Ware, Inc., All-Clad Metalcrafters, Inc., and Vita Craft Corp. (collectively, the ''Committee''), on February 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Pursuant to section 771(9)(E) of the Act, the Committee claimed interested party status as an association of U.S. manufacturers of a domestic like product. In addition, the Committee's individual members claimed domestic interested party status pursuant to section 771(9)(C) of the Act, as domestic producers of a like product. The Department received a complete substantive response from the Committee on March 3, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.

The Department determined that the sunset review of the countervailing duty order on cookware from Taiwan is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). (*See* section 751(c)(6)(C) of the Act.) Therefore, on June 7, 1999, the Department extended the time limit for completion of the final results of this review until not later than August 30, 1999, in accordance with section 751(c)(5)(B) of the Act.[2]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the countervailing duty order would be likely to lead to continuation or recurrence of countervailable subsidies. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy has occurred that is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission (''the Commission'') the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall provide the Commission information concerning the nature of each subsidy and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and Countervailing Measures (''Subsidies Agreement'').

The Department's determinations concerning continuation or recurrence of a countervailable subsidy, the net countervailable subsidy likely to prevail if the order is revoked, and nature of the subsidy are discussed below. In addition, the Committee's comments with respect to each of these issues are addressed within the respective sections below.

Continuation or Recurrence of a Countervailable Subsidy

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section III.A.2 of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of a countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy where (a) a subsidy program continues, (b) a subsidy program has been only temporarily suspended, or (c) a subsidy program has been only partially terminated (*see* section III.A.3.a of the *Sunset Policy Bulletin*). Exceptions to this policy are provided where a company has a long record of not using a program (*see* section III.A.3.b of the *Sunset Policy Bulletin*).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy where a respondent interested party waives its participation in the sunset review. Moreover, according to the guidance provided by the SAA, at 881, in a review of a countervailing duty order, when the foreign government has waived participation, the Department shall conclude that revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy for all respondent interested parties.[3] In the instant review, the Department did not receive a substantive response from the foreign government or from any other respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

The Committee asserted in its substantive response that Taiwanese producers/exporters of cookware continue to receive countervailable benefits from four programs administered by the GOT and found by the Department in the original investigation to confer countervailable subsidies. Although no administrative reviews have been conducted since the imposition of the original countervailing duty order, the Committee argued that it is not aware of any other Department determinations in which these programs were found not countervailable. Therefore, the Committee maintained that the Department should determine that revocation of the countervailing duty order on cookware from Taiwan would likely result in the continuation of a countervailable subsidy.

We agree with the Committee that the Taiwanese programs remain in place. As noted above, in our final determination, the Department determined that the programs in question conferred subsidies, the net amount of which was calculated to be 2.14 percent ad valorem for Taiwanese exporters/producers of cookware. The Department has

[2] *See Porcelain-on-Steel Cooking Ware From the People's Republic of China, et al.: Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 30305* (June 7, 1999).

[3] *See* 19 CFR 351.218(d)(2)(iv).

conducted no administrative reviews of this outstanding countervailing duty order.

Given that the programs found to provide countervailable subsidies continue to exist, the foreign government and other respondent parties waived their right to participate in this review before the Department, and absent argument and evidence to the contrary, the Department determines that it is likely that a countervailable subsidy will continue if the order is revoked.

Net Countervailable Subsidy

In the *Sunset Policy Bulletin*, the Department stated that, consistent with the SAA and House Report, the Department normally will select a rate from the investigation as the net countervailable subsidy likely to prevail if the order is revoked because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place. The Department noted that this rate may not be the most appropriate rate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, if there has been a program-wide change, or if the rate ignores a program found to be countervailable in a subsequent administrative review. (*See* section III.B.3 of the *Sunset Policy Bulletin*.) Additionally, where the Department determined company-specific countervailing duty rates in the original investigation, the Department normally will report to the Commission company-specific rates from the original investigation; where no company-specific rate was determined for a company, the Department normally will provide to the Commission the country-wide or ''all others'' rate. (*See* section III.B.2 of the *Sunset Policy Bulletin*.)

In their substantive response, the Committee argued that the net countervailable subsidy likely to prevail if the order on cookware from Taiwan is revoked is the net subsidy determined in the original investigation. Specifically, the Committee argued that the rate likely to prevail if the order were revoked is 2.14 percent ad valorem. The Committee pointed out that, because the rate determined in the original investigation is the only calculated rate which reflects the behavior of exporters without the discipline of the order in place, the Department's policy provides that it normally will select this rate to provide to the Commission.

As discussed in the *Sunset Policy Bulletin*, the Department normally will report to the Commission an original subsidy rate, as adjusted, to take into account terminated programs, program-wide changes, and programs found to be countervailable in subsequent reviews. We agree with the Committee that the programs found to provide countervailable subsidies continue to exist. Absent evidence or argument that there have been any changes to the programs found to be countervailable in the original investigation that would affect the net countervailable subsidy, consistent with the *Sunset Policy Bulletin*, the Department determines that the net countervailable subsidy likely to prevail if the order were revoked is 2.14 percent.

Nature of the Subsidy

In the *Sunset Policy Bulletin*, the Department stated that, consistent with section 752(a)(6) of the Act, the Department will provide information to the Commission concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. The Committee did not specifically address this issue in their substantive response.

Because, in the original investigation, we found receipt of benefits under each of the four programs to be contingent upon exports, these programs fall within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement.

Final Results of Review

As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy likely to prevail if the order were revoked is 2.14 percent *ad valorem*.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23034 Filed 9–2–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–602]

Final Results of Expedited Sunset Review: Top-of-the-Stove Stainless Steel Cookware From South Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: top-of-the-stove stainless steel cookware from South Korea.

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty order on top-of-the-stove stainless steel cookware from South Korea (64 FR 4840) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of domestic interested parties and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the Final Results of Review section of to this notice.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave.. NW., Washington, D.C. 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 3, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset

Regulations''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The merchandise subject to this countervailing duty order is top-of-the-stove stainless steel cookware (''cookware'') from Korea. The subject merchandise is all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper or carbon steel for more even heat distribution. The subject merchandise includes skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers.

Excluded from the scope of the order is stainless steel oven ware and stainless steel kitchen ware. Certain stainless steel pasta and steamer inserts and certain stainless steel eight-cup coffee percolators are within the scope (63 FR 41545 (August 4, 1998) and 58 FR 11209 (February 24, 1993), respectively).

Moreover, as a result of a changed circumstances review, the Department revoked the order on Korea with regards to certain stainless steel camping ware that (1) is made of single-ply stainless steel having a thickness no greater than 6.0 millimeters; and (2) consists of 1.0, 1.5, and 2.0 quart saucepans without handles and with lids that also serve as fry pans (62 FR 32767, June 17, 1997).

Cookware is currently classifiable under Harmonized Tariff Schedule (''HTS'') item numbers 7323.93.00 and 9604.00.00. The HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

History of the Order

The countervailing duty order on cookware from Korea was published in the **Federal Register** on January 20, 1987 (52 FR 2140). In the original investigation, the Department determined that the following six programs administered by the Government of Korea (''GOK'') conferred bounties:

(1) Short-Term Export Financing under the Export Financing Regulations and Foreign Trade Financing Regulations (hereinafter ''Short-Term Export Financing'')—0.38 percent *ad valorem*;

(2) Export Tax Reserve under Articles of the Act Concerning the Regulation of Tax Reduction and Exemption (hereinafter ''Export Tax Reserve'')—0.01 percent *ad valorem*;

(3) Unlimited Deduction of Overseas Entertainment Expenses under Article 18–2 of the Corporation Tax Law (hereinafter ''Unlimited Entertainment Expense Deductions'')—0.01 percent *ad valorem*;

(4) Loans to Promising Small and Medium Enterprises (hereinafter ''Small Business Loans'')—0.11 percent *ad valorem*;

(5) Exemption from the Acquisition Tax under the Law for the Promotion of Income Sources in Rural Areas (hereinafter ''Acquisition Tax Exemption'')—0.07 percent *ad valorem*; and

(6) Duty Drawback on Non-Physically Incorporated Items and Excessive Loss Rates under the Duty Drawback System (hereinafter ''Duty Drawback Programs'')—0.20 percent *ad valorem*.[1]

The Department calculated that these programs conferred a total net subsidy of 0.78 percent *ad valorem* for all Korean manufacturers, producers, or exporters, except Woo Sung Company Ltd. and Dae Sung Industrial Company Ltd. As a result of *de minimis* net subsidies found for Woo Sung Company Ltd. and Dae Sung Industrial Company Ltd., these two Korean producers/exporters were excluded from the order.[2]

Since the original investigation, the Department has conducted no administrative reviews of the order. The order, therefore, remains in effect for all known manufacturers and exporters of the subject merchandise from Korea, except two: Woo Sung Company Ltd. and Dae Sung Industrial Company Ltd.

Background

On February 1, 1999, the Department initiated a sunset review of the countervailing duty order on cookware from Korea (64 FR 4840), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of the Stainless Steel Cookware Committee, whose current members are Regal Ware, Inc., All-Clad Metalcrafters, Inc., and Vita Craft Corp. (collectively, the ''Committee''), on February 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Pursuant to section 771(9)(E) of the Act, the Committee claimed interested party status as an association of U.S. manufacturers of a domestic like product. In addition, the Committee's individual members claimed domestic interested party status pursuant to section 771(9)(C) of the Act, as domestic producers of a like product. The Department received a complete substantive response from the Committee on March 3, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.

The Department determined that the sunset review of the countervailing duty order on cookware from Korea is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (i.e., an order in effect on January 1, 1995). (*See* section 751(c)(6)(C) of the Act.) Therefore, on June 7, 1999, the Department extended the time limit for completion of the final results of this review until not later than August 30, in accordance with section 751(c)(5)(B) of the Act.[3]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy has occurred that is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission (''the Commission'') the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall

[1] *Final Affirmative Countervailing Duty Determination; Certain Stainless Steel Cooking Ware from the Republic of Korea,* 51 FR 42867 (November 26, 1986).

[2] *Countervailing Duty Order; Certain Stainless Steel Cooking Ware from the Republic of Korea,* 52 FR 2140 (January 20, 1987).

[3] *See Porcelain-on-Steel Cooking Ware From the People's Republic of China, et. al.: Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 30305 (June 7, 1999).

provide the Commission information concerning the nature of each subsidy and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and Countervailing Measures (''Subsidies Agreement'').

The Department's determinations concerning continuation or recurrence of a countervailable subsidy, the net countervailable subsidy likely to prevail if the order is revoked, and nature of the subsidy are discussed below. In addition, the Committee's comments with respect to each of these issues are addressed within the respective sections below.

Continuation or Recurrence of a Countervailable Subsidy

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section III.A.2 of the Sunset Policy Bulletin). Additionally, the Department normally will determine that revocation of a countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy where (a) a subsidy program continues, (b) a subsidy program has been only temporarily suspended, or (c) a subsidy program has been only partially terminated (*see* section III.A.3.a of the Sunset Policy Bulletin). Exceptions to this policy are provided where a company has a long record of not using a program (*see* section III.A.3.b of the Sunset Policy Bulletin).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy where a respondent interested party waives its participation in the sunset review. Pursuant to the SAA, at 881, in a review of a countervailing duty order, when the foreign government has waived participation, the Department shall conclude that revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy for all respondent interested parties.[4] In the instant review, the Department did not receive a substantive response from the foreign government or from any other respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In their substantive response, the Committee argued that the GOK continues to confer countervailable subsidies to Korean producers/exporters of stainless steel cookware. The Committee identified the six programs administered by the GOK and determined in the original investigation to confer bounties or grants. Further, the Committee pointed out that, in its final countervailing duty determination, the Department calculated that these programs conferred a total net subsidy of 0.78 percent *ad valorem* for all Korean manufacturers, producers, or exporters, except Woo Sung Company Ltd. and Dae Sung Industrial Company Ltd.

Of these six programs, the Committee argued that five continue to confer countervailable subsidies to Korean producers/exporters. The Committee cited to the November, 1998, preliminary affirmative countervailing duty determination with respect to stainless steel sheet and strip in coils from Korea and argued that the short-term export financing, export tax reserve, small business loans, acquisition tax exemption, and the duty drawback programs continue to exist and confer countervailable benefits.[5] Additionally, the Committee noted that in that same preliminary determination, the Department determined that the unlimited deduction of overseas entertainment expenses program had been terminated. The Committee argued that if, in the final determination, the Department finds that the program has been terminated and is not likely to be reinstated, the Department should determine that the program will not provide a countervailable subsidy if the order were revoked. The Committee maintained, however, that the Department should determine that revocation of the countervailing duty order on Korea would likely result in the continuation of a countervailable subsidy on the basis of the continued existence of five of the original six programs.

As noted above, in our final determination, the Department determined that the programs in question conferred a bounty or grant, the net amount of which was calculated to be 0.78 percent *ad valorem* for Korean exporters/producers. The Department has conducted no administrative reviews of this outstanding countervailing duty order.

We agree with the Committee that the Korean programs, with the exception of one,[6] remain in place. Based on the continued existence of programs found to provide countervailable subsidies, the fact that the foreign government and other respondent parties waived their right to participate in this review before the Department, and absent argument and evidence to the contrary, the Department determines that it is likely that a countervailable subsidy will continue if the order is revoked.

Net Countervailable Subsidy

In the Sunset Policy Bulletin, the Department stated that, consistent with the SAA and House Report, the Department normally will select a rate from the investigation as the net countervailable subsidy likely to prevail if the order is revoked because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place. The Department noted that this rate may not be the most appropriate rate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, if there has been a program-wide change, or if the rate ignores a program found to be countervailable in a subsequent administrative review. (*See* section III.B.3 of the Sunset Policy Bulletin.) Additionally, where the Department determined company-specific countervailing duty rates in the original investigation, the Department normally will report to the Commission company-specific rates from the original investigation or where no company-specific rate was determined for a company, the Department normally will provide to the Commission the country-wide or ''all others'' rate. (*See* section III.B.2 of the Sunset Policy Bulletin.)

In their substantive response, the Committee argued that the countervailing duty rate likely to prevail if the order on cookware from Korea is

[4] *See* 19 CFR 351.218(d)(2)(iv).

[5] *See Preliminary Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 63 FR 63884 (November 17, 1998).

[6] As noted by the Committee, the Department determined that the Article 18–2(5) of the Corporate Tax Law, which provided that Korean exporters could deduct overseas entertainment expenses without limit, was repealed by revisions to the law dated December 29, 1995 (*see* Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea, 64 FR 30636, 30650 (June 8, 1999)).

revoked would be at least as large as that existing at the time of the original order. The Committee argued that as the rate determined in the original investigation is the only calculated rate which reflects the behavior of exporters without the discipline of the order in place, the Department's policy provides that it normally will select this rate to provide to the Commission. Noting that five of the six programs found to provide subsidies in the original investigation continue to exist, the Committee maintained that the Department should include the subsidy rates it originally determined when calculating the net countervailable subsidy in this sunset review.

The Committee also argued that the Act requires the Department to consider programs, in addition to those considered in the original investigation, determined in other reviews or investigations to provide countervailable subsidies. The Committee argued that the Department should consider the dual pricing scheme in which the GOK mandates that POSCO, the government-owned steel producer, sell stainless steel to domestic producers at a price below the international market price. This program is referred to as POSCO's Two-Tiered Pricing Structure to Domestic Customers. The Committee argued that Korean manufacturers of stainless steel cookware are potential beneficiaries of this pricing scheme because they may purchase a significant amount of their stainless steel requirements from POSCO—the largest stainless steel producer in Korea. Further, the Committee argued that this pricing scheme was not in existence in January 1987, when the order on cookware was issued. In conclusion, the Committee argued that given the significance of this program,[7] it is imperative that the Department include this program in calculating the net countervailable subsidy likely to prevail if the order is revoked.

As discussed in the Sunset Policy Bulletin, the Department normally will report to the Commission an original subsidy rate as adjusted to take into account terminated programs, program-wide changes, and programs found to be countervailable in subsequent reviews. Although no administrative review has been conducted of the order on cookware from Korea, we agree with the Committee that the program for the unlimited deduction of overseas entertainment expenses has been terminated.[8] Further, we agree with the Committee that all other programs found in the original investigation to provide countervailable subsidies continue to exist.

Referring to section 752(b)(2) of the Act, the Sunset Policy Bulletin provides that if the Department determines that good cause is shown, the Department will consider other factors in sunset reviews. Specifically, the Department will consider programs determined to provide countervailable subsidies in other investigations or reviews, but only to the extent that such programs (a) can potentially be used by the exporters or producers subject to the sunset review and (b) did not exist at the time that the countervailing duty order was issued (*see* section III.C.1). Additionally, the Sunset Policy Bulletin provides that if the Department determines that good cause is shown, the Department will also consider programs newly alleged to provide countervailable subsidies, but only to the extent that the Department makes an affirmative countervailing duty determination with respect to such programs and with respect to the exporters or producers subject to the sunset review (*see* section III.C.2). Both sections specify that the burden is on interested parties to provide information or evidence that would warrant consideration of the subsidy program in question.

In the recent final affirmative countervailing duty determination on stainless steel sheet and strip in coils from Korea, the Department found that POSCO sold hot-rolled stainless steel coil, which was the main input into stainless steel sheet and strip in coils, to the respondents in that investigation. Additionally, the Department found that POSCO charged a lower price to domestic customers that purchase steel for further processing into products that are exported than to domestic customers for products that will be consumed in Korea. As a result, the Department determined that POSCO's two-tiered pricing scheme constitutes an export subsidy under section 771(5A)(B) of the Act and provides a financial contribution to exporters under section 771(5)(D) of the Act. The Department measured the benefit provided to respondents from this program by dividing the price savings[9] of respondents by the value of respondents' exports. On this basis, the Department found company-specific countervailable subsidy rates of 0.87 and 2.36 percent *ad valorem*.

As noted above, the Department will only consider other factors under section 752(b)(2) of the Act where it determines good cause for such consideration has been shown. Additionally, the Sunset Regulations specify that the Department normally will consider such other factors only where it conducts a full sunset review. In this case, although the Committee argues that producers of cookware may benefit from this program because the producers are likely to purchase stainless steel from POSCO, we have no information that cookware producers actually benefit from this program. As stated in the SAA at 889, the more appropriate vehicle for consideration of new subsidies is an administrative review pursuant to section 751(a) of the Act, which the Committee did not request. Therefore, we are not considering this program for the purpose of this review.

As a result of the termination of one program since the imposition of the order, the Department determines that using the net countervailable subsidy rate as determined in the original investigation is no longer appropriate. Further, as noted above, because the Department has not conducted an administrative review of this order, no other programs have been found to provide cookware producers/exporters a countervailable subsidy. Therefore, we have adjusted the net countervailable subsidy from the original investigation by subtracting the subsidy from the unlimited entertainment expense deductions program which the Department found terminated. (*See* calculation memo of August 24, 1999.)

Nature of the Subsidy

In the Sunset Policy Bulletin, the Department stated that, consistent with section 752(a)(6) of the Act, the Department will provide information to the Commission concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. The Committee did not specifically address this issue in their substantive response.

Because the benefits received under four of the remaining five programs is contingent upon exports, these programs fall within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement. The

[7] Citing to the Department's preliminary determination in *Stainless Sheet and Strip,* 63 FR at 63897, the Committee asserts that this program was found to provide one respondent a countervailable subsidy of 5.51 percent ad valorem.

[8] *See* footnote 6.

[9] The price savings were calculated by comparing the prices charged by POSCO to respondents for domestic production to the prices charged by POSCO to respondents for export production (*see* Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea, 64 FR 30636, 30647 (June 8, 1999)).

remaining program, although not falling within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement, could be found to be inconsistent with Article 6 if the net countervailable subsidy exceeds 5 percent, as measured in accordance with Annex IV of the Subsidies Agreement. The Department, however, has no information with which to make such a calculation, nor do we believe it appropriate to attempt such a calculation in the course of a sunset review. Rather, we are providing the Commission the following program descriptions.

(1) Because only exporters are eligible to use short-term export financing under the Foreign Trade Regulations, short-term export financing falls within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement.

(2) The program for export tax reserves under Articles 22, 23, and 24 or the Act Concerning the Regulation of Tax Reduction and Exemption was found to confer benefits which constitute export subsidies because they provide a deferral, contingent upon exports, of direct taxes. Therefore, this program falls within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement.

(3) The program providing for small business loans to ''promising'' companies on the basis that they were exporting companies, was found to be a countervailable export subsidy to the extent that the loans were provided at preferential interest. Because companies qualified for these loans on the basis of export performance, this program falls within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement.

(4) Because the Duty Drawback Program provides for duty drawback on items not physically incorporated into exported articles and because the duty drawback for loss or wastage on physically incorporated items is unreasonable or excessive, we found the program to confer a countervailable export subsidy. As such, this program falls within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement.

(5) Exemption from the acquisition tax under the Law for the Promotion of Income Sources in Rural Areas is limited to companies located in certain regions of the country and therefore, may fall within the definition of an actionable subsidy under Article 6.1 of the Subsidies Agreement.

Final Results of Review

As a result of this review, the Department finds that revocation of the countervailing duty order on cookware from Korea would be likely to lead to continuation or recurrence of countervailable subsidies. The country-wide net countervailable subsidy likely to prevail if the order were revoked is 0.77 percent *ad valorem*. [10]

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23035 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–DS–P

[10] As noted above, due to *de minimis* net subsidies found for Woo Sung Company Ltd. and Dae Sung Industrial Company Ltd., these two Korean producers/exporters were excluded from the order. .

DEPARTMENT OF COMMERCE

International Trade Administration

Performance Review Board

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Announcement of New Member for the Performance Review Board.

FOR FURTHER INFORMATION CONTACT: LaVerne H. Hawkins, Department of Commerce, Office of Human Resources Management, Room 4803, Washington, DC 20230 202–482–2537.

SUPPLEMENTARY INFORMATION: This notice announces the appointment by the Under Secretary for International Trade, David L. Aaron, of the Performance Review Board (PRB). The appointments are for a 2 year period. The purpose of the International Trade Administration's Performance Review Board (PRB) is to review and make recommendations to the appointing authority on performance management issues such as appraisals and bonuses, ES-level Increases and Presidential Rank Awards for members of the Senior Executive Service (SES). The members are:

Eleanor Roberts Lewis—Non-ITA—Career
Chief Counsel for International Trade
Troy H. Cribb—Non-Career
Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods
Henry H. Misisco—Career
Director, Office of Automotive Affairs
Marjory Searing—Career
Deputy Assistant Secretary for Japan
Joseph Spetrini—Career
Deputy Assistant Secretary for Antidumping Countervailing Duty Enforcement III
Franklin J. Vargo—Career
Deputy Assistant Secretary for Agreements Compliance
Elizabeth C. Sears—Non-Career
Deputy Assistant Secretary for Export Promotion Services
LaVerne H. Hawkins—Executive Secretary
Office of Human Resources Management, 202–482–2537

Dated: August 26, 1999.

James T. King, Jr.,

Human Resources Manager.

[FR Doc. 99–23078 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket Number: 990624170–9170–01]

RIN 0648–ZA66

Announcement of Graduate Research Fellowships in the National Estuarine Research Reserve System for Fiscal Year 2000

AGENCY: Estuarine Reserves Division (ERD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: The Estuarine Reserves Division (ERD) of the Office of Ocean and Coastal Resource Management is soliciting applications for graduate fellowship funding within the National Estuarine Research Reserve System. This notice sets forth funding priorities, selection criteria, and application procedures.

The National Estuarine Research Reserve System of the National Oceanic and Atmospheric Administration (NOAA) announces the availability of Graduate Research Fellowships. ERD anticipates that 34 Graduate Research Fellowships will be competitively awarded to qualified graduate students whose research occurs within the boundaries of at least one Reserve. Minority students are encouraged to apply. Fellowships will start no earlier than June 1, 2000.

DATES: Applications must be postmarked no later than *November 1, 1999.* Notification regarding the awarding of fellowships will be issued on or about March 1, 2000.

ADDRESSES: Erica Hubertz, Program Specialist, NOAA/Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, SSMC4, 11th Floor, Silver Spring, MD 20910, Attn: FY00 NERRS Research. Phone: 301–713–3132, ext. 172, Fax: 301–713–4363, internet: *erica.hubertz@noaa.gov*. Web page: *http://www.nos.noaa.gov/ocrm/nerr/nerrs__*research.html. See Appendix I for National Estuarine Research Reserve addresses.

FOR FURTHER INFORMATION CONTACT: For further information on specific research opportunities at National Estuarine Research Reserve sites, contact the site staff listed in Appendix I or the program specialist listed in the **ADDRESSES** section above. For application information, contact Erica Hubertz of the Estuarine Reserves Division (see **ADDRESSES** above).

SUPPLEMENTARY INFORMATION:

I. Authority and Background

Section 315 of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1461, establishes the National Estuarine Research Reserve System (NERRS). 16 U.S.C. 1461(e)(1)(B) authorizes the Secretary of Commerce to make grants to any coastal state or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c). This program is listed in the Catalog of Federal Domestic Assistance (CFDA) under ''Coastal Zone Management Estuarine Research Reserves,'' Number 11.420.

II. Information on Established National Estuarine Research Reserves

The NERRS consists of estuarine areas of the United States and its territories which are designated and managed for research and educational purposes. Each National Estuarine Research Reserve (Reserve) within the NERRS is chosen to reflect regional differences and to include a variety of ecosystem types in accordance with the classification scheme of the national program as presented in 15 CFR part 921.

Each Reserve supports a wide range of beneficial uses of ecological, economic, recreational, and aesthetic values which are dependent upon the maintenance of a healthy ecosystem. The sites provide habitats for a wide range of ecologically and commercially important species of fish, shellfish, birds, and other aquatic and terrestrial wildlife. Each Reserve has been designed to ensure its effectiveness as a conservation unit and as a site for long-term research and monitoring. As part of a national system, the Reserves collectively provide an excellent opportunity to address research questions and estuarine management issues of national significance. For a detailed description of the sites, contact the individual site staff or refer to the NERR internet web site provided in the **ADDRESSES** section.

III. Availability of Funds

Funds are expected to be available on a competitive basis to qualified graduate students for research within National Estuarine Research Reserves leading to a graduate degree. No more than two fellowships at any one site will be funded at any one time; based upon fellowships awarded in the 1999 funding cycle, we anticipate 34 openings for Fellowships in FY00. Fellowships are expected to be available at the following sites:

NERR site	Fellowships
Ashepoo Combahee:	
Edisto Basin, SC	1
Apalachicola, FL	1
Chesapeake Bay, MD	1
Chesapeake Bay, VA	1
Delaware	1
Elkhorn Slough, CA	2
Grand Bay, MS	2
Great Bay, NH	1
Guana Tolomato:	
Matanzas, FL	2
Hudson River, NY	2
Jobos Bay, PR	1
Kachemak Bay, AK	2
Narragansett Bay, RI	2
North Inlet-Winyah Bay, SC	2
North Carolina	2
Old Woman Creek, OH	2
Padilla Bay, WA	1
Rookery Bay, FL	1
Sapelo Island, GA	1
Tijuana River, CA	2
Waquoit Bay, MA	2
Weeks Bay, AL	2

Because NOAA is an active partner in NERRS research, funds will be awarded through a cooperative agreement. NOAA may be involved in the award in the following manner:

The Estuarine Reserves Division (ERD), Office of Ocean and Coastal Resource Management, reserves the right to immediately halt activity under this award if it becomes obvious that award activities are not fulfilling the mission of the National Estuarine Research Reserve System. While day-to-day management is the responsibility of the recipient, frequent guidance and direction is provided by the Federal Government for the successful conduct of this award. Non-compliance with a Federally approved project may result in immediate halting of the award.

ERD generally will review and approve each stage of work annually before the next begins to assure that studies will produce viable information on which to form valid coastal management decisions.

All staff at NERRS sites are ineligible to submit an application for a fellowship under this Announcement. Federal funds requested must be matched by the applicant by at least 30% of the *TOTAL cost, not the Federal share, of the project.* It is anticipated that fellowships receiving funding under this announcement will begin no earlier than June 1, 2000.

IV. Purpose and Priorities

NERR Research funds are provided to support management-related research projects that will enhance scientific understanding of the Reserve ecosystem, provide information needed by Reserve management and coastal management decision-makers, and improve public awareness and understanding of estuarine ecosystems and estuarine management issues (15 CFR § 921.50).

The NERR Graduate Research Fellowship program is designed to fund high quality research focused on enhancing coastal zone management while providing students with hands-on training in ecological monitoring.

Research projects proposed in response to this announcement must: (1) Address coastal management issues identified as having local, regional, or national significance, described in the ''Scientific Areas of Support'' below; and (2) be conducted within one or more designated NERR sites. Funding ($16,500 per year) is intended to provide any combination of research support, salary, tuition, supplies, or other costs as needed, including overhead. Fellows will be expected to participate in an ecological training program that will entail some aspect of ecological monitoring or research for up to a maximum of 15 hours per week. Fellows conducting multi-site projects

may fulfill this requirement at one or a combination of sites but for no more than a total of 15 hours per week. This training program may occur throughout the academic year or may be concentrated during a specific season. Students are encouraged, but not required, to incorporate these training activities into their own research programs.

Scientific Areas of Support

The NERRS program has identified the following as areas of nationally significant research interest. Proposed research projects submitted in response to this announcement must address one of the following topics (see #1 above):

- The effects of non-point source pollution on estuarine ecosystems;
- Evaluative criteria and/or methods for estuarine ecosystem restoration;
- The importance of biodiversity and effects of invasive species on estuarine ecosystems;
- Mechanisms for sustaining resources within estuarine ecosystems; or
- Socioeconomic research applicable to estuarine ecosystem management.

Each NERR has local issues of concern that fall within one of the topics above. Applicants are responsible for contacting the NERR site of interest to determine if their proposed projects would be relevant to the Reserve's site-specific research needs.

Note: It is strongly suggested that applicants contact the host Reserve (see Appendix I) for general information about the Reserve and its research needs and priorities and ecological training opportunities as they relate to this announcement.

V. Guidelines for Application Preparation, Review, and Reporting Requirements

Applicants for ERD research fellowships must follow the guidelines presented in this announcement. Applications not adhering to these guidelines may be returned to the applicant without further review.

Applications for graduate fellowships in the NERRS are solicited annually for award the following fiscal year. Minority students are encouraged to apply. Application due dates and other pertinent information are contained in this announcement of research opportunities. *Applicants must submit an original and two (2) copies of each application and all supporting documents (curricula vitae, literature referenced, unofficial transcripts, etc.), excluding letters of reference which must come directly from their source.*

Applicants may request funding for up to three years; funding for years two and three will be made available based on availability of funds and satisfactory progress of research as determined by the Host NERR Research Staff and the student's faculty advisor, in consultation with ERD. The amount of the award is $15,000/annum plus 10% overhead for a total of $16,500/annum. Requested Federal funds must be matched by at least 30 percent of the *award total* (ie. $7,072 match for $16,500 in Federal funds for a total project cost of $23,572).

Applicants who are selected for funding will be required to: (1) Work with the Research Coordinator or Reserve Manager to develop an ecological training program for up to 15 hours per week; (2) submit semi-annual technical reports to ERD and the host Reserve before the end of each funding cycle on the research accomplishments to date; and (3) acknowledge NERRS support in all relevant scientific presentations and publications. In addition, fellows are strongly encouraged to publish their results in peer-reviewed literature and make presentations at scientific meetings.

A. Applications

Students admitted to or enrolled in a full-time Master's or Doctoral program at U.S. accredited universities are eligible to apply. Students should have completed a majority of their course work at the beginning of their fellowship and have an approved thesis research program.

Applicants are required to submit:

(1) An academic resume or a curriculum vitae that includes all graduate and undergraduate institutions (department or area of study, degree, and year of graduation), all publications (including undergraduate and graduate theses), awards or fellowships, and work/research experience;

(2) a cover letter from the applicant indicating current academic status, research interests, career goals, and how the proposed research fits into their degree program, and the results of any discussion with host NERR staff regarding the ecological monitoring training program;

(3) a titled research proposal (double-spaced in a font no smaller than 12-point courier) that includes an Abstract, Introduction, Methods and Materials, Project Significance, and Bibliography;

(4) a proposed budget (see Section B, Proposal Content, below for specific guidelines);

(5) an unofficial copy of all undergraduate and graduate transcripts;

(6) a signed letter of support from the applicant's graduate advisor indicating the advisor's contribution (financial and otherwise) to the applicant's graduate studies, and an assurance that the student is in good academic standing; and

(7) two letters of recommendations (from other than the applicant's graduate advisor) sent directly from their source.

Note: Electronically transmitted letters of support are not acceptable.

One original and two (2) copies of the information requested above, excluding letters of reference and transcripts, must be submitted to the ERD Program Specialist at the address in the Addresses section, postmarked no later than November 1, 1999. *Applications postmarked November 2, 1999 or later, will be returned without review.* Receipt of all applications will be acknowledged and a copy sent to the appropriate Reserve staff.

B. Proposal Content

The research proposal should contain the sections described below.

1. Title Page

A title page must be provided which lists:

- student name, address, telephone number, fax number & email address
- project title;
- amount of funding requested;
- name of graduate institution;
- name of institution providing matching funds and amount of matching funds;
- name, address, telephone number, fax number & email address of faculty advisor;
- NERR site where research is to be conducted; and
- number of years of requested support.

If it is a multi-site project, the title page must indicate which Reserve will be the primary contact (''host Reserve'') for the training program.

2. Abstract

The abstract should state the research objectives, scientific methods to be used, and the significance of the project to a particular Reserve and the NERRS program. The abstract must be limited to *one page.*

3. Project Description

The project description must be limited to *6 double-spaced pages* excluding figures. The main body of the proposal should be a detailed statement of the work to be undertaken, and include the following components:

(a) Introduction. This section should introduce the research setting and environment. It should include a brief review of pertinent literature and

describe the research problem in relation to relevant coastal management issues and the research priorities. This section should also present the primary hypothesis upon which the project is focused, as well as any additional or component hypotheses which will be addressed by the research project.

(b) Methods. This section should state the method(s) to be used to accomplish the specific research objectives, including a systematic discussion of what, when, where, and how the data are to be collected, analyzed, and reported. Field and laboratory methods should be scientifically valid and reliable and accompanied by a statistically sound sampling scheme. Methods chosen should be justified and compared with other methods employed for similar work.

Techniques should allow the testing of the hypotheses, but also provide baseline data related to ecological and management questions concerning the Reserve environment. Methods should be described concisely and techniques should be reliable enough to allow comparison with those made at different sites and times by different investigators. The methods must have proven their utility and sensitivity as indicators for natural or human-induced change.

Analytical methods and statistical tests applied to the data should be documented, thus providing a rationale for choosing one set of methods over alternatives. Quality control measures also should be documented (e.g., statistical confidence levels, standards of reference, performance requirements, internal evaluation criteria). The proposal should indicate by way of discussion how data are to be synthesized, interpreted and integrated into final work products.

A map clearly showing the study location and any other features of interest *must* be included; a U.S. Geological Survey topographic map, or an equivalent, is suggested for this purpose. Consultation with Reserve personnel to identify existing maps is strongly recommended.

(c) Project Significance. This section should provide a clear discussion of how the proposed research addresses state and national estuarine and coastal resource management issues and how the proposed research effort will enhance or contribute to improving the state of knowledge of the estuary; i.e., why is the proposed research important and how will the results contribute to coastal resource management? This section must also discuss the relation of the proposed research to the research priorities stated in Section IV. Applicability of research findings to other NERRS and coastal areas should also be mentioned. In addition, if the proposed research is part of a larger research project, the relationship between the two should be described.

4. Milestone Schedule

A milestone schedule is required. This schedule should show, in table form, anticipated dates for completing field work and data collection, data analysis, progress reports, the final technical report and other related activities. Use ''Month 1, Month 2,'' rather than June, July, etc., in preparing these charts.

5. Personnel and Project Management

The proposal must include a description of how the project will be managed, including the name and expertise of faculty advisors and other team members. Evidence of ability to successfully complete the proposed research should be supported by reference to similar efforts performed.

6. Literature Cited

This section should provide complete references for current literature, research, and other appropriate published and unpublished documents cited in the text of the proposal.

7. Budget

The amount of Federal funds requested must be matched by the applicant by at least 30% of the *total* project cost (i.e., $7,072 match for $16,500 in Federal funds for a total project cost of $23,572). Cash or the value of goods and services (except land) directly benefitting the research project may be used to satisfy the matching requirements. Overhead costs for these awards are limited to $1,500 of the Federal share (i.e., $15,000 for project and $1,500 for overhead) and waived overhead costs may also be used as match. *Funds from other Federal agencies and NERRS staff salaries supported by Federal funds may not be used as match.* Requirements for the non-Federal share are contained in OMB Circular A–110. ERD strongly suggests that the applicant work with their institution's research office to develop their budget (see section D, below).

The applicant may request funds under any of the categories listed below as long as the costs are reasonable and necessary to perform research. The budget should contain itemized costs with appropriate narratives justifying proposed expenditures. Budget categories are to be broken down as follows, clearly showing both Federal and non-Federal shares *side by side*:

—Salary. The rate of pay (hourly, monthly, or annually) should be indicated. Salaries requested must be consistent with the institution's regular practices. The submitting organization may request that salary data remain confidential information.

—Fringe Benefits. Fringe benefits (i.e., social security, insurance, retirement) may be treated as direct costs as long as this is consistent with the institution's regular practices.

—Equipment. While not their primary purpose, fellowship funds may be approved for the purchase of equipment only if the following conditions are met: (a) A lease versus purchase analysis has been conducted by the applicant or the applicant's institution for equipment that costs greater than $5000 and the findings determine that purchase is the most economical method of procurement; and (b) the equipment does not exist at the recipient's institution or the Reserve site and is essential for the successful completion of the project.

The justification must discuss each of these points along with the purpose of the equipment and a justification for its use, and include a list of equipment to be purchased, leased, or rented by model number and manufacturer, where known. At the termination of the fellowship, disposition of equipment will be determined by the NOAA Property Administrator.

—Travel. The type, extent, and estimated cost (broken down by transportation, lodging and per diem) of travel should be explained and justified in relation to the proposed research; the justification should also identify the person traveling. Travel expenses are limited to round trip travel to field research locations and professional meetings to present the research results and should not exceed 40 percent of total award costs.

—Other Direct Costs. Other anticipated costs should be itemized under the following categories:

• *Materials and Supplies.* The budget should indicate in general terms the types of expendable materials and supplies required and their estimated costs;

• *Research Vessel or Aircraft Rental.* Include purpose, unit cost, duration of use, user, and justification;

• *Laboratory Space Rental.* Funds may be requested for use of laboratory space at research establishments away from the student's institution while conducting studies specifically related to the proposed effort;

• *Telecommunication Services and Reproduction Costs.* Include expenses associated with telephone calls, facsimile, copying, reprint charges, film duplication, etc.;

• *Computer Services.* The cost of unusual or costly computer services may be requested and must be justified.

—Indirect Costs. Requested overhead costs under NERRS fellowship awards are limited to $1,500 of the Federal amount.

8. Requests for Reserve Support Services

On-site Reserve personnel sometimes can provide limited logistical support for research projects in the form of manpower, equipment, supplies, etc. Any request for Reserve support services, including any services provided as match, should be approved by the Reserve Manager or Research Coordinator prior to application submission and be included as part of the application package in the form of written correspondence. Reserve resources which are supported by Federal funds are not eligible to be used as match.

9. Coordination With Other Research in Progress or Proposed

ERD encourages collaboration and cost-sharing with other investigators to enhance scientific capabilities and avoid unnecessary duplication of effort. Applications should include a description of how the research will be coordinated with other research projects that are in progress or proposed, if applicable.

10. Permits

The applicant must apply for any applicable local, state or Federal permits. A copy of the permit application and supporting documentation should be attached to the application as an appendix. ERD must receive notification of the approval of the permit application before funding can be approved.

C. Application Review and Evaluation

All applications will be evaluated for scientific merit by ERD staff, the host Reserve scientific panel of no less than three reviewers from the scientific community, and the appropriate Research Coordinator and/or Reserve Manager. Criteria for evaluation include: (1) The quality of proposed research and its applicability to the NERRS Scientific Areas of Support listed earlier in this announcement (70%); (2) the research's applicability to specific Reserve research and resource management goals as they relate to the Scientific Areas of Support listed in this announcement (20%); and (3) academic excellence based on the applicant's transcripts and two letters of reference (10%). No more than two Fellowships will be awarded at any one time for any one Reserve. Final selection will be made by the Chief of the Estuarine Reserves Division, based upon scientific review and the research's applicability to NERRS research and resource management goals.

D. Fellowship Awards

Awards are normally made to the fellow's graduate institution through the use of a cooperative agreement. Applicants whose projects are recommended for funding will be required to complete all necessary Federal financial assistance forms (SF–424, SF–424A, SF–424B, CD–511, and SF–LLL), which will be provided by ERD with the letter of fellowship notification. ERD recommends that all applicants work with their graduate institution during the development of their budget to ensure concurrence on budgetary issues (e.g. the use of salary and fringe benefits as match).

VI. Other Requirements

Recipients and sub-recipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards.

All non-profit and for-profit applicants are subject to a name-check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: (1) The delinquent account is paid in full; (2) A negotiated repayment schedule is established and at least one payment is received; or (3) Other arrangements satisfactory to the Department of Commerce (DOC) are made.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. In addition, any recipients who are past due for submitting acceptable final reports under any previous ERD-funded research will be ineligible to be considered for new awards until final reports are received, reviewed and deemed acceptable by ERD.

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the DOC. However, funding priority will be given to the additional years of multi-year proposals upon satisfactory completion of the current year of research.

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matter; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations are hereby provided:

1. *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension,'' and the related section of the certification form prescribed above applies;

2. *Drug-Free Workplace.* Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, Subpart F, ''Government-wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

3. *Anti-Lobbying.* Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on the use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form which applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. *Anti-Lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

5. *Lower Tier Certifications.* Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed

CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying,'' and disclosure form SF–LLL, ''Disclosure of Lobbying Activities.'' The original form CD–512 is intended for the use of recipients. SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-Made Equipment or Products: Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program should be American-made to the extent feasible.

Indirect Costs: The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or $1,500, whichever is less.

Pre-award Activities: If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

VII. Classification

This notice has been determined to be ''not significant'' for purposes of E.O. 12866.

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Administrative Order 216–6.

This notice does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

This notice involves a collection of information subject to the requirements of the Paperwork Reduction Act. The requirements have been approved by the Office of Management and Budget under control numbers 0348–0043, 0348–0044, and 0348–0046.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection displays a current valid OMB control number.

(Federal Domestic Assistance Catalog Number 11.420 Coastal Zone Management Estuarine Research Reserves)

Dated: August 30, 1999.

Captain Ted I. Lillestolen,

Deputy Assistant Administrator, National Ocean Service.

Appendix I. NERRS On-Site Staff

Alabama

Mr. L.G. Adams, Manager; Mr. Bob McCormack, Interpretive Coordinator, Weeks Bay National Estuarine Research Reserve, 11300 U.S. Highway 98, Fairhope, AL 36532, (334) 928–9792, ladams@surf.nos.noaa.gov, bmcormack@surf.nos.noaa.gov

Alaska

Mr. Glenn Seaman, Manager, Kachemak Bay National Estuarine Research Reserve, Department of Fish and Game, 333 Raspberry Road, Anchorage, AK 99518–1599, (907) 267–2331, glenns@fishgame.state.ak.us

California

Ms. Becky Christensen, Manager, Elkhorn Slough National Estuarine Research Reserve, 1700 Elkhorn Road, Watsonville, CA 95076, (408) 728–2822, beckychristensen@dfg2.ca.gov

(or)

Mr. Mark Silberstein, Elkhorn Slough Foundation, P.O. Box 267, Moss Landing, CA 95039, (831) 728–5939, silbermud@aol.com and for further info www.elkhornslough.org

Mr. Phil Jenkins, Manager; Mr. Dick Zembal, Research Coordinator, Tijuana River National Estuarine Research Reserve, 301 Caspian Way, Imperial Beach, CA 92032, (619) 575–3615, dick__zembal@mail.fws.gov

Delaware

Ms. Betsy Archer, Manager; Dr. William Meredith, Research Coordinator, Delaware National Estuarine Research Reserve, Department of Natural Resources and Environmental Control, Division of Fish and Wildlife, 89 Kings Highway, Dover, DE 19901, (302) 739–3451 (Archer), bdarcher@dnrec.state.de.us, (302) 739–3493 (Meredith), wmeredith@dnrec.state.de.us

Florida

Mr. Woodward Miley II, Manager; Mr. Lee Edmiston, Research Coordinator, Apalachicola River National Estuarine Research Reserve, Department of Environmental Protection, 350 Carroll Street, Eastpoint, FL 32320, (850) 670–4783, ledmist@digitalexp.com

Mr. Ken Berk, Manager; Mr. Larry Nall, Guana-Tolomato-Matanzas National Estuarine Research Reserve, Department of Environmental Protection, Coastal and Aquatic Managed Areas, 3900 Commonwealth Blvd., Tallahassee, FL 32399, (850) 488–3456, nall__l@epic6.dep.state.fl.us

Mr. Gary Lytton, Manager; Dr. Todd Hopkins, Research Coordinator, Rookery Bay National Estuarine Research Reserve, Department of Environmental Protection, 300 Tower Road, Naples, FL 34113–8059, (941) 417–6310, todd.hopkins@dep.state.fl.us

Georgia

Mr. Buddy Sullivan, Manager; Mr. Dorset Hurley, Research Coordinator, Sapelo Island National Estuarine Research Reserve, Department of Natural Resources, P.O. Box 15, Sapelo Island, GA 31327, (912) 485–2251, dhurley@surf.nos.noaa.gov

Maine

Mr. Kent Kirpatrick, Manager; Dr. Michele Dionne, Research Coordinator, Wells National Estuarine Research Reserve, RR #2, Box 806, Wells, ME 04090, (207) 646–1555 x36, dionne@cybertours.com

Maryland

Mr. Andrew Middleton, Acting Manager; Mr. David Nemazie, Research Coordinator, Chesapeake Bay National Estuarine Research Reserve in Maryland, Dept. of Natural Resources, Tawes State Office Building, E–2, 580 Taylor Avenue, Annapolis, MD 21401, (410) 260–8740 (Middleton), (410) 228–9250 x615 (Nemazie), nemazie@ca.umces.edu

Massachusetts

Ms. Christine Gault, Manager, Waquoit Bay National Estuarine Research Reserve, Dept. of Environmental Management, P. O. Box 3092, Waquoit, MA 02536, (508) 457–0495, wbnerr@capecod.net

Mississippi

Mr. Peter Hoar, Grand Bay National Estuarine Research Reserve, Department of Marine Resources, 1141 Bayview Avenue, Biloxi, MS 39530, (228) 374–5000, phoar@datasync.com

New Hampshire

Mr. Peter Wellenberger, Manager; Great Bay National Estuarine Research Reserve, New Hampshire Fish and Game Department, 37 Concord Road, Durham, NH 03824, (603) 868–1095, peter@greatbay.org

New Jersey

Mr. Michael De Luca, Manager; Dr. Ken Able, Research Coordinator, Mullica River National Estuarine Research Reserve, Institute of Marine and Coastal Sciences, Rutgers University, P.O. Box 231, New Brunswick, NJ 08903, 732–932–9489 x512 (De Luca), 689–296–5260 (Able), able@arctic.rutgers.edu

New York

Ms. Elizabeth Blair, Manager; Mr. Chuck Nieder, Research Coordinator, Hudson River National Estuarine Research Reserve, New York State Department of Environmental Conservation, c/o Bard College Field Station, Annandale-on-Hudson, NY 12504, (914) 758–7013 (Nieder) wcnieder@gw.dec.state.ny.us, (914) 758–7011 (Blair) and (914) 758–7010 (general info)

North Carolina

Dr. John Taggart, Manager; Dr. Steve Ross, Research Coordinator, North Carolina National Estuarine Research Reserve, 7205 Wrightsville Avenue, Wilmington, NC 28403, (910) 256–3721 (Taggart), (910) 395–3905 (Ross), rosss@uncwil.edu

Ohio

Mr. Eugene Wright, Manager; Dr. David Klarer, Research Coordinator, Old Woman Creek National Estuarine Research Reserve, 2514 Cleveland Road, East, Huron, OH 44839, (419) 433–4601 dklarer@ocean.nos.noaa.gov

Oregon
Mr. Michael Graybill, Manager; Dr. Steve Rumrill, Research Coordinator, South Slough National Estuarine Research Reserve, P. O. Box 5417, Charleston, OR 97420, (541) 888–5558, ssnerr@harborside.com
Puerto Rico
Ms. Carmen Gonzalez, Manager; Dr. Pedro Robles, Research Coodinator, Jobos Bay National Estuarine Research Reserve, Dept. of Natural Resources, Call Box B, Aguirre, PR 00704, (809) 853–4617, cgonzalez@ocean.nos.noaa.gov (Gonzalez) problesc@coqui.net (Robles)
Rhode Island
Mr. Allan Beck, Manager, Narragansett Bay National Estuarine Research Reserve, Dept. of Environmental Management, Box 151, Prudence Island, RI 02872, (401) 683–5061, allanbeck@aol.com
South Carolina
Mr. Michael D. McKenzie, Manager; Dr. Elizabeth Wenner, Research Coordinator, Ashepoo-Combahee-Edisto (ACE) Basin, South Carolina Wildlife and Marine Resources Department, P.O. Box 12559, Charleston, SC 294212, (803) 762–5052 (McKenzie) (803) 736–5050 (Wenner), wennere@cofc.edu
Dr. Dennis Allen, Manager; Dr. Evan Chipouras, Research Coordinator, North Inlet-Winyah Bay National Estuarine Research Reserve, Baruch Marine Field Laboratory, P.O. Box 1630, Georgetown, SC 29442, (803) 546–3623, evan@belle.baruch.sc.edu
Virginia
Dr. Maurice P. Lynch, Manager; Dr. William Reay, Research Coordinator, Chesapeake Bay National Estuarine Research Reserve in Virginia, Virginia Institute of Marine Science, College of William and Mary, P.O. Box 1347, Gloucester Point, VA 23062, (804) 684–7135, wreay@vims.edu
Washington
Mr. Terry Stevens, Manager; Dr. Douglas Bulthuis, Research Coordinator, Padilla Bay National Estuarine Research Reserve, 10441 Bay View-Edison Road, Mt. Vernon, WA 98273–9668, (360) 428–1558, bulthuis@padillabay.gov

[FR Doc. 99–22981 Filed 9–2–99; 8:45 am]
BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082399D]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Personnel, Joint Executive & Finance, Calico Scallop, Snapper Grouper, Marine Reserves, Golden Crab, Mackerel, Dolphin & Wahoo and Shrimp Committees; and a Council Session.

DATES: The meetings will be held from September 20–24, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: (843) 571–1000; (800) 334–6660.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Kerry O'Malley, telephone: (843) 571–4366; fax: (843) 769–4520; email: kerry.omalley@noaa.gov

SUPPLEMENTARY INFORMATION:

Meeting Dates

September 20, 1999, 1:30 p.m. to 3:00 p.m.—Personnel Committee (Closed Session);

The Personnel Committee will meet to review and approve personnel sections in the Council's draft Administrative Handbook;

September 20, 1999, 3:00 p.m. to 5:00 p.m.—Joint Executive and Finance Committees;

The committees will review and approve the Council's draft Administrative Handbook, the proposed 2000 Council budget and schedule of activities and discuss the status of the Sargassum Fishery Management Plan (FMP);

September 21, 1999, 8:30 a.m. to 10:00 a.m.—Calico Scallop Committee;

The committee will review the Calico Scallop Stock Assessment and Fishery Evaluation (SAFE) Report, the status of the FMP, hear a report on the status of the vessel monitoring systems and discuss bycatch monitoring;

September 21, 1999, 10:00 a.m. to 12:00 a.m.—Snapper Grouper Committee;

The committee will receive an update on the status of the red Porgy Emergency Rule Request, review Snapper Grouper Amendment 12 (red progy closure) and approve for public hearing, and will receive a status report on the amberjack trip limit resubmission;

September 21, 1999, 1:30 p.m. to 5:00 p.m.—Marine Reserves Committee;

The Committee will review the Marine Reserves and Habitat/Coral advisory panels recommendations on the Marine Reserves Discussion Document, review and approve revised Marine Reserves Discussion Document, discuss format of public scoping meetings, set locations and dates for public scoping meetings and receive a status report on other marine reserve related activities in the southeast;

September 22, 1999, 8:30 a.m. to 10:30 a.m.—Golden Crab Committee;

The committee will receive a report on the informal meeting with the golden crab fishermen and review and approve options for Golden Crab Amendment 1;

September 22, 1999, 10:30 a.m. to 12:00 p.m.—Mackerel Committee;

The committee will review public hearing and NMFS comments as well as Gulf Council action on Mackerel Amendment 12, develop recommendations for approval of Mackerel Amendment 12 and discuss the current framework action;

September 22, 1999, 1:30 p.m. to 5:00 p.m.—Dolphin & Wahoo Committee;

The committee will review Gulf and Caribbean actions, review the draft FMP and establish preferred actions, and approve the FMP for public hearing (dependent on status of the Gulf and Caribbean Councils actions);

September 23, 1999, 8:30 a.m. to 10:30 a.m.—Shrimp Committee;

The committee will review the SAFE report, review status of the bycatch reduction device (BRD) protocol and provide direction to staff, discuss bycatch monitoring, and discuss the use of vessel monitoring systems;

September 23, 1998, 10:30 a.m. to 5:00 p.m.—Council Session;

The Council will hold elections for a new chairman and vice chairman and make presentations from 10:45 to 11:15;

Beginning at 11:15 p.m. the Council will hear the Joint Executive & Finance Report and the Council will take public comment on NMFS' Notice of Availability for the South Atlantic Council's Sargassum FMP;

The Council will also discuss their position on the Sargassum FMP, approve the Council's draft handbook, approve the proposed 2000 budget and activities schedule and approve the 1999/2000 Operations Plan;

From 1:30 p.m. to 3:00 p.m. the Council will resume hearing the Joint Executive & Finance Report;

From 3:00 p.m. to 3:15 p.m. the Council will hear the Calico Scallop Committee report.

From 3:15 p.m. to 3:30 p.m. the Council will hear the Snapper Grouper committee Report and approve Snapper Grouper Amendment 12 for Public Hearing;

From 3:30 p.m. to 4:00 p.m. the Council will hear the Marine Reserves Committee report and approve the revised Marine Reserves Discussion

Document and establish locations and dates for scoping meetings;

From 4:00 p.m. to 4:15 p.m. the Council will hear the Golden Crab Committee report.

From 4:15 p.m. to 5:15 p.m. the Council will hear the Mackerel Committee report and the Council will take public comment on Mackerel Amendment 12 and approve Amendment 12 for secretarial review.

September 24, 1999, 8:30 a.m. to 12:00 p.m.—Council Session;

From 8:30 a.m. to 9:30 p.m. the Council will hear the Dolphin & Wahoo Committee report and approve the FMP for public hearing;

From 9:00 a.m. to 9:30 a.m. the Council will hear the Shrimp Committee report and review the status of the BRD protocol and take action if necessary;

From 9:30 a.m. to 10:30 a.m. the Coast Guard will the give the Council a report on vessel safety;

From 10:30 a.m. to 11:00 a.m. the Council will receive a status report on marine mammal activities;

From 11:00 a.m. to 11:30 a.m. the council will receive status report from NMFS on last years Mackerel Framework Action, the current Mackerel Framework Action, Mackerel Amendment 9, Red Porgy Emergency Rule, Greater Amberjack trip limit resubmittal, the Calico Scallop FMP, and on landings for: Atlantic king mackerel, Gulf king mackerel (eastern zone), Atlantic Spanish Mackerel, snowy grouper, golden tilefish, wreckfish, greater amberjack and South Atlantic octocorals.

From 11:30 a.m. to 12:00 noon the Council will hear agency and liaison reports and a report on Atlantic Coast Cooperative Statistical Program, and any other business will be discussed at 12:00 noon.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by September 14, 1998.

Dated: August 26, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–22955 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

[Docket No. 990817224–9224–01]

Subject: Extension of NEXRAD Information Dissemination Service (NIDS) Agreement

AGENCY: National Weather Service (NWS), NOAA, Commerce.

ACTION: Notice.

SUMMARY: The NWS is in the process of replacing the NIDS with a Government operated radar product central collection and distribution system. This system, once implemented, will be accessible by all users. To allow for a successful transition to this system, the current NIDS Agreement with three private vendors for the distribution of WSR–88D products from NWS radars to external users will be extended through September 30, 2000.

EFFECTIVE DATE: September 3, 1999.

FOR FURTHER INFORMATION CONTACT: Michael Carelli, NWS NIDS Administrator, at 301–713–1724 ext. 184, or e-mail: Michael.Carelli@noaa.gov.

SUPPLEMENTARY INFORMATION: The NWS is in the process of replacing the NIDS with a Government-operated radar product central collection and distribution system. This system, once implemented, will be accessible by all users. To allow for a successful transition to this system, the current NIDS Agreement with three private vendors for the distribution of WSR–88D products from NWS radars to external users will be extended through September 30, 2000. The amended NIDS Agreement provides for additional extensions, beyond September 30, 2000, in 90-day increments, only if necessary, until the NWS has successfully completed the transition to the replacement radar product central collection and distribution system. Once the NWS central collection and distribution system is operational, the NIDS Agreement will be terminated, but no sooner than October 1, 2000. Once implemented, the Government-operated system will provide for an open distribution of radar products to all users without data redistribution restrictions.

Dated: August 31, 1999.

John E. Jones, Jr.,

Deputy Assistant Administrator for Weather Services.

[FR Doc. 99–23099 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–KE–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 073099C]

Endangered Species; Permits; Correction

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

ACTION: Issuance of permit 1168 and correction.

SUMMARY: Notice is hereby given that NMFS has issued a permit to the Washington Department of Natural Resources at Olympia, WA (WDNR) that authorizes annual incidental takes of Endangered Species Act-listed anadromous fish, subject to certain conditions set forth therein.

ADDRESSES: The application and related documents are available for review in the following office, by appointment:

Washington State Habitat Branch, 510 Desmond Drive SE, Suite 103, Lacey, WA 98503.

FOR FURTHER INFORMATION CONTACT: Steve Landino (360–753–9530).

SUPPLEMENTARY INFORMATION: The permit was issued under the authority of section 10(a)(1)(B) of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 222-227).

Notice was published on August 10, 1998 (63 FR 42615), that an application had been filed by WDNR for an incidental take permit. Permit 1168 was issued to WDNR on June 14, 1999. Permit 1168 authorizes WDNR annual incidental takes of threatened Lower Columbia River (LCR) steelhead (*Oncorhynchus mykiss*); LCR chinook and Puget Sound chinook (*O. tshawytscha*); Hood Canal summer-run chum and Columbia River chum (*O. keta*); and Ozette Lake sockeye (*O. nerka*). WDNR's covered activities include timber and non-timber management and related operations as described in the Habitat Conservation Plan (HCP) and associated Draft (DEIS) and Final Environmental Impact Statements (FEIS). The 30-day waiting period for the FEIS ended on December 2, 1996.

Corrections

Errors that were discovered in the August 10, 1998, notice are corrected in this notice.

In the **Federal Register** of August 10, 1998, in FR Doc. 98–21254, on page 42615, in the third column, in the third paragraph under the ''**Background**'' heading, in the fourth line, the phrase ''50-year permit'' is corrected to read ''70 to 100-year permit.''

In the **Federal Register** of August 10, 1998, in FR Doc. 98–21254, on page 42615, in the second column, in the first paragraph under the ''**Summary**'' heading, in the eighth line, the phrase ''associated with timber management activities in western Washington state'' is corrected to read ''in western Washington state associated with timber management activities and specific non-timber management activities described in the WDNR Habitat Conservation Plan.''

In the **Federal Register** of August 10, 1998, in FR Doc. 98–21254, on page 42616, in the first column, in the second paragraph under the ''Implementation Agreement Provisions'' heading, in the third line, the phrase ''timber management activities'' is corrected to read ''timber management activities and specific non-timber management activities.''

Further, the recent listing for ESA protection of other species of anadromous fish means that those species are listed on the permit in addition to the one species (i.e., LCR steelhead) that was mentioned in the August 10, 1998 notice. The HCP was specifically developed to address all species of anadromous fish and any species that becomes listed in the future will be reviewed at the time of listing to determine whether it can be added to the permit. In this case, that review was documented in an ESA section 7 Biological Opinion approved June 14, 1999.

Permit 1168 expires on January 30, 2067.

Issuance of the permit was based on a finding that WDNR had met the permit issuance criteria of 50 CFR 222.22(c).

Dated: August 28, 1999.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–22953 Filed 9–2–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for Test Range Management Practices at the U.S. Army Aberdeen Proving Ground's (APG) Aberdeen Test Center (ATC), MD

AGENCY: Department of the Army, DoD.

ACTION: Notice of Intent.

SUMMARY: In accordance with Public Law 91–190, the National Policy Act of 1969, an Environmental Impact Statement (EIS) is to be prepared to assess the environmental impacts associated with the adoption of test range management practices at APG's ATC. The ranges at both the Aberdeen Area and Edgewood Area of APG are used to conduct research, development, testing, and evaluation of military ordnance. The ranges are forested and contain grassland and heavily vegetated areas. The new range management practices being proposed for adoption consist of the following techniques: (1) Controlled burns; (2) use of herbicides; (3) disking; (4) firebreaks; and (5) a combination of techniques. A no action alternative (status quo) of maintaining current range management practices will also be considered. The new range management practices are being proposed since there are no current on-going management practices that sufficiently address techniques to minimize range fires, the domination of native plant species by non-native plant species, and impediments to recovery of unexploded ordnance (UXO). The new range management practice techniques being proposed will help minimize the accumulation of fallen vegetative debris that fuel wildfires, regenerate native forests and plant species, improve the ability of APG personnel to recovery UXO, and better manage range assets and facilities. The agency invites written comments and suggestions on issues and management opportunities for the area being analyzed.

DATES: Written public comments and suggestions should be submitted by October 18, 1999, to the address shown below. Comments received after this date will be considered to the extent practicable.

ADDRESSES: Commander, U.S. Army Aberdeen Test Center, ATTN: STEAC–EV (Mr. Joseph P. Ondek), Aberdeen Proving Ground, Maryland 21005–5001.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph P. Ondek at (410) 278–5294.

SUPPLEMENTARY INFORMATION: The Army will conduct several scoping workshops prior to preparing the EIS. The first step will be to determine the appropriate scope of issues, activities, and alternatives to be addressed. Among the anticipated areas to be evaluated are public health risks and public safety, water quality, air quality, hazardous materials, biological resources including threatened and endangered species, socioeconomic effects, and historic and archaeological resources. During the scoping process, the Army will ask the public and agencies that have regulatory interest in Aberdeen Proving Ground to participate in scoping. Comments received as a result of this notice will be used to assist the Army in identifying potential impacts to the quality of the natural and human environment. The public scoping meetings will be held prior to preparing the draft EIS. The exact date, time and location of the scoping meetings will be advertised in the local news media, at least 15 days prior to the meeting.

Dated: August 31, 1999.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (I&E).

[FR Doc. 99–23062 Filed 9–2–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Proposal To Issue and Modify Nationwide Permits

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of time extension for receipt of comments.

SUMMARY: In Part III of the July 21, 1999, issue of the **Federal Register** (64 FR 39252), the Corps of Engineers published its proposal to issue 5 new Nationwide Permits (NWPs) and modify 6 existing NWPs to replace NWP 26 when it expires. The Corps is also proposing to modify 9 NWP general conditions and add three new general conditions. A key element of the Corps process for developing NWPs that authorize activities with minimal adverse effects on the aquatic environment is regional conditioning developed by district and division engineers. Corps districts have published public notices to solicit comments on proposed regional conditions for the draft NWPs published in the July 21, 1999, **Federal Register**. The public is invited to provide comments on these proposals.

DATES: The closing date for receipt of comments concerning the draft NWPs is hereby extended from September 7, 1999, to October 7, 1999.

ADDRESSES: HQUSACE, ATTN: CECW–OR, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000.

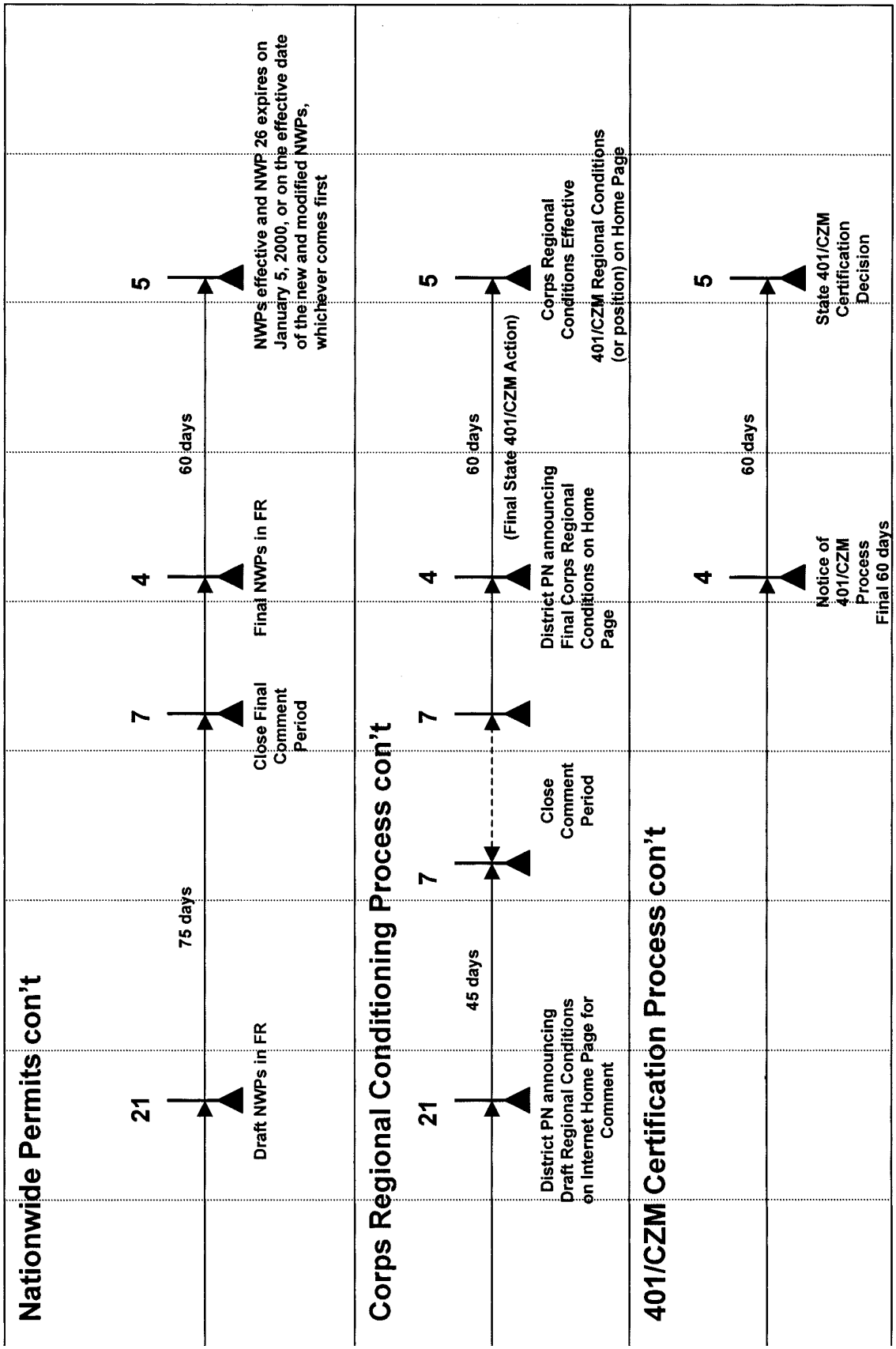
FOR FURTHER INFORMATION CONTACT: Mr. David Olson or Mr. Sam Collinson at (202) 761–0199 or access the Corps of Engineers Regulatory Home Page at: http://www.usace.army.mil/inet/functions/cw/cecwo/reg/.

SUPPLEMENTARY INFORMATION: The Corps has determined that a 30-day extension to the comment period would be appropriate to allow both the development and environmental communities additional time to review the proposed draft NWPs, including proposed general conditions and regional conditions. This time extension will affect the effective date for the new and modified NWPs by no more than 15 days. The new and modified NWPs will become effective no later than January 5, 2000. Corps districts will have the option to extend their comment periods for their regional conditions and will decide if such an extension is necessary.

To ensure that there is an NWP available to authorize activities in headwaters and isolated waters that have minimal adverse effects on the aquatic environment, the Corps has modified the expiration date for NWP 26 to January 5, 2000, or the effective date of the replacement NWPs, whichever comes first. The revised schedule is illustrated in Figure 1.

BILLING CODE 3710–92–P

Figure 1 - 1999 Nationwide Permit Milestones - Part II



BILLING CODE 3710–92–C

The implementation of the new NWPs is a high priority for the Administration, including the Army. We believe that the current proposal reflects the changes that are necessary to ensure that the Nation's aquatic resources are properly protected in accordance with the goals of the Clean Water Act.

Dated: August 31, 1999.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 99–23081 Filed 9–1–99; 9:42 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Visitors to the U.S. Naval Academy

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

DATES: The meeting will be held on Monday, September 13, 1999 from 8:30 a.m. to 11:45 p.m. The closed Executive Session will be from 10:50 a.m. to 11:45 a.m.

ADDRESSES: The meeting will be held in the Bo Coppedge Room of Alumni Hall at the U.S. Naval Academy, Annapolis, MD.

FOR FURTHER INFORMATION CONTACT: Commander Gerral K. David, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of information which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 552(b)(2), (5), (6), and (7) of title 5, U.S.C.

Dated: August 26, 1999.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–22978 Filed 9–2–99; 8:45 am]

BILLING CODE 3810–FF–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 October 4, 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, N.W., Room 10235, New Executive Office Building, Washington, D.C. 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 30, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Annual Supported Employment Caseload Report.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 81

Burden Hours: 162

Abstract: This form collects data required by Sections 626 and 101(a) (10) of the Rehabilitation Act, as amended. The Rehabilitation Services Administration (RSA) Commissioner must collect data separately on persons who receive supported employment services under Title I and Title VI, Part B, of the Act and submit an annual report to the President and Congress as required by Section 13.

Written comments and requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *OCIO—IMG—Issues@ed.gov*, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Sheila Carey at 202–708–6287 or electronically mail her at internet address sheila__carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–22974 Filed 9–2–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

President's Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

AGENCY: President's Advisory Commission on Educational Excellence for Hispanic Americans, Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Advisory Commission on Educational Excellence for Hispanic Americans (Commission). Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act in order to notify the public of their opportunity to attend.

DATES AND TIMES: Tuesday, September 14, 1999, 1:00 p.m.–5:00 p.m. (est). Wednesday, September 15, 1999, 10:00 a.m.–12:00 noon (est).

ADDRESSES: Overseas Private Investment Corporation (OPIC) Building, 1100 New York Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Luis Rosero, Special Assistant for Communication, at 202–401–8459 (telephone), 202–401–8377 (FAX), luis__rosero@ed.gov (e-mail) or mail: U.S. Department of Education, 400 Maryland Avenue SW, Room 5E110; Washington, DC 20202–3601.

SUPPLEMENTARY INFORMATION: The Commission was established under Executive Order 12900 (February 22, 1994) to provide the President and the Secretary of Education with advice on (1) the progress of Hispanic Americans toward achievement of the National Goals and other standards of educational accomplishment; (2) the development, monitoring, and coordination of Federal efforts to promote high-quality education for Hispanic Americans; (3) ways to increase, State, county, private sector and community involvement in improving education; and (4) ways to expand and complement Federal education initiatives.

At the September 14th meeting, Commissioners will report on activity within the following Committees: Children, Families and Communities, Higher Education and Assessment. The Departments of Education and Health and Human Services will report to Commissioners on the Implementation of the Hispanic Education Action Plan. The White House Initiative staff will report on the work of the Interdepartmental Council on Hispanic Educational Improvement and the 1999 Annual Performance Report. The Steering Committee of the Massachusetts Education Initiative for Latino students will present an overview of the plans for the October 2, 1999, summit. Massachusetts is the first state in the country to implement Executive Order 12900 at the State level. Congressman Ruben Hinojosa, Chair of the Education Taskforce of the Congressional Hispanic Caucus will also address the commission.

On Wednesday, September 15, 1999, Commission members will release a report on the issue of Assessment during a Press Conference at the National Press Club, 529 14th Street, NW, at 10:00 a.m. and directly following will meet from 11:00 a.m.–12:00 noon to discuss plans for a National meeting on Latino Educational Excellence.

Records of all Commission proceedings are available for public inspection at the White House Initiative, U.S. Department of Education, 400 Maryland Ave., SW, Room 5E110, Washington, DC 20202 from 9:00 a.m. to 5:00 p.m. (est).

Dated: September 1, 1999.

Leo Coco,

Acting Assistant Secretary, Office of Intergovernmental and Interagency Affairs.

[FR Doc. 99–23169 Filed 9–2–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–484–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 30, 1999.

Take notice that on August 26, 1999, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets, with a proposed effective date of November 1, 1999.

Second Revised Sheet No. 12
Sheet Nos. 13 through 22
First Revised Sheet No. 30
First Revised Sheet No. 36C
First Revised Sheet No. 407
First Revised Sheet No. 478

National Fuel states that its filing is made to implement its agreement with ProGas U.S.A., Inc. (ProGas) regarding the services and rates to be provided by National Fuel following National Fuel's acquisition of the interests of Texas Eastern Transmission Corporation (Texas Eastern) in the Niagara Spur Loop Line (NSLL) and the Ellisburg to Leidy Pipeline (ELL), which acquisition is pending Commission approval in Docket No. CP99–569–000. National Fuel states that, in order to replicate Texas Eastern's existing service for ProGas through the NSLL and the ELL, and to reflect certain contingencies unique to this transaction, its agreement with ProGas departs from its form of service agreement in certain respects, and is filed pursuant to Section 154.112(b) of the Commission's regulations, together with a tariff reference to the agreement.

National Fuel also states it proposes to revise Section 17 of its General Terms and Conditions to provide that National Fuel may seek a discount adjustment in future rate cases relating to services that are converted from discount services to negotiated rate services, and to revise Section 3.5 of its FT and FT–S Rate Schedules to clarify that the maximum rates applicable to a shipper utilizing Zones 1 and 3 of its Niagara import point project capacity is the sum of the maximum rates applicable to Zones 1 and 3.

National Fuel states that its filing also is made to implement an amendment to its agreement with ProGas, which provides for a negotiated rate pursuant to Section 17.2 of the General Terms and Conditions of National Fuel's tariff.

National Fuel states that copies of this filing were served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–22971 Filed 9–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–443–001]

Petal Gas Storage Company, Notice of Proposed Changes in FERC Gas Tariff

August 30, 1999.

Take notice that on August 25, 1999, Petal Gas Storage Company (Petal) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets with a proposed effective date of August 16, 1999;

Sub. First Revised Sheet No. 1
Sub. First Revised Sheet No. 2
Sub. Second Revised Sheet No. 101
Sub. Original Revised Sheet No. 75
Sub. Original Revised Sheet No. 211

These tariff sheets are being filed to eliminate any reference in Petal's tariff to an unbundled sales service provided by Petal. Sub. Original Sheet No. 75 also provides notice of the cancellation of Petal's Rate Schedule SS unbundled sales service constituting Original Sheet No. 75 of Petal's FERC Gas Tariff. In addition, Sub. Original Sheet No. 211 provides notice of cancellation of Petal's Form of Sales Service Agreement constituting Original Sheet Nos. 211–214 of Petal's FERC Gas Tariff. Petal request all waivers necessary to make these tariff sheets effective August 16, 1999.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–22972 Filed 9–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99–19–001]

Pine Needle LNG Company, L.L.C.; Notice of Filing

August 30, 1999.

Take notice that on August 11, 1999, Pine Needle LNG Company, L.L.C. (Pine Needle) filed a standards of conduct report in response to the Commission's July 16, 1999 order.[1]

Any person desiring to be heard or to protest the 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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 358.214). All such motions to intervene or protest should be filed on or before September 14, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–22973 Filed 9–2–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6879–019]

Southeastern Hydro-Power, Inc.; Notice of Availability of Draft Environmental Assessment

August 30, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, the Office of Hydropower Licensing has reviewed the application requesting the Commission's authorization to amend the license for the proposed W. Kerr Scott Hydroelectric Project, to be located on the Yadkin River immediately below the existing W. Kerr Scott Dam, operated by the Wilmington District Corps of Engineers, in Wilkes County, North Carolina, and has prepared a Draft Environmental Assessment (DEA) for the proposed action.

In the DEA, Commission staff concludes that approval of the subject amendment of license with staff's recommended mitigative measures would not produce any significant adverse environmental impacts; consequently, the proposal would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA can be viewed at the Commission's Public Reference Room, Room 2A, 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. The DEA also may be viewed on the Web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance.

Any comments should be filed within 30 days from the date of this notice and should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please affix ''W. Kerr Scott Hydroelectric Project Amendment of License, Project No. 6879–019'' to all comments. For further information, please contact Jim Haimes at (202) 219–2780.

David P. Boergers,

Secretary.

[FR Doc. 99–23007 Filed 9–2–99; 8:45 am]

BILLING CODE 6717–01–M

[1] 88 FERC ¶61,085 (1999).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for New License

August 30, 1999.

a. *Type of filing: Notice of Intent to File Application for New License.*

b. *Project No.:* 2726.

c. *Date file:* July 27, 1999.

d. *Submitted By:* Idaho Power Company, current licensee.

e. *Name of Project:* Upper and Lower Malad.

f. *Location:* On the Malad River in Gooding County, Idaho.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of original license:* May 1, 1965.

i. *Expiration date of original license:* July 31, 2004.

j. The project consists of the Upper Malad and the Lower Malad Developments.

The *Upper Malad Development* consists of: (1) The 25-foot high and 150-foot-long concrete Upper Malad Dam, with Tainter gates; (2) an open concrete conduit about 4,600 feet long and 15 feet wide; (3) a 10-foot-diameter and 230-foot-long welded steel plate penstock; (4) a 7,200-kilowatt vertical outdoor type generator; (5) a 0.6-mile-long transmission line connecting the development to the Hagerman Substation; and (6) other appurtenances.

The *Lower Malad Development* consists of : (1) The 8.5 foot-high and 160-foot-long concrete Lower Malad Dam with Tainter gates; (2) an open concrete conduit about 5,450 feet long and 17 feet wide; (3) a 12-foot-diameter and 287-foot-long welded steel plate penstock; (4) a reinforced concrete powerhouse with an installed capacity of 13,500 kilowatts; and (5) other appurtenances.

Pursuant to 18 CFR 16.7, information on the project is available at: Idaho Power Company, 1221 West Idaho Street, Corporate Library, Second Floor, Boise,ID 83707, or calling (208) 338–2491.

1. *FERC contact:* Hector M. Perez (202) 219–2843, hector.perexferc.fed.us.

m. Pursuant to 18 CFR 16.9(b)(1) applications for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of existing license. All applications for license for this project must be filed by July 31, 2002.

David P. Boergers,

Secretary.

[FR Doc. 99–22970 Filed 9–2–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6433–2]

Request for Nominations to the National Advisory Council for Environmental Policy and Technology, New Standing Committee on Compliance Assistance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations.

SUMMARY: The Environmental Protection Agency (EPA) is inviting nominations for membership on its National Advisory Council for Environmental Policy and Technology (NACEPT), new Standing Committee on Compliance Assistance. The Agency is seeking qualified senior level decision makers from diverse stakeholder groups throughout the U.S. to be considered for appointments. Nominations will be accepted until close of business September 10, 1999, and must include a resume and short biography describing the educational and professional qualifications of the nominee and the nominee's current business address and daytime telephone number.

DATES: Nominations will be accepted until close of business on September 10, 1999.

ADDRESSES: Submit nominations to Ms. Gina Bushong, Office of Enforcement and Compliance Assurance (OECA), U.S. Environmental Protection Agency, MC 2224A, 401 M Street, SW, Washington, D.C. 20460. You may also E-mail nominations to bushong.gina@epa.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Gina Bushong, Office of Enforcement and Compliance Assurance (OECA), U.S. Environmental Protection Agency, MC 2224A, 401 M Street, SW, Washington, D.C. 20460. You may also E-mail nominations to bushong.gina@epa.gov.

SUPPLEMENTARY INFORMATION: NACEPT is a federal advisory committee under the Federal Advisory Committee Act, Public Law 92463. NACEPT provides advice and recommendations to the Administrator and other EPA officials on a broad range of domestic and international environmental policy issues. NACEPT consists of a representative cross-section of EPA's partners and principal constituents who provide advice and recommendations on policy issues and serve as a sounding board for new strategies that the Agency is developing. Maintaining a balance and diversity of experience, knowledge, and judgment is an important consideration in the selection of members.

The Office of Enforcement and Compliance Assurance (OECA) has recently completed work on an action plan, ''Innovative Approaches to Enforcement and Compliance Assurance.'' The OECA action plan draws on the ideas from an Agency-wide Innovations Task Force, public dialogue such as OECA's ''East coast'' and ''West coast'' stakeholder conferences, and stakeholder discussions in regional offices and at Headquarters. The tasks described in the Agency report (available at www.epa.gov/reinvent) and the OECA action plan will change fundamental aspects of our compliance assistance planning and programs.

To ensure that the compliance assistance activities in the action plan are implemented in a way that continues to reflect stakeholder needs, the Administrator has asked NACEPT to create a new Standing Committee on Compliance Assistance. This will provide a continuing Federal Advisory Committee forum from which the Agency can continue to receive valuable multi-stakeholder advice and recommendations on compliance assistance activities.

The Standing Committee on Compliance Assistance will, through NACEPT (the Council): (1) provide guidance on the development of an Agency-wide annual compliance assistance plan which identifies major planned compliance assistance work; (2) provide input to the design and implementation of a clearinghouse of compliance assistance information; and (3) guide the planning of a forum to bring together government and private compliance assistance providers. We are accepting nominations for approximately 15–20 members. Criteria for selection of nominees will include the following:

—Demonstrated experience in compliance assistance activities

—Representation from a broad range of EPA stakeholder groups which have interest and experience in reinvention approaches to environmental problems, including but not limited to business/industry, state/local/tribal governments, national and local environmental, environmental justice, and labor groups.

—Senior level representatives with decision-making authority for their organization.

—Representatives with experience working collaboratively with stakeholder groups in addition to their own.

Nominations for membership must include a resume and short biography describing the educational and professional qualifications of the nominee and the nominee's current business address and daytime telephone number. Nominees invited to participate will receive an invitation from EPA's Deputy Administrator.

Dated: August 30, 1999.

Joe Sierra,

Designated Federal Officer.

[FR Doc. 99–23061 Filed 9–2–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6245–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 23, 1999 through July 30, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 09, 1999 (64 FR 17362).

Draft EISs

ERP No. D–AFS–J65303–MT Rating EC2, Bridger Bowl Ski Area, Permit Renewal and Master Development Plan Update, Implementation, Special Use Permit and COE Section 404 Permit, Gallatin National Forest, in the City of Bozeman, MT.

Summary: EPA expressed concerns regarding lack of information to support expansion of the ski area beyond the existing ski area boundaries; inadequate analysis and disclosure of indirect effects of induced development that may be associated with the ski area expansion and doubling of skier capacity; potential increased wastewater pollutant loadings to area ground water; and erosion from ski area vegetation clearing and ski run development. Additional information is needed to fully assess and mitigate all potential environmental impacts of the management actions.

ERP No. D–COE–K36127–CA Rating EO2, Arroyo Pasajero Watershed Feasibility Investigation, Implementation, Flood Damage Reduction Plan, San Joaquin River Basin, City of Huron, Fresno County, CA.

Summary: EPA expressed objections to the Gap Dam alternative due to significant impacts on biological resources, wetlands and endangered species. EPA expressed concerns regarding the Westside Detention Basin alternative. Additional information on nonstructural methods and mitigation of project impacts is required for EPA to fully assess whether significant environmental impacts have been avoided to fully protect the environment.

ERP No. D–COE–K36128–CA Rating EO2, Tule River Basin Investigation Project, Plan to Increase Flood Protection Downstream of Success Dam and Increase Storage Space in Lake Success for Irrigation Water, Tule River, Tulace and King Counties, CA.

Summary: EPA expressed objections regarding the lack of a full alternative analysis. In addition, habitat protection and mitigation success associated with the project are uncertain, and the project lacks planning for long-term sustainability of the water resource and flood protection goals and could result in cumulative impacts.

ERP No. D–FHW–D40298–MD Rating EC2, MD–32 Planning Study, Transportation Improvement from MD 108 to Interstate 70, Funding, NPDES Permit and COE Section 404 Permit, Howard County, MD.

Summary: EPA is primarily concerned with secondary impacts including land use issues and development pressure from the increased access that this project would induce. An enhancement of the existing highway may meet the purpose and needs while considerably reducing wetland impacts.

ERP No. D–FHW–D40300–MD Rating EC1, Middle River Employment Center Access Study, Transportation Improvements, NPDES and COE Section 404 Permit, Baltimore County, MD.

Summary: EPA expressed environmental concerns about the direct, cumulative and secondary impacts that are associated with the development that will occur as a result of this new highway project. EPA urged Baltimore County to implement aggressive conservation practices when reviewing plans and processing permits that will allow development to occur in Middle River Employment Center.

ERP No. D–FHW–E40088–MS Rating EC2, Airport Parking/Mississippi 25 Connectors, Construction at Intersection of High Street/Interstate 55 (I–55) in the City of Jackson, Hinds and Rankin Counties, MS.

Summary: EPA expressed environmental concerns regarding potential long-term wetland impacts associated with building the proposed highway as described in the preferred alternative. EPA suggested incorporating sub-alternatives that address the various bridging and interchange options using the alignments similar to the preferred alternative.

ERP No. D–FHW–K40148–NV Rating EO2, US–95 Improvements, Along Summerlin Parkway to the Local and Arterial Road Network in the Northwest Region of Las Vegas, Construction and Operation, Clark County, NV.

Summary: EPA expressed objections with respect to the project, given the severe nonattainment for CO and PM10; the lack of significant permanent reduction of traffic congestion, VMT, v/c ratios and CO violations; and significant impacts to noises, in established core neighborhoods, and community and 4(f) facilities. EPA proposed an alternative phased approach with aggressive implementation of TDM and mass transit measures.

ERP No. D–FTA–D40289–VA Rating EC2, Norfolk-Virginia Beach Light Rail Transit System East/West Corridor Project, Transportation Improvements, Tidewater Transportation District Commission, COE Section 404 Permit, City of Norfolk and City of Virginia Beach, VA.

Summary: EPA is concerned about potential noise vibration and displacement impacts to existing neighborhood.

Final EISs

ERP No. F–FHW–L40184–WA, WA–167 Corridor Adoption, WA–167 Freeway Extension from WA–167/ Meridian Street North in the City of Puyallup to the proposed WA–509 Freeway/East-West Alignment in the City of Tacoma, Funding and COE Section 404 Permit, Pierce County, WA.

Summary: EPA expressed objections to the Tier I process that eliminated alternatives that should have been fully analyzed and which may have had potential to avoid social, economic and environmental impacts. EPA requested that the Tier II process provide a detailed analyses of environmental, economic and social impact and avoidance and mitigation for those impacts.

ERP No. F–NCP–D61050–MD, National Harbor Project, Construction and Operation along the Potomac River on a 534 acre site adjacent to the Capital Beltway and Oxon Hill Manor, COE Section 10 and 404 Permits, Prince George's County, MD.

Summary: EPA has concerns regarding impacts to aquatic resources, air pollution and environmental justice issues. EPA is trying to resolve some of the outstanding issues with the applicant.

ERP No. FS–AFS–J65283–CO, Upper Elk River Access Analysis, Implementation, Proposal to Remove and/or Treat Blowdown Trees, Routt Divide Blowdown, Medicine Bow-Routt-National Forests, Hahn Peak/ Bears Ears Ranger District, Routt County, CO.

Summary: EPA expressed its view that the preferred alternative, as disclosed in the Final Supplemental Environmental Impact Statement

(FSEIS) and recorded in the Record of Decision (ROD), can be implemented without significant impact to the environment.

Regulations

ERP No. R–BLM–A02241–00, 43 CFR Part 3100 et al.—Onshore Oil and Gas Leasing and Operations; Proposed Rule.

Summary: EPA expressed concerns that the proposed action could lead to or have significant impacts to air and water quality. EPA suggests that BLM analyze and discuss the cumulative impacts of oil and gas leasing to air and water quality before issuing the final rule and include proposed clarifications to the sections on produced water disposal, underground injection control permits, bonding and plugging abandonment.

Dated: August 31, 1999.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–23054 Filed 9–2–99; 8:45 am]

BILLING CODE 6550–60–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6245–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153. Weekly receipt of Environmental Impact Statements Filed August 23, 1999 Through August 27, 1999 Pursuant to 40 CFR 1506.9.

EIS No. 990302, DRAFT EIS, FHW, WV, MD, VA, US 522 Upgrade and Improvements Project, From the Virginia State Line through Morgan County, to the Maryland State Line, Funding, NPDES and COE Section 404 Permit, Morgan County, WV, Due: November 01, 1999, Contact: Thomas J. Smith (304) 347–5928.

EIS No. 990303, FINAL EIS, FHW, HI, Saddle Road (HI–200) Improvements between Mamalahoa Highway (HI–190) to Milepost 6 near Hilo, Funding, NPDES and COE Section 404 Permit, Hawaii County, HI, Due: October 12, 1999, Contact: Bert McCauley (303) 716–2141.

EIS No. 990304, DRAFT EIS, NPS, WA, Whitman National Historic Site, General Management Plan, Development Concept Plan, Implementation, Walla Walla County, WA, Due: November 12, 1999, Contact: Francis T. Darby (509) 522–6360.

EIS No. 990305, FINAL EIS, AFS, AL, Longleaf Restoration Project, Implement a Systematic Five-Year Program for Restoration of the Native Longleaf Pine, Conecuh National Forest, Conecuh Ranger District, Covington and Escambia Counties, AL, Due: October 12, 1999, Contact: Robert Taylor (334) 222–2555.

EIS No. 990306, FINAL EIS, FHW, IL, IL–315 Federal Aid Primary (FAP) (Illinois-336) Transportation Project, Construction from FAP 315, IL 336 (Southeast of Carthage) to US 136 (Just West of Macomb), Funding, COE 404 Permit and NPDES Permit, Hancock and McDonough Counties, IL, Due: October 12, 1999, Contact: Ronald C. Marshall (217) 492–4640.

EIS No. 990307, DRAFT EIS, BLM, CO, North Fork Coal Program, Approval of Two Lease-By-Applications (LBA) and Exploration License for Iron Point and Elk Creek Coal Leases, Delta and Gunnison County, CO, Due: November 03, 1999, Contact: Jerry Jones (970) 240–5338. The US Department of Interior's Bureau of Land Management and the US Department of Agriculture's Forest Service are Joint Lead for this project.

EIS No. 990308, DRAFT EIS, FTA, CA, Orange County CenterLine Project, Transportation Improvements, Advanced Rail Transit in the Heart of Orange County, Funding and COE Section 404 Permit, Orange County, CA, Due: October 25, 1999, Contact: A. Joseph Ossi (202) 366–1613.

EIS No. 990309, FINAL EIS, FHW, NM, US 84/285 Highway Transportation Improvements from Alamo Drive in Santa Fe to Viarrial Street in Pojoaque, Right-of-Way Acquisition, NPDES Permit and COE Section 404 Permit, Santa Fe County, NM, Due: October 12, 1999, Contact: Gregory D. Rawlings (505) 820–2027.

EIS No. 990310, FINAL SUPPLEMENT, NRC, Generic EIS—License Renewal of Nuclear Plants for the Oconee Nuclear Station, Units 1, 2 and 3, Implementation, Oconee County SC, Due: October 12, 1999, Contact: Donald P. Cleary (301) 415–3903.

EIS No. 990311, DRAFT EIS, AFS, OR, Ashland Creek Watershed Protection Project, Proposal to Manage Vegetation, Rogue River National Forest, Ashland Ranger District, City of Ashland, Jackson County, OR, Due: October 25, 1999, Contact: Kristi Mastrafini (541) 482–3333.

Amended Notices

EIS No. 990227, FINAL EIS, USN, CA, HI, WA, Developing Home Port Facilities For Three NIMITZ-Class Aircraft Carriers in Support of the U.S. Pacific Fleet, Construction and Operation, Coronado, CA; Bremerton and Everett, WA, Pearl Harbor, HI, Due: August 09, 1999, Contact: Bob Hexom (888) 428–6440. Published FR 07–09–99—Review Period extended from 08–03–99 to 09–03–99.

EIS No. 990294, FINAL EIS, FHW, AK, C Street Corridor Project, Improvements from O'Malley Road to International Airport Road, NPDES and COE Section 404 Permits, Municipality of Anchorage, AK, Due: September 27, 1999, Contact: Jim Bryson (907) 586–7428. Published FR–08–27–99—Correction to Document Status from Draft to Final that has a 30 day Comment Period.

Dated: August 31, 1999.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–23055 Filed 9–2–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00620; FRL–6381–5]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: There will be a 4-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (SAP) to review a set of five scientific issues being considered by the Agency:
Session I—An assessment of residential exposure to pesticides.
Session II—A review of an aggregate exposure assessment tool.
Session III—Identification of carbamate pesticides that have a common mechanism of toxicity.
Session IV—Issues pertaining to cumulating hazard for conducting cumulative risk assessments for pesticides that have a common mechanism of toxicity.
Session V—A review of American Cyanamid's April 22, 1999 probabilistic assessment for chlorfenapyr.

DATES: The meeting will be held on Tuesday, September 21; Wednesday, September 22; Thursday, September 23; and Friday, September 24, 1999, beginning at 8:30 a.m. and ending approximately 5:30 p.m.

ADDRESSES: The meeting will be held at the Sheraton Crystal City Hotel, (703) 486–1111, 1800 Jefferson Davis Highway, Arlington, VA, on September 21, 22, and 23 and at the Days Inn

Crystal City (703) 920–8600, 2000 Jefferson Davis Highway, Arlington, VA, on September 24.

Requests to participate at the meeting and/or to provide comments for consideration by the FIFRA Scientific Advisory Panel may be submitted by mail, electronically, or in person. Please follow the detailed instructions as provided in Unit III under **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your request must identify docket control number OPP–00620.

FOR FURTHER INFORMATION CONTACT: Paul Lewis or Laura Morris, Designated Federal Officials, FIFRA Scientific Advisory Panel, (7101C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–5369; e-mail address: Lewis.Paul@epa.gov or Morris.Laura@epa.gov.

Individuals requiring special accommodations at this meeting, including wheelchair access, should contact Laura Morris at the address listed above at least 5 business days prior to the meeting so that appropriate arrangements can be made. Seating will be on a first-come basis.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to manufacturers of pesticides; farmers applying pesticides to crops; persons living in the general areas where pesticides are being used; researchers in industry, government, and academia studying the effectiveness of pesticides; and individuals and organizations studying the effects of pesticides on the environment. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. Applications of the five sessions are further described below. If you have any questions regarding the details of a particular session, consult the persons listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''Federal Register—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A meeting agenda is currently available, and copies of EPA background documents for the meeting will be available no later than September 7, 1999. Copies of the Panel's report of their recommendations will be available approximately 30 working days after the meeting. The meeting agenda and EPA primary background documents will be available at http://www.epa.gov/pesticides/SAP/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–00620. 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 information claimed as confidential business information (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 Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. Sessions Overview

Session I will be the review of issues pertaining to the assessment of residential exposure to pesticides. When estimating aggregate exposure to a pesticide substance, the Agency includes exposures that may occur following use of the pesticide in residential or other non-occupational settings. This session will focus on several key issues that pertain to improving procedures for estimating exposure to pesticides from use in residential or other non-occupational settings and in revising its standard operating procedures for residential exposure assessments. The issues include: (1) Calculating percent dislodgeability of available pesticide residues from lawns, indoor surfaces, and pets; (2) use of choreographed activities as surrogates for estimating a child's dermal exposure; (3) characterizing hand (or object)-to-mouth activities; (4) calculating exposure to pesticides that may result from track-in, drift, bathing or showering; and (5) calculating exposure from use of pesticides in schools, day-care centers, and other public places.

Session II provides a review of an aggregate exposure assessment tool being developed through a cooperative agreement with Hampshire Research Institute (HRI). The Agency is working collaboratively under this cooperative agreement with HRI to create a tool that is publicly available, open software with no hidden logic; uses HRI's micro-exposure event analysis method; incorporates an object-oriented design that allows for continuing refinement and improvement; and includes a design that addresses known future requirements for pesticide analysis, such as cumulative risk assessment. The purpose of this session is for Agency scientists to consult with the SAP regarding the current status and future development options of this tool.

Session III emphasizes the identification of carbamate pesticides that have a common mechanism of toxicity. The identification of pesticides and other substances that cause a common toxic effect by a common mechanism is the first step of the cumulative risk assessment process (as required by the FQPA). The Agency has developed a framework for identifying chemicals that have a common mechanism of toxicity (February 5, 1999, 64 FR 5796) (FRL–6060–7). This session will describe the results of the Agency's effort to determine whether (1) carbamate pesticides cause a common toxic effect by a common mechanism and (2) if any carbamate pesticides share a common mechanism of toxicity with organophosphorus pesticides.

Session IV addresses issues pertaining to cumulating hazard for conducting cumulative risk assessments for pesticides that have a common mechanism of toxicity. The Agency is preparing guidance for assessing cumulative risk in support of the Food Quality Protection Act 1996. This session will focus on key hazard and dose response issues involved with cumulating risk from exposure to two or more chemicals that are toxic by a common mechanism. These issues deal with, for example: (1) End point selection; (2) application of adjustment and group uncertainty factors; (3) interspecies dose adjustments; (4) utilization of dose-response data and selection of a point of departure; and (5) methods for combining toxicity data. In addition, science policy issues such as assumptions concerning dose addition and dose response relationships will be presented. The Agency needs input from the SAP and the public on the hazard and toxicological issues that concern cumulative risk assessment.

Session V concerns the review of the American Cyanamid Company's April 22, 1999 probabilistic assessment (MRID No. 448098–01) for chlorfenapyr. In December 1994, the Agency received a

request for registration for the use of the pyrrole insecticide, chlorfenapyr on cotton. As a part of the registration package, American Cyanamid Company submitted a probabilistic assessment. The Agency is seeking SAP input regarding: (1) American Cyanamid's probabilistic assessment and how it may be improved; (2) the Agency's review of the assessment; and (3) the utility of using this assessment to characterize the risk of chlorfenapyr use on cotton to birds in cotton agroenvironments.

IV. How Can I Request To Participate in this Meeting?

Members of the public wishing to submit comments should contact either Paul Lewis or Laura Morris at the address or the telephone number given under **FOR FURTHER INFORMATION CONTACT** to confirm that the meeting date and the agenda have not been modified or changed. Interested persons are permitted to file written statements before the meeting. To the extent that time permits, and upon advanced written request to either Paul Lewis or Laura Morris, interested persons may be permitted by the Chair of the SAP to present oral statements at the meeting. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, and chalkboard). There is no limit on the length of written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. The Agency also urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written statements should notify either Paul Lewis or Laura Morris and submit 40 copies of the summary information. The Agency encourages that written statements be submitted before the meeting to provide Panel Members the time necessary to consider and review the comments.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data also will be accepted on disks in WordPerfect in 5.1/6/7/8.0 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPP–00620.'' Electronic comments may be filed online at many Federal Depository Libraries.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as CBI. Information marked CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. An edited copy of the comment that does not contain the CBI material must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket. All comments and materials received will be made part of the public record and will be considered by the Panel.

List of Subjects

Environmental protection.

Dated: August 31, 1999.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 99–23053 Filed 8–31–99; 2:58 pm]

BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:32 a.m. on Tuesday, August 31, 1999, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, insurance, and resolution activities.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Ms. Julie Williams, acting in the place and stead of Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice of the meeting earlier than August 26, 1999, was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: August 31, 1999.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 99–23143 Filed 9–1–99; 10:55 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 99–22469) published on page 47190 of the issue for Monday, August 30, 1999.

The Federal Reserve Bank of Boston heading in paragraph A. and the entry for Julie Freeman, Bartlesville, Oklahoma, is corrected to read as follows:

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480–0291:

1. Julie Freeman, Bartlesville, Oklahoma; to retain voting shares of Peoples Bankshares, Inc., Mora, Minnesota, and thereby indirectly retain voting shares of Peoples National Bank of Mora, Mora, Minnesota.

Comments on this application must be received by September 24, 1999.

Board of Governors of the Federal Reserve System, August 30, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–22960 Filed 9–2–99; 8:45 am]

BILLING CODE 6210–01–F

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 27, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. First Bancshares, Inc., Kansas City, Kansas; to acquire 100 percent of the voting shares of The Lawrence Bank, Lawrence, Kansas, a de novo bank.

Board of Governors of the Federal Reserve System, August 30, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–22959 Filed 9–2–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 99–22471) published on pages 47191–47192 of the issue for Monday, August 30, 1999.

Under the Federal Reserve Bank of Boston heading, the entry for The Royal bank of Scotland Group plc, The Royal Bank of Scotland plc, and RBSG International Holdings Limited, all of Edinburgh, Scotland, is revised to read as follows:

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106–2204:

1. RBSG International Holdings Limited, Edinburgh, Scotland; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Financial Group, Providence, Rhode Island, and thereby indirectly acquire Citizens Bank Rhode Island, Providence, Rhode Island, Citizens Bank of Massachusetts, Boston, Massachusetts, Citizens Bank New Hampshire, Manchester, New Hampshire, and Citizens Bank of Connecticut, New London, Connecticut.

In connection with this application, RBSG International Holdings Limited, Edinburgh, Scotland, also has applied to acquire Citizens Capital, Inc., Boston, Massachusetts, and thereby engage in mezzanine financing, pursuant to § 225.28(b)(1) of Regulation Y, and NYCE Corporation, Woodcliff Lake, New Jersey, and thereby engage in data processing and check verification services, pursuant to §§ 225.28(b)(14) and (b)(2) of Regulation Y, respectively. RDSG International Holdings Limited, will be a subssidiary of The Royal Bank of Scotland Group plc, and The Royal Bank of Scotland plc, both of Edinburgh, Scotland.

Comments on this application must be received by September 24, 1999.

Board of Governors of the Federal Reserve System, August 30, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–22961 Filed 9–2–99; 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 17, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. UBS AG, Zurich, Switzerland; to retain 21.56 percent of the voting shares of TP Group Limited, Grand Cayman, Cayman Islands, British West Indies, and Tradepoint Financial Networks plc, London, England, and thereby engage in securities brokerage services and other agency transactional services for customer investments, pursuant to § 225.28(b)(7) of Regulation Y.

Board of Governors of the Federal Reserve System, August 30, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–22962 Filed 9–2–99; 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; Correction

This notice corrects a notice (FR Doc. 99–19948) published on pages 42379–42380 of the issue for Wednesday, August 4, 1999.

Under the Federal Reserve Bank of San Francisco heading, the entry for Umpqua Holdings Corporation, Roseburg, Oregon, is revised to read as follows:

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Umpqua Holdings Corporation, Roseburg, Oregon; to acquire all the voting shares of Strand, Atkinson, Williams and York, Inc., Portland, Oregon, and thereby engage, to a limited extent, in underwriting and dealing in commercial paper, municipal revenue bonds, mortgage-related securities, and consumer-receivable related securities, *see Citicorp, et al.*, 73 Fed. Res. Bull. 473 (1987); managing, servicing, and collecting assets, pursuant to § 225.28(b)(2)(vi) of Regulation Y; performing functions or activities that may be performed by a trust company, pursuant to § 225.28(b)(5) of Regulation Y; acting as investment or financial advisor, pursuant to § 225.28(b)(6) of Regulation Y; providing securities brokerage, ''riskless principal,'' and private placement services, pursuant to § 225.28(b)(7)(i)–(iii); underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may underwrite and deal in under 12 U.S.C. 24 and 335, pursuant to § 225.28(b)(8)(i) of Regulation Y; and providing employee benefits consulting services,

pursuant to § 225.28(b)(9)(ii) of Regulation Y.

Comments on this application must be received by September 17, 1999.

Board of Governors of the Federal Reserve System, August 30, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–22963 Filed 9–2–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Planning and Evaluation

Technical Review Panel on the Medicare Trustees Reports; Notice of Establishment

Pursuant to Public Law 92–463, the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) announces the establishment by the Secretary of the Technical Review Panel on the Medicare Trustees Reports.

The Panel shall review the assumptions and methods underlying the Hospital Insurance and Supplementary Medical Insurance Trust Fund annual reports. The panel's review shall include the following four topics:

1. Medicare assumptions (e.g., utilization rates, medical price increases).
2. Projection methodology (how assumptions are used to make cost projections).
3. Long-range growth assumptions for HI and SMI.
4. Use of stochastic forecasting techniques.

The Panel shall terminate on August 12, 2001, unless the Secretary, DHHS, formally determines that continuance is in the public interest.

Dated: August 30, 1999.

Margaret A. Hamburg,

Assistant Secretary for Planning and Evaluation.

[FR Doc 99–23006 Filed 9–2–99; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science; Announcement of Availability of Grant for Family Planning General Training

AGENCY: Office of Family Planning, OPA, OPHS, HHS.

ACTION: Notice.

SUMMARY: The Office of Family Planning (OFP) of the Office of Population Affairs (OPA) requests applications for a grant under the Family Planning Service Training Program authorized under section 1003 of the Public Health Service (PHS) Act. Funds are available to provide training, with a specific focus on male reproductive health, for personnel in OFP-funded family planning services projects. it is anticipated that one grantee will be funded to serve as the training site.

DATES: To receive consideration, applications must be received by the Office of Grants Management, Office of Population Affairs no later than October 4, 1999.

ADDRESSES: Aplication kits may be obtained from and applications must be submitted to the Grants Management Office, Office of Population Affairs, 4350 East-West Highway, Suite 200, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT:

Program Requirements: George Jones, Office of Family Planning, OPA, (301) 594–4014.

Administrative and Budgetary Requirements: Andrea Brandon, Office of Grants Management, OPA, (301) 594–6554.

SUPPLEMENTARY INFORMATION: Title X of the PHS Act, 42 U.S.C. 300, *et seq.*, authorizes the Secretary of Health and Human Services to award grants for projects to provide training for family planning service personnel. (Catalog of Federal Domestic Assistance number 93.260). This notice announces the availability of approximately $450,000–$475,000 in funding and solicits applications for one training project which will provide training for personnel providing family planning/reproductive health-related information and services specifically targeted to males served by family planning agencies throughout the United States.

Statutory and Regulatory Background:

Title X of the PHS Act, enacted by Pub. L. 91–572, authorizes programs related to family planning. The family planning services program authorized by section 1001 of Title X is required by law to provide family planning services, including education and counseling, to all persons desiring such services. Section 1003 of the Act, as amended, authorizes the Secretary to make grants to entities to provide training for personnel to carry out the family planning service programs authorized by section 1001. Implementing regulations for family planning services training appear at 42 CFR part 59, subpart C. Prospective applicants should refer to the regulations in their entirety.

Purpose of the Grant

Within the last several years, Federal and provide sector programs have begun to focus more attention on male involvement in family planning and reproductive health-related issues, as evidenced by the President's Fatherhood Initiative, the Department of Health and Human Services' National Strategy to Reduce Teen Pregnancy, the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996,'' and the National Campaign to Prevent Teen Pregnancy. Research has shown that males are both interested in and want to play an active role in reproductive health decision-making, and that males will participate in reproductive health programs if they are offered in an appropriate manner. Recognizing the need for increased emphasis on male family planning/reproductive health services, in 1997 the Office of Family Planning began funding a number of community-based-organizations to encourage the investigation and development of approaches that facilitate the provision of family planning/reproductive health-related information and services to males, and approaches that involve males in building community support for the prevention of unintended pregnancy and sexually transmitted diseases (STD). Currently, many of these projects are funded under section 1001 of the Act, as part of existing services projects funded under section 1001.

While it is now recognized that addressing male reproductive health needs is important, there is currently little in the published literature about the standard for providing reproductive health services for males. Most of what is currently known about male reproductive health and reproductive behavior has come from either small studies or from a few national surveys that were conducted on a one-time basis. Our current understanding about what types of communication are most effective in providing training to males and male-oriented organizations around issues of family planning/reproductive health is also severely limited.

There are a number of research efforts that are recent or are currently under way that will help us gain a clearer understanding of male sexual and reproductive behaviors and attitudes. this will aid us in identifying reproductive health care service standards and strategies for effectively providing services to males. An ongoing national survey, the Youth Risk Behavior Surveillance System (YRBSS) collects some data on sexual behavior—among other health risk behaviors—for

youth, both male and female. Other national surveys that have collected information about male reproductive behavior include: The National Health and Social Life Survey (1994); the National Survey of Men (1993); the Survey of Adolescent Males (1988, 1995); and the National Longitudinal Study of Adolescent Health (AddHEALTH). Examples of research efforts currently under way include: (1) A male sample in the upcoming (2001) cycle of the National Survey of Family Growth, and (2) a study by the Urban Institute addressing reproductive health needs for young men.

It is clear that training personnel of agencies that provide family planning/reproductive health services to males will require a unique type of organization that will be able to continuously incorporate science-based information as it becomes available in all phases of training design, delivery and evaluation.

This announcement seeks to fund a training program that will use science-based information and approaches in all aspects of training Title X service grantee employees, to facilitate the effective delivery of family planning/reproductive health related information and services to males. In addition, the funded training program will provide training consultation to a variety of Title X providers, including other Title X training grantees, regarding family planning/reproductive health for males. The purpose of this training program is to ensure that programs serving males have the skills, knowledge and abilities necessary for effectively planning, implementing and evaluating their programs.

Role and Operation of the Training Program

Under the regulations set out at 42 CFR part 59, subpart C, ''training'' is defined as ''job-specific skill development, the purpose of which is to promote and improve the delivery of family planning services.'' The program funded under this announcement will be responsible for providing training to personnel working in family planning service agencies that provide family planning/reproductive health information and services specifically targeted to males.

The successful applicant must have extensive experience working with males and male-oriented organizations, and with delivering training and other services to males. Evidence that substantiates a history of the applicant's provision of services that are both relevant and sensitive to ethnic and cultural diversity must be provided. The ability to incorporate research findings throughout the design, delivery and evaluation of all training efforts must be evident. The successful applicant must have experience in evaluation, with emphasis on areas such as organization, program planning, curriculum development and utilization, and the effectiveness of various types of electronic technology for training.

The training grantee will be required to design, deliver and evaluate training for personnel in OFP-funded family planning services projects that focuses on the reproductive health needs of males. The training grantee will also provide a venue for exchanging information with other Title X General Training grantees on male reproductive health needs and services.

Evidence must be provided to support the applicant's capability for providing training on core organizational infrastructure components that are needed to operate a health-related or public health program within a larger service organization. For the purpose of this announcement, example of core organizational infrastructure components may include program planning, administration, implementation and evaluation. The diversity of training needs will necessitate the use of electronic technologies as an integral part of training and evaluation design.

The training plan should reflect the applicant's ability to incorporate public health initiatives in training plan design, such as Healthy People 2000 health promotion and disease prevention objectives for family planning, and the U.S. Department of Health and Human Services (DHHS) priorities of assuring a healthy start for every child by increasing the proportion of pregnancies that are intended, promoting personal responsibility for healthy lifestyles, and addressing the elimination of racial and ethnic disparities in health as identified by the President's Initiative on Race.

The Title X family planning program priorities complement the DHHS priorities and focus on the fundamental purpose of Title X. The Title X program priorities and other key issues that are impacting family planning should be integrated into the training plan.

The Title X program priorities are listed below:

- Expansion and enhancement of the quality of clinical reproductive health services through partnerships with entities that have related interest and that work with similar priority populations;
- Increased emphasis on services to adolescents, including emphasis on postponement of sexual activity and more accessible provision of contraceptive counseling and services;
- Increased services to hard-to-reach populations by partnering with community-based organizations and others that have a stake in the prevention of unintended pregnancy;
- Expansion of comprehensiveness of reproductive health services, including STD and cancer screening and prevention, HIV prevention, education and counseling, and substance abuse screening and referral;
- Increased services to males, emphasizing shared responsibility for preventing unintended pregnancy and STD/HIV infection.

Other key issues that are impacting the current and future delivery of family planning/reproductive health services include: (1) Medicaid waivers and managed care; (2) implications of welfare reform and other issues that are affecting family planning services, such as Temporary Assistance to Needy Families (TANF) and the Children's Health Insurance Program (CHIP) as well as other Federal and State initiatives; (3) electronic technology; (4) research findings; and (5) legislative mandates, such as counseling teens on involving families and avoiding coercive sexual relationships.

Project Requirements and Management:

The successful applicant will be required to work closely with the OFP Project Officer, the ten PHS regional offices, and with a network of other public and private institutions and entities in its training program. All training must meet the applicable requirements of the Title X statute and training regulations and be consistent with the Title X program priorities listed above. The training plans and all training events must be approved by the OFP Project Officer or designee prior to implementation.

The successful applicant will be responsible for the overall management of training activities for which the grant is made. This responsibility includes:

(1) In collaboration with the OFP Project Officer, designing, implementing, and evaluating a training program which incorporates the use of science-based research and evaluation, client input, and various training methodologies, such as the use of electronic technologies. The training program must be implemented within 120 days after the initial notice of grant award and should budget for the following:

(a) Two one-week on-site training sessions for up to 40 participants each; the training grantee will assume all

costs associated with training, including room and board (but not including travel to and from training site or personal expenses);

(b) A minimum of thirty one-day training sessions on various topics. Sessions may be on-site or off-site, and electronic technology may be used. The training grantee is not responsible for trainee expenses for these one-day sessions;

(2) Maintaining a system for ongoing retrieval and dissemination of public health information and research findings related to male-productive health from a variety of public and private institutions and entities;

(3) Maintaining a system for providing ongoing science-based information to family planning service projects, and other providers serving the target population;

(4) Maintaining formal working relationships with multiple disciplines within public and private institutions for carrying out the objectives of the training program;

(5) Developing a working relationship with current Title X service and training grantees that promotes the inclusion of male reproductive health needs and services;

(6) Developing admissions policies and procedures, and criteria for selection of candidates for training. Criteria should reflect a sensitivity to the unique needs or grantees or trainees for certain types of training. These policies and procedures must be submitted to the OFP Project Officer for review and approval within 120 days after the initial notice of grant award;

(7) Developing and implementing an ongoing evaluation plan for the total training program that allows for evaluation of each training program component;

(8) Providing semi-annual progress reports of OFP covering all aspects of the training program;

(9) Making available at cost all materials developed with Title X funds to other Title X projects upon request; and

(10) Participating in at least two meetings with the Office of Family Planing annually.

Application Requirements: Any public or private nonprofit organization is eligible to apply for a grant. An award will be made only to an organization or agency which has demonstrated the capability of providing the proposed services, and which has met all applicable requirements.

Applications must be submitted on the form PHS–5161–1, Revised 6/99 (http://forms.psc.gov/phsforms.htm) and in the manner prescribed in the application kit in order to be considered complete. Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. Applicants are required to submit an original application and two copies.

A copy of the Title X legislation and regulations that govern this program will be sent to applicants as part of the application kit package. Copies of the Healthy People 2000 Objectives for Family Planning and the DHHS documents on Racial and Ethnic Disparities in Health will also be sent as part of the application kit package. Applicants should use the legislation, regulations and other information included in the application kit for this announcement to guide them in developing their applications.

Applications should be limited to 50 double-spaced pages, not including appendices providing curriculum vitae, training designs, or statements of organizational capabilities. An award will be made only to an applicant who has met all applicable requirements.

Applications must be received on or before the deadline date to be accepted for review. An application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and the proof-of-mailing date is not later than one week prior to the deadline date. Private metered postmarks will not be accepted as proof of timely mailing. Applications which are received by the Office of Grants Management after the deadline will not be accepted for review. Applications which do not conform to the requirements of this program announcement or meet the applicable parts of 42 CFR part 59, subpart C, will not be accepted for review. Applicants will be so notified and applications will be returned.

Accepted applications will be subjected to a competitive review process. The results of this review will assist the Deputy Assistant Secretary for Population Affairs in considering competing applications and in making the final funding decision.

Application Consideration and Assessment: Eligible competing grant applications will be reviewed by a multidisciplinary panel of independent reviewers and will be assessed against the following criteria:

(1) The extent to which the proposed training program will increase the ability of family planning services projects to deliver services primarily to males with a high percentage of unmet need for family planning services. (5 points);

(2) The extent of which the proposed training program promises to fulfill the family planning services delivery needs of the area to be served, as evidenced by the applicant's ability to address: (a) requirements set our under ''Role and Operation of the Training Program;'' (b) development of a capability within family planning services projects with a male-services component to provide pre- and in-service training to their own staffs; and (c) improvement of the family planning/reproductive health skills of personnel in family planning services project that have a make-services component. (25 points);

(3) The capacity of the applicant to make rapid and effective use of the training grant, as evidence by the applicant's ability to implement the training program within 120 days of receiving the grant. (5 points);

(4) The administrative and management capability and competence of the applicant. (10 points);

(5) The competence of the project staff in relation to the services to be provided, including the applicant's history of male-focused research, training and services to males, and the ability to document relevant previous experience and formal linkages with public and private entities that have a specific focus on males (e.g., universities with an array of relevant disciplines, research institutions, federal and/or state program). (30 points); and

(6) The degree to which the project plan adequately provides for the requirements set forth in 42 CFR 59.205, including the applicant's presentation of the project's objective, the methods for achieving project objectives, the ability to involve providers and the results or benefits expected. (25 points).

In making grant award decisions, the Deputy Assistant Secretary for Population Affairs (DASPA) will fund one project which will, in her judgment, best promote the purposes of section 1003 of the Act, within the limits of funds available for such project.

The grant will be available for a project period of up to three years and will be funded in annual increments (budget periods). Funding for all approved budget periods beyond the first year of the grant is contingent upon satisfactory progress of the project, efficient and effective use of grant funds provided, and the availability of funds.

Review Under Executive Order 12372: Applicants under this announcement are subject to the requirements of Executive Order 12372, ''Intergovernmental Review of Federal

Programs,'' as implemented by 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for the state in which the applicant is located. The application kit contains the currently available listing of the SPOCs which have elected to be informed of the submission of applications. For those states not represented on the listing, further inquiries should be made by the applicant regarding the submission to the relevant SPOC. The SPOC's comment(s) should be forwarded to the Office of Grants Management, Office of Population Affairs, 4350 East-West Highway, Suite 200, Bethesda, Maryland 20814. Such comments must be received by the Office of Population Affairs within 60 days of the closing date of this announcement, listed under **DATES** above.

When final funding decisions have been made, each applicant will be notified by letter of the outcome. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purposes of the grant, and terms and conditions of the grant award.

Dated: August 30, 1999.

Denese O. Shervington,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 99–22945 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–99–33]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

1. Interstate shipment of etiologic agents are regulated by 42 CFR part 7. This rule establishes minimal packaging requirements for all viable microorganisms, illustrates the appropriate shipping label, and provides reporting instructions regarding damaged packages and failure to receive a shipment. In recent years the threat of illegitimate use of infectious agents has attracted increasing interest from the perspective of public health. CDC is concerned about the possibility that the interstate transportation of certain infectious agents could have adverse consequences for human health and safety. CDC has already requested that all those entities that ship dangerous human infectious agents exercise increased vigilance prior to shipment to minimize the risk of illicit access to infectious agents. Of special concern are pathogens and toxins causing anthrax, botulism brucellosis, plague, Q fever, tularemia, and all agents classified for work at Biosafety Level 4. This information collection ensures that selected infectious agents are not shipped to parties ill-equipped to handle them appropriately, or who do not have legitimate reasons to use them and to implement a system whereby scientists and researchers involved in legitimate research may continue transferring and receiving these agents without undue burdens. Respondents include laboratory facilities such as those operated by government agencies, universities, research institutions, and commercial entities. This request is for the information collection requirements contained in 42 CFR 71.54, 72.3(e) and 72.4 relating to the importation and shipment of etiologic agents. The complete request for clearance is currently under development at CDC and this request for a 6-month extension will ensure that data collection activities remain in effect through the clearance process. The total maximum cost to respondents is $1,000,000.

CFR section	Number of respondents	Number of responses/respondents	Average burden/responses (in hrs.)	Total burden (in hrs.)
Application for Permit	1,000	1	20/60	333
72.3(3)	50	1	3/60	3
72.4	2	1	3/60	1
72.6 (a)	1,000	1	15/60	250
72.6 (d)	1,000	3	30/60	1,500
72.6 (e)	120	21	10/60	420
72.6 (f)	1,000	3	8/60	400
Total				2,907

Dated: August 30, 1999.

Nancy Cheal,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 99–22986 Filed 9–2–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Draft: Reporting of Pregnancy Success Rates From Assisted Reproductive Technology Programs

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Request for comments.

SUMMARY: This notice is a request for comment and review of the draft document for the Reporting of Pregnancy Success Rates from Assisted Reproductive Technology Programs as required by the Fertility Clinic Success Rate and Certification Act of 1992 (FCSRCA). This Announcement supersedes, Announcement 97–226611 which was published in the **Federal Register**, August 26, 1997 (vol 62, no. 165).

DATES: To ensure consideration, written comments on this document must be received on or before October 4, 1999. Please do not FAX comments.

ADDRESSES: Comments shall be submitted to: Assisted Reproduction Technology Epidemiology Unit, Women's Health and Fertility Branch, Division of Reproductive Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), Mailstop K–34, 4770 Buford Hwy, N.E., Atlanta, Georgia 30341–3724.

FOR FURTHER INFORMATION CONTACT: Assisted Reproductive Technology Epidemiology Unit at (770) 488–5250.

SUPPLEMENTARY INFORMATION: Section 2(a) of Pub. L. 102–493 (42 U.S.C. 263a–1(a)) requires that each assisted reproductive technology (ART) program shall annually report to the Secretary through the Centers for Disease Control and Prevention—(1) pregnancy success rates achieved by such ART program, and (2) the identity of each embryo laboratory used by such ART program and whether the laboratory is certified or has applied for such certification under this act.

Pub. L. 102–493, Sec. 8 (42 U.S.C. 263a–7) defines ''Assisted reproductive technology'' (ART) as ''all treatments or procedures which include the handling of human oocytes or embryos, including in vitro fertilization, gamete intrafallopian transfer, zygote intrafallopian transfer, and such other specific technologies as the Secretary may include in this definition, after making public any proposed definition in such manner as to facilitate comment from any person (including any Federal or other public agency).

The Secretary is directed in Section 2b (42 U.S.C. 263a–1(b)) to define pregnancy success rates and ''make public any proposed definition in such a manner as to facilitate comment from any person during its development.''

Section 2c (42 U.S.C. 263a–1(c)) states, ''the Secretary shall consult with appropriate consumer and professional organizations with expertise in using, providing, and evaluating professional services and embryo laboratories associated with assisted reproductive technologies.''

Section 6 (42 U.S.C. 263a–5) states that the Secretary, through the CDC, shall annually ''publish and distribute to the States and the public—pregnancy success rates reported to the Secretary under section 2(a)(1) and, in the case of an assisted reproductive technology program which failed to report one or more success rates as required under each section, the name of each such program and each pregnancy success rate which the program failed to report.''

In developing the definition of pregnancy success rates, CDC has consulted with representatives of the Society for Assisted Reproductive Technology (a national professional association of ART clinical programs), the American Society for Reproductive Medicine (a national society of professional individuals who work with infertility issues), and RESOLVE, the National Infertility Association (a national, nonprofit consumer organization), as well as a variety of individuals with expertise and interest in this field.

This notice provides opportunity for public review and comment (see appendix).

Dated: August 27, 1999.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

Appendix—Notice for the Reporting of Pregnancy Success Rates From Assisted Reproductive Technology Programs

Introduction

This notice includes four sections:

I. Who Reports . . . describes who shall report to CDC.

II. Description of Reporting Process . . . describes the reporting system and process for reporting by each ART clinic.

III. Data to be Reported . . . describes the data items and definitions to be included in the reporting database.

IV. Content of the Published Report . . . describes terms, and how pregnancy success rates will be defined and reported, and outlines the topics that will be included in the annual published reports, using the data collected in the reporting database.

I. Who Reports

The Fertility Clinic Success Rate and Certification Act of 1992 (FCSRCA) requires that each assisted reproductive technology program shall annually report to the Secretary of the Department of Health and Human Services through the CDC.

The Society for Assisted Reproductive Technology (SART), an affiliate of the American Society for Reproductive Medicine (ASRM), maintains a national database of cycle specific data reported by each of its members. CDC has reviewed the SART reporting database and system and finds that it provides the necessary information to publish an annual report as required by the FCSRCA. Rather than duplicate SART's reporting system, and thereby burden ART clinics and patients, CDC has contracted with SART to annually obtain a copy of their clinic specific database.

An ART program or clinic is defined as a legal entity practicing under State law, recognizable to the consumer, that provides assisted reproductive technology to couples who have experienced infertility or are undergoing ART for other reasons. This can be an individual physician or a group of physicians who practice together and share resources and liability. This definition precludes individual physicians who practice independently from pooling their results for purposes of data reporting.

ART clinics that are participating in the ASRM/SART reporting system as described in this notice, will be considered to be in compliance with federal reporting requirements of FCSRCA. Both SART and non-SART clinics shall contact SART for reporting information, instructions, and fees charged (fees are for the purposes of covering all cost associated with this activity, including data collection, processing, analysis, publication, and administration; additional fees may be charged if SART needs to provide technical assistance to clinics submitting a dataset with errors.) It is the responsibility of the practice director of each clinic performing ART

to provide notification to SART of the clinic's existence and any changes in address, location, or change in key staff including the practice, medical and lab director. Contact SART, telephone: (205) 978–5000, ext. 109

The anticipated deadline for reporting is January 15 of the year 2 years subsequent to the reporting year in question. (For example, the anticipated deadline to report data on cycles initiated in 1998 is January 15, 2000.) The deadline will be published in Fertility and Sterility at least 90 days prior to the deadline. SART in conjunction with CDC may change the deadline if needed.

An ART clinic will be considered to *not* be in compliance with the federal reporting requirements of FCSRCA if the clinic was in operation in the full year reported on, i.e. the clinic was in operation after January 1, and failed to (a) submit a dataset to SART in the required software by the reporting deadline or (b) verify by signature of the medical director of the clinic, the clinic table by the same deadline.

The onus is on the clinic to confirm that SART has received the dataset. It is recommended that the clinic submit their data to SART as early as it is available so that any errors or reporting difficulties can be reconciled and verified before the reporting deadline which will be inflexible. In this respect, it would be prudent to submit data to SART at least 30 days in advance of the reporting deadline because errors or other problems in reporting may take up to 30 days to resolve. If problems cannot be resolved by the inflexible deadline of January 15, the clinic will be considered a non-reporter.

SART in conjunction with CDC will determine error rates for data submitted by clinics and if data quality are deemed unsatisfactory, this finding may be published. Additionally, the program may be required to submit data 30 days prior to the deadline for the next reporting year. This requirement will allow for sufficient time to correct errors prior to the deadline for publication of the annual report. As noted earlier, additional fees may be charged if SART needs to provide technical assistance to clinics submitting a dataset with errors.

II. Description of Reporting Process

A. Reporting activities

SART in conjunction with CDC will determine the required software for data submission. As noted above to be in compliance with the law, a clinic must submit a dataset to SART in the required software by the reporting deadline and verify by signature of the medical director of the clinic, the clinic table by the same deadline.

Each year, SART will issue a unique clinic code, required computer software for their database reporting system, and all necessary reporting instructions at least 90 days in advance of the reporting deadline.

Currently, each patient receiving ART in a clinic is registered in the system with a unique, clinic-assigned code and should be entered into the reporting database when her cycle is initiated. Each cycle of each patient also receives a unique cycle code for that patient. In the reporting system, the patient is identified by the clinic code, the patient code, and the cycle code assigned by the clinic. The patient's name or other specific personal identifiers are not included in the reporting database. However, each clinic must maintain personal identifiers in the clinic database on site in order to be able to link every cycle reported to CDC to a specific patient (see below).

The following patients must be included in the reporting database: (1) All women undergoing ART, (2) all women undergoing ovarian stimulation or monitoring with the intention of undergoing ART; this includes women whose cycles are canceled for any reason (3) all women providing donor oocytes, (4) all women undergoing monitoring and/or an embryo thawing with the intention of transferring cryopreserved embryos.

It is anticipated that the reporting system may evolve such that data may be collected prospectively, i.e. data submission will be required as cycles are initiated. (Currently data submission for all cycles is required at one time only.) Clinics will be provided at least 90 days advance notice of this or other changes in reporting requirements.

The CDC retains a copy of each of SART's annual data files. These will be maintained by CDC to be used for epidemiologic analysis and for the purpose of publishing an annual report as required by the law that includes national summary and clinic specific information.

B. External Validation of Clinic Data

Every clinic will maintain a copy of all information included in the reporting database and must be able to link each patient, cycle and oocyte retrieved from the reporting database to the appropriate medical and laboratory records for external validation activities.

On a periodic basis, all ART clinical programs reporting their data (both SART and non-SART clinics) will be subject to external validation of their reporting activities which will include review by appropriate professionals from outside the clinic staff. This review may include but not be limited to examination of medical and laboratory records and comparison of data in the reporting database with data in the medical record. CDC has contracted with SART to perform the validation site visits.

C. Updating of Reporting Requirements

The field of ART is a rapidly developing medical science. These reporting requirements will be periodically reviewed and updated as new knowledge concerning ART methods and techniques becomes available. Such review will include consultation with professional and consumer groups and individuals. Clinics will be notified in writing at least 90 days in advance of the reporting deadline of all changes to the reporting requirements.

III. Data to be Reported

The 1999 reporting system will include the following:

A. Clinic Information

Clinic name & address
Unique clinic ID number
Name(s) of embryo laboratory(s) used by clinic
Whether the laboratory is certified by a SART and CDC accepted certification entity
Whether the clinic is a member of SART
Whether ART services are available for single women
Whether ART services include gestational carriers
Whether the clinic has a donor egg program and if yes, if eggs from a single donor are shared by multiple recipients
Total number of ART cycles performed during the reporting year

B. Patient Information

1. Patient Demographic Information

Ethnicity
Date of Birth
U.S. Resident
Zip Code
City of Residence
State of Residence
Country of Residence (if not U.S.)

2. Patient History

Gravidity
Prior Full Term Births
Prior Preterm Births
Prior Spontaneous Abortions
Surgical Sterilization—Patient or Partner
Months of Infertility Since Last Live birth (if couple is not surgically sterile)

Prior non-ART Gonadotropin Cycles
Prior Thawed ART Cycles
Prior Fresh ART Cycles
Patient Maximum Follicle Stimulating Hormone (FSH) Level and Lab Upper Normal Limit for that FSH level
Patient Maximum Estradiol Level and Lab Upper Normal Limit for that Estradiol Level

3. ART Cycle Information

Reason(s) for ART
(Male Infertility, Endometriosis, Tubal Factor, Ovulatory Disorder/ Polycystic Ovaries, Diminished Ovarian Reserve, Uterine Factor, Other, Unexplained Infertility)
Cycle Start Date
Suppression with Gonadotropin Releasing Hormone Analog (GnRHa)
Ovarian Stimulation Medications Given to Patient (Clomiphene, FSH, Flare GnRHa) and Dosages
Medications Given to Oocyte Donor and Dosages
Intended ART Cycle Treatment Specifics:
Oocyte Source
(patient [autologous], donor oocyte, donor embryo)
Oocyte/Embryo State
(fresh, thawed)
Intended Transfer Method(s)
(In Vitro Fertilization (transcervical transfer); Gamete Intrafallopian Transfer; Zygote Intrafallopian Transfer/Tubal Embryo Transfer)
Use of Gestational Carrier
Cycle Initiated for Embryo Banking Only
Cycle Meeting SART Criteria for Approved Research
Did the Cycle Occur as Intended?
Was the Cycle Canceled?
Date of Cancellation
Reason for Cancellation
(Low Ovarian Response, High Ovarian Response, Failure to Survive Thaw, Inadequate Endometrial Response, Concurrent Illness, Patient Withdrawal from Treatment)
Complications Related to ART Treatment
(Infection, Hemorrhage, Moderate Ovarian Hyperstimulation Syndrome, Severe Ovarian Hyperstimulation Syndrome, Medication Side Effect, Anaesthetic Complication, Psychological Stress, Death, Other Complication)
Hospitalization for ART Complication
Date of Oocyte Retrieval (from patient and/or from donor)
Number of Oocytes Retrieved (both from patient and/or from donor)
Were Oocytes Derived from the Donor Used by More Than One Recipient?
Number of Embryos Thawed for Transfer in a Frozen Cycle
Semen Source
(Partner, Donor, Mixed)
Semen Collection Method
(Ejaculation, Epididymal Aspiration, Testicular Biopsy, Electroejaculation, Retrograde Ejaculation)
Use of Intracytoplasmic Sperm Injection
Use of Assisted Hatching
Was Oocyte or Embryo Transfer Attempted?
Transfer Date
Number of Fresh Embryos Transferred to Uterus
Number of Fresh Embryos Transferred to Fallopian Tubes
Number of Oocytes Transferred to Fallopian Tubes
Number of Fresh Embryos Cryopreserved
Number of Thawed Embryos Transferred to Uterus
Number of Thawed Embryos Transferred to Fallopian Tubes
Number of Thawed Embryos Re-Frozen

4. Outcome Information

Outcome of Treatment
(Not Pregnant, Biochemical Pregnancy, Ectopic Pregnancy, Clinical Intrauterine Gestation, Heterotopic Pregnancy, Unknown)
Was an Ultrasound Performed?
Ultrasound Date
Maximum Number of Fetal Hearts Observed on Ultrasound
Was a Therapeutic Fetal Reduction Performed?
Therapeutic Reduction Date
Outcome of Pregnancy
(Live birth, Stillbirth, Spontaneous Abortion, Therapeutic Abortion, Maternal Death Prior to Birth, Unknown)
Date of Pregnancy Outcome
Source of Information for Outcome of Pregnancy
(Verbal Confirmation Patient, Written Confirmation Patient, Verbal Confirmation Physician or Hospital, Written Confirmation Physician or Hospital)
Number of Infants Born
Birth weight for Each Live-born and Stillborn Infant
Birth Defects Diagnosed for Each Live-born and Stillborn Infant
(Genetic Defect/Chromosomal Abnormality, Cleft Lip or Palate, Neural Tube Defect, Cardiac Defect, Limb Defect, Other Defect)
Neonatal Death of Live-born Infants

C. Definitions

The following definitions provide clarification for data included in the 1999 (and later) reporting system:

ART—Assisted reproductive technology, defined as all treatments or procedures which include the handling of human oocytes and sperm or embryos for the purpose of establishing a pregnancy. This includes, but is not limited to in vitro fertilization and transcervical embryo transfer, gamete intrafallopian transfer, zygote intrafallopian transfer, tubal embryo transfer, embryo cryopreservation, oocyte or embryo donation, and gestational surrogacy. ART does not include assisted insemination using sperm from either a woman's partner or sperm donor.

ART cycle—ART Cycles can be stimulated (use of ovulation induction) or unstimulated (natural cycle). An ART cycle is considered any cycle in which (1) ART has been used; (2) the woman has undergone ovarian stimulation or monitoring (i.e. performance of sonogram, serum estradiol or LH measurements) with the intent of undergoing ART; (3) in the case of donor oocytes, a woman began medication for endometrial preparation with the intent of undergoing ART; or (4) in the case of cryopreserved embryos, a woman began medication for endometrial preparation with the intent of undergoing ART and/or embryos were thawed with the intent of transfer.

ART program or clinic—A legal entity practicing under state law, recognizable to the consumer, that provides assisted reproductive technology to couples who have experienced infertility or are undergoing ART for other reasons. This can be an individual physician or a group of physicians who practice together, and share resources and liability. This definition precludes individual physicians who practice independently from pooling their results for purposes of data reporting.

ASRM—American Society for Reproductive Medicine.

Autologous cycle—Intent to transfer embryos derived from patient oocytes fertilized with either partner or donor sperm OR in cases of GIFT, patient oocytes transferred with either partner or donor sperm.

Birth defect—Anomalies diagnosed within the first two weeks of life that result in death or cause a serious disability requiring surgical and/or medical therapy. Specific anomalies to be identified include genetic defect/ chromosomal abnormality, cleft lip or palate, neural tube defect, cardiac defect, limb defect, or other defect.

Biochemical pregnancy—A positive pregnancy test (Beta-hCG) without ultrasound confirmation of a gestational sac within the uterus.

Canceled cycle—An ART cycle in which ovarian stimulation or monitoring has been carried out with

the intent of undergoing ART but which did not proceed to oocyte retrieval, or in the case of thawed embryo cycles, to the transfer of embryos. Reasons for cancellation include low ovarian response; high ovarian response; failure of embryo to survive thaw; inadequate endometrial response; concurrent illness; patient withdrawal from treatment.

Clinic ID number—An identification number assigned to each ART clinical program by the reporting database operator.

Clinical pregnancy/Clinical intrauterine gestation—An ultrasound-confirmed gestational sac within the uterus or the documented occurrence of a birth, spontaneous abortion, or therapeutic abortion in cases of missing ultrasound data. Clinical pregnancies include all gestational sacs regardless of whether or not a heartbeat is observed or a fetal pole is established. This definition excludes ectopic pregnancy but includes pregnancies which end in live birth, stillbirth, spontaneous abortions, and therapeutic abortions.

Clomiphene citrate—An ovulation induction medication with the trade name of Clomid® or SeroPhene.®

Complication—A medical complication for the woman related to ART procedures. Specific complications to be identified include infection, hemorrhage, moderate ovarian hyperstimulation syndrome, severe ovarian hyperstimulation syndrome, medication side effect, anaesthetic complication, psychological stress requiring intervention, and death.

Cryopreservation—A technique used in ART to preserve sperm and embryos through freezing.

Cycle start date (cycle initiation date)—The cycle start date is (1) the first day that medication to stimulate follicular development is given to a patient in a stimulated fresh, non-donor cycle; or (2) the first day of natural menses or withdrawal bleeding in an unstimulated cycle; or (3) the first day the recipient (patient or gestational carrier) receives exogenous sex steroids to prepare the endometrium in a fresh donor cycle; or (4) the first day the recipient (patient or gestational carrier) receives exogenous sex steroids to prepare the endometrium in a thawed embryo cycle.

Diminished ovarian reserve— A condition of reduced fecundity related to diminished ovarian function; includes high FSH or high estradiol measured in the early follicular phase or during a clomiphene challenge test, reduced ovarian volume related to congenital, medical, surgical or other causes, or advanced maternal age (>40 years).

Donor embryo cycle—Intent to transfer donated embryos, that is embryos derived from oocytes previously fertilized for *another couple's ART therapy* which were subsequently donated.

Donor oocyte cycle—Intent to transfer oocytes, or embryos derived from oocytes, that were retrieved from a woman serving as an oocyte donor (sperm source may be either the patient's partner or a sperm donor selected by the patient).

Ectopic pregnancy—A pregnancy in which the fertilized egg implants outside the uterine cavity.

Embryo—The normally (2 pronuclei) fertilized egg that has undergone one or more divisions.

Embryo banking cycle—A cycle initiated with the intent of cryopreserving *all* fertilized embryos for later use. (This does not apply to cycles initiated with the intent to transfer embryos but for which all embryos were subsequently cryopreserved regardless of the reason.)

Embryo transfer—Attempt to introduce embryos into a woman's uterus after in vitro fertilization or attempt to introduce embryos or gametes (oocytes and sperm) into a woman's fallopian tubes; a transfer procedure is considered to have been carried out, even if no embryos or gametes were successfully transferred.

Endometriosis —The presence of tissue resembling endometrium in locations outside the uterus such as the ovaries, fallopian tubes, and abdominal cavity; a history of all stages of endometriosis (minimal to severe) whether treated or not may be a reason for ART.

Endometrium—the lining of the uterus that is shed each month as the menstrual period. As the monthly cycle progresses, the endometrium thickens and thus provides a nourishing site for the implantation of a fertilized egg.

Estradiol (E2)—the predominant estrogen hormone produced by the ovary that has several activities important for reproduction. An elevated serum Estradiol level in the early follicular phase of a woman's menstrual cycle (day 2, 3, or 4) may indicate diminished ovarian reserve.

Fecundity—the ability to conceive.

Fertilization—The penetration of the egg by the sperm and fusion of genetic materials to result in the development of a fertilized egg (or zygote).

Fetus—the developmental stage during pregnancy from the completion of embryonic development at eight weeks of gestation until delivery.

Flare protocol—Use of a GnRH analog to directly stimulate follicle development.

Follicle—A fluid-filled sac located just beneath the surface of the ovary that contains an oocyte and cells that produce hormones.

Fresh oocyte or embryo cycle—Intent to transfer oocytes, or embryos derived from oocytes, retrieved during the current cycle [either from the patient or donor], i.e. not thawed embryos retrieved during a previous cycle.

FSH—Follicle stimulating hormone. A gonadotropin hormone produced and released from the pituitary that stimulates the ovary to ripen a follicle for ovulation. An elevated serum FSH level in the early follicular phase of a woman's menstrual cycle (day 2, 3, or 4) or during a clomiphene challenge test (day 10 of the cycle) may indicate diminished ovarian reserve. FSH, either alone or with luteinizing hormone (LH), is also included in gonadotropin drug preparations used to stimulate follicular development during an ART cycle.

Full term birth—A birth which reached 37 completed weeks gestation. This includes both live births and stillbirths. For the purpose of reporting prior full term births, births are counted as birth events (e.g., a triplet birth is counted as one).

Gamete intrafallopian transfer (GIFT)—An ART procedure that involves removing oocytes from a woman's ovary, combining them with sperm, and immediately transferring (via a catheter) the eggs and sperm into the fallopian tube. Fertilization takes place inside the fallopian tube.

GnRHa—Gonadotropin-releasing hormone analog (agonist or antagonist); medications used to suppress natural FSH production to allow greater control when using follicle stimulation medications.

Gestational carrier (sometimes referred to as a gestational surrogate)—A woman who gestates an embryo which did not develop from her egg with the expectation of returning the infant to its intended parents.

Gestational sac—A fluid-filled structure surrounding an embryo that develops within the uterus early in pregnancy.

Gonadotropin—hormones having a stimulating effect on the gonads (ovaries and testes). Two such hormones are secreted by the anterior pituitary: follicle stimulating hormone (FSH) and luteinizing hormone (LH). Gonadotropins (FSH, either alone or with LH), are also included in drug preparations used to stimulate follicular development during an ART cycle.

Gravidity—Total number of prior pregnancies a woman has had. This includes ectopic pregnancies, and pregnancies that ended in therapeutic abortion, spontaneous abortion, stillbirth, or live birth.

Hatching (Assisted)—A micromanipulation technique which involves making a small opening in the zona wall of the embryo in an effort to enhance implantation; various methods of assisted hatching have been utilized including chemical, laser, and mechanical methods.

Heterotopic pregnancy—A clinical intrauterine gestation in combination with an ectopic pregnancy.

Hydrosalpinx—Accumulation of watery fluid in a fallopian tube which usually represents damage to the tube.

Hypothalamus—A gland at the base of the brain that controls many functions of the body, regulates the pituitary gland, and releases gonadotropin releasing hormone (GnRH).

Insemination—Injection of sperm into the uterus or cervix for the purpose of producing a pregnancy. Insemination cycles are not considered ART for the purposes of this notice.

Intracytoplasmic sperm injection (ICSI)—The placement of a single sperm into the ooplasm of an oocyte by micro-operative techniques.

In vitro fertilization (IVF)—A method of assisted reproduction that involves removing oocytes from a woman's ovaries, combining them with sperm in the laboratory and, after fertilization is confirmed, replacing the resulting embryo into the woman's uterus.

Live birth—A birth (delivery) in which at least one fetus was live born, i.e. showed signs of life after the complete expulsion or extraction from its mother. Signs of life include breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of the voluntary muscles. Any birth event in which an infant shows signs of life should be counted as a live birth, regardless of gestational age at birth. Live births are counted as birth events (e.g. a triplet live birth is counted as one).

Male infertility—Infertility due to abnormal semen parameters or abnormal sperm function.

Neonatal death—Death of a live-born infant before completion of the 28th day of life.

Oocyte—The female reproductive cell, also called an egg.

Oocyte donor—A woman who undergoes an oocyte retrieval procedure with the intent of donating the oocytes retrieved to a couple(s) undergoing an ART donor oocyte cycle (see donor oocyte cycle). The donor relinquishes all parental rights to any resulting offspring, while the recipient woman retains all parental rights of any resulting offspring.

Oocyte retrieval—A procedure to collect the eggs contained within the ovarian follicles. This definition includes procedures in which oocyte recovery was attempted but not successful.

Oocyte transfer—In GIFT (see definition), transfer of retrieved eggs into a woman's fallopian tubes. Includes attempted transfers, whether or not the transfer was successful.

Ovarian monitoring—Monitoring the development of ovarian follicles by ultrasound and/or blood or urine tests.

Ovarian stimulation—Use of one or more follicle stimulation medications to stimulate the ovary to develop follicles and oocytes.

Ovarian hyperstimulation syndrome—A possible complication related to medically induced ovulation. Moderate ovarian hyperstimulation syndrome is characterized by abdominal distension and discomfort as well as nausea, vomiting and/or diarrhea; ovaries enlarged 5–12 cm; and ultrasound evidence of ascites. Severe ovarian hyperstimulation syndrome is characterized by features of moderate ovarian hyperstimulation PLUS: clinical evidence of ascites (fluid in the abdominal cavity) and/or hydrothorax (fluid in the chest) or breathing difficulties; change in blood volume, increased blood viscosity due to hemoconcentration, coagulation abnormalities, and diminished kidney perfusion and function.

Ovulatory disorder/polycystic ovaries (PCO)—One or more disorders causing reduced fecundity that is associated with structural, anatomic, or functional impairment of one or both ovaries; includes multiple ovarian cysts affecting fertility; oligo-ovulation (<6 cycles per year); anovulation (of hypothalamic or non-hypothalamic causes).

Ovulation induction—See stimulated cycle.

Pituitary—A small gland just beneath the hypothalamus in the brain which controls other hormone producing glands such as the ovaries, thyroid and adrenal glands. Ovarian function is controlled through the secretion of follicle stimulating hormone (FSH) and luteinizing hormone (LH) from the pituitary.

Pregnancy test—A blood test which determines the level of human chorionic gonadotropin (hCG), a hormone produced by the placenta; if it is elevated this confirms a pregnancy which may be biochemical only, ectopic, or clinical intrauterine gestation (normally developing pregnancy).

Preterm birth—Birth at least 20 but less than 37 completed weeks gestation. This includes both live births and stillbirths. For the purposes of reporting prior preterm births, births are counted as birth events (e.g. a triplet birth is counted as one).

Recipient—In an ART cycle, the woman in whom embryos or oocytes are transferred; includes the female patient or a gestational carrier (host uterus) for the patient.

SART—Society for Assisted Reproductive Technology.

Semen—Fluid discharged at ejaculation in the male, consisting of spermatozoa in their nutrient plasma which includes secretions from the prostate, seminal vesicles, and various other glands.

Sperm—The male reproductive cell that has completed the process of meiosis and morphological differentiation.

Sperm donor—A man providing sperm for the fertilization of oocytes of a woman other than his sexual partner.

Spontaneous abortion (miscarriage)—A clinical pregnancy ending in spontaneous loss of the entire pregnancy prior to completion of 20 weeks of gestation (or 18 weeks from the date of transfer if the pregnancy was achieved using ART).

Stillbirth—Birth (delivery) at 20 weeks of gestation or later (or 18 weeks or later from the date of transfer if the pregnancy was achieved using ART) in which no fetus showed signs of life after the complete expulsion or extraction from the mother. Stillbirths are counted as birth events (e.g. a triplet stillbirth is counted as one).

Stimulated cycle—An ART cycle in which a woman receives medication to stimulate follicular development including the use of clomiphene citrate, follicle stimulating hormone (FSH), or follicle stimulating hormone and luteinizing hormone (FSH and LH).

Surgical sterilization—An operative procedure for the purpose of termination of fertility without reversal. Surgical sterilization includes tubal ligation, vasectomy and hysterectomy.

Thawed cycle—Intent to transfer embryos that were cryopreserved during a previous cycle and will be thawed for transfer during the current cycle (pertains to both donor and non-donor embryos).

Therapeutic or induced abortion—Operative procedure to electively terminate the entire pregnancy (no gestational age limit).

Therapeutic reduction—A procedure in which the number of fetal sacs is

reduced by direct medical intervention. Termination of an ectopic gestation or a heterotopic pregnancy is not considered a therapeutic reduction. Therapeutic reduction is used in women with multiple gestations, usually three or more, to decrease the number of fetuses a woman carries usually to two.

Tubal embryo transfer (TET)—Transfer of an early stage embryo to the fallopian tube.

Tubal factor—A factor causing reduced fecundity that is associated with structural, anatomic, or functional injury of one or both fallopian tubes; the following are included: (1) tubal ligation, not reversed; (2) hydrosalpinx (in place); (3) any other tubal disease including but not limited to pelvic or peritubal adhesive disease, prior tubal surgery, prior ectopic pregnancy, or tubal occlusion (partial or complete without hydrosalpinx).

Ultrasound—A technique for visualizing the follicles in the ovaries and the gestational sac or fetus in the uterus, allowing the estimation of size.

Unexplained infertility—Infertility in which no etiology (male infertility, endometriosis, tubal factor, ovulatory disorders/PCO, diminished ovarian reserve, uterine factor or other factors such as immunologic, chromosomal, cancer chemotherapy or other systemic disease) has been identified.

Unstimulated cycle—An ART cycle in which the woman does not receive medication to stimulate follicular development such as clomiphene citrate or follicle stimulating hormone. Instead, natural follicular development occurs.

Uterine factor—A factor causing reduced fecundity that is associated with structural, anatomic, or functional injury to the uterus whether repaired or not; includes septum, myoma, Diethylstilbestrol (DES) exposure, intrauterine adhesions, congenital anomalies.

Zygote—A normal (2 pronuclei) fertilized egg before cell division begins.

Zygote intra fallopian transfer (ZIFT)—Eggs are collected and fertilized, and the resulting zygote is then transferred to the fallopian tube.

D. Updating Data To Be Reported

Specific data items and definitions will be provided to clinics each year along with all other reporting requirements at least 90 days in advance of the reporting deadline. Data items and definitions will be periodically reviewed and updated. Such review will include consultation with professional and consumer groups and individuals.

IV. Content of Published Reports

The data reported will be used to provide a picture of the national rates of pregnancy and live birth achieved using ART as well as clinic-specific live birth rates. The annual report will have four components:

(A) A national component which will provide a comprehensive picture of success rates given a variety of factors including age, reason for ART, type of ART procedure, number of embryos transferred etc. This is possible because the large number of cycles at the national level allow accurate statistical reporting of success rates which is not possible with the smaller number of cycles carried out in individual clinics.

(B) A clinic-specific component which will provide success rates for all ART cycles using fresh, non-donor embryos, success rates for ART cycles using thawed embryos, and success rates for ART cycles using donor oocytes or embryos. Success rates will be reported by specific age groups. In addition, the clinic-specific component will provide other information which may be useful to the consumer such as types of services the clinic offers (e.g. gestational surrogacy, single women), the number of cycles carried out, the percent distribution of types of ART, the types of infertility problems the clinic sees, the frequency of cancellations, the average number of embryos transferred per cycle and the percentage of multiple pregnancies and births (twins and triplets or greater).

Pregnancy and live birth success rates will be defined and characterized as described below.

For fresh, non-donor cycles success rates will be defined as—

1. The rate of *pregnancy* after completion of ART according to the number of:

a. All ovarian stimulation or monitoring procedures.

2. The rate of *live birth* after completion of ART according to the number of:

a. All ovarian stimulation or monitoring procedures.

b. Oocyte retrieval procedures.

c. Embryo (or zygote, or oocyte) transfer procedures.

For cycles using thawed embryos and cycles using donor oocytes or embryos success rates will be defined as—

1. The rate of *live birth* after completion of ART according to the number of:

a. Embryo (or zygote, or oocyte) transfer procedures.

(C) An appendix containing a consumer-oriented explanation of all medical and statistical terms used in the report.

(D) An appendix containing a list of all reporting clinics and a list of all clinics that did not report data (See above, WHO REPORTS section, for a full description of clinics that will be considered to not be in compliance with the federal reporting requirements of FCSRCA; such clinics will be listed as non-reporters in the published report.) This appendix will contain the names, addresses and telephone numbers for all reporting and non-reporting clinics.

The entire annual report will be available to the general public. As resources allow, additional information may also be published.

[FR Doc. 99–22868 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Energy-Related Epidemiologic Research, Subcommittee for Management Review of the Chernobyl Studies: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Energy-Related Epidemiologic Research (ACERER), Subcommittee for Management Review of the Chernobyl Studies.

Times and Dates: 9 a.m.–5 p.m., September 20, 1999; 9 a.m.–12 Noon, September 21, 1999.

Place: Washington Court Hotel, 525 New Jersey Avenue, NW, Washington, DC 20001, telephone 202/628–2100, fax 202/879–7918.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 30 people.

Purpose: This subcommittee is charged with providing guidance to the scientific reviewers and staff, and reporting back to the full ACERER on the charge from the Department and Congress to assess the management, goals, and objectives of the National Cancer Institute (NCI) Chernobyl studies.

Matters To Be Discussed: Agenda items will include: a briefing from the National Cancer Institute's Management Staff on the approach to the site visit; a review of the NCI documentation; a discussion on public input; and a decision on the task list.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Michael J. Sage, Deputy Director, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, CDC, 4770 Buford Highway, NE, (F–28), Atlanta, Georgia 30341–3724, telephone 770/488–7300, fax 770/488–7310.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: August 24, 1999.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 99–22988 Filed 9–2–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2875]

Agency Information Collection Activities; Proposed Collection; Comment Request; Blood Establishment Registration and Product Listing, Form FDA 2830

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions relating to the blood establishment registration and product listing requirements in 21 CFR part 607 and relating to Form FDA 2830.

DATES: Submit written comments on the collection of information by November 2, 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 request 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 listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Blood Establishment Registration and Product Listing, Form FDA 2830—21 CFR Part 607 (OMB Control Number 0910–0052)—Extension

Under section 510 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360), any person owning or operating an establishment that manufactures, prepares, propagates, compounds, or processes a drug or device must register with the Secretary of Health and Human Services, on or before December 31 of each year, his or her name, place of business and all such establishments, and submit, among other information, a listing of all drug or device products manufactured, prepared, propagated, compounded, or processed by him or her for commercial distribution. In part 607 (21 CFR part 607), FDA has issued regulations implementing these requirements for manufacturers of human blood and blood products.

Section 607.20(a) requires certain establishments that engage in the manufacture of blood products to register and to submit a list of blood product in commercial distribution. Section 607.21 requires the establishments entering into the manufacturing of blood products to register within 5 days after beginning such operation and to submit a blood product listing at that time. In addition, establishments are required to register annually between November 15 and December 31 and update their blood product listing every June and December. Section 607.22 requires the use of Form FDA 2830 for registration and blood product listing. Section 607.25 indicates the information required for establishment registration and blood product listing. Section 607.26 requires for certain changes an amendment to the establishment registration to be made within 5 days of such changes. Section 607.30 requires establishments to update, as needed, their blood product listing information every June and at the annual registration. Section 607.31 requires that additional blood product listing information be provided upon FDA request.

Among other uses, this information assists FDA in its inspections of facilities, and its collection is essential to the overall regulatory scheme designed to ensure the safety of the nation's blood supply. Form FDA 2830, Blood Establishment Registration and Product Listing, is used to collect this information. The likely respondents are blood banks, blood collection facilities, and blood component manufacturing facilities.

FDA estimates the burden of this collection of information based upon the past experience of the Center for Biologics Evaluation and Research, Division of Blood Applications, in regulatory blood establishment registration and product listing. Most blood banks are familiar with the regulations and registration requirements to fill out this form.

TABLE 1. — ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Part	Form FDA 2830	No. Of Respondents	Annual Frequency per Response	Total Annual Response	Hours per Response	Total Hours
607.20(a), 607.21, 607.22, 607.25	Initial Registration	300	1	300	1	300
607.21,607.22, 607.25, 607.26, 607.31	Re-registration	3,300	1	3,300	0.5	1,650
607.21, 607.25, 607.30, 607.31	Product Listing Update	75	1	75	0.25	19
Total						1,969

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: August 27, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–23002 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–2799]

SteriGenics International, Inc.; Filing of Food Additive Petition (Animal Use); Irradiation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that SteriGenics International, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the approval to irradiate various animal feeds and feed ingredients for microbial control.

DATES: Written comments on the petitioner's environmental assessment by November 2, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: John D. McCurdy, Center for Veterinary Medicine (HFV–222), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0171.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2243) has been filed by SteriGenics International, Inc., 4020 Clipper Ct., Fremont, CA 94538–6540. The petition proposes to amend the food additive regulations on irradiation in the production, processing, and handling of animal feed and pet food in 21 CFR part 579 to approve irradiation in various animal feeds and feed ingredients for microbial control.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment.

Interested persons may, on or before November 2, 1999, submit to the Dockets Management Branch written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, FDA finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 25, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–22999 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2729]

Draft Guidance for Industry on BA and BE Studies for Orally Administered Drug Products—General Considerations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''BA and BE Studies for Orally Administered Drug Products—General Considerations.'' This draft guidance provides recommendations to sponsors and applicants intending to submit bioavailability (BA) and/or bioequivalence (BE) information in investigational new drug applications (IND's), new drug applications (NDA's), abbreviated new drug applications (ANDA's), and their amendments and supplements, to the Center for Drug Evaluation and Research (CDER). This draft guidance provides general information on how to comply with the BA and BE requirements for orally administered dosage forms in 21 CFR part 320. It is one of a set of planned core guidances designed to reduce and/or eliminate the need for FDA drug-specific BA/BE guidances.

DATES: Written comments on the draft guidance document may be submitted by November 2, 1999. Interested parties are invited to submit information specifically to support or refute some of the approaches in the draft guidance that are intended to reduce regulatory burden. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance are available on the Internet at ''http://www.fda.gov/cder/guidance/index.htm''. Submit written requests for

single copies of the draft guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vinod P. Shah, Center for Drug Evaluation and Research (HFD–350), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5635.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled ''BA and BE Studies for Orally Administered Drug Products—General Considerations.'' This draft guidance provides recommendations to sponsors and applicants intending to provide BA and BE information in IND's, NDA's, ANDA's, and their amendments and supplements that complies with the BA and BE requirements in 21 CFR part 320 as they apply to dosage forms intended for oral administration.

This draft guidance focuses primarily on product quality BA and BE. Product quality BA encompasses information related to release of the drug substance from the drug product into systemic circulation. BE is a formal comparative test that uses: (1) Specified criteria for comparisons, (2) BE limits (goal posts), and (3) confidence intervals to determine if the observed interval falls within the specified limit.

Many aspects of this draft guidance represent departures from past practices used to document BE. Although some aspects of this draft guidance may result in small increases of regulatory burden, the main intent of many of these changes is to reduce the regulatory burden while maintaining sound scientific principles consistent with public health objectives. Specific examples of reduction of the regulatory burden include: (1) Enable biowaivers for lower strengths of modified release dosage forms, (2) eliminate multiple dose BE studies for modified release dosage forms, (3) enable biowaivers for higher strength of immediate release dosage forms, and (4) reduce emphasis on measuring metabolites in BE studies. Respondents to the **Federal Register** notice are encouraged to provide data that can be used to support or refute proposals in the draft guidance.

In the past, BE studies have been performed as single-dose, crossover studies in healthy volunteers. To compare measures in these studies, data have been analyzed using an average BE criterion. In this draft guidance, FDA recommends the use of new criteria to allow comparison of BE. One, termed an individual BE criterion, means having study designs in which both the test and reference drug products are administered to the same individuals on two separate occasions (replicate study designs). Another, termed a population BE criterion, does not involve replicate study designs. The individual BE is recommended for use in in vivo BE studies submitted in: (1) ANDA's, and (2) NDA's and ANDA's when the need to redocument BE arises after approval. The population BE criterion is recommended for use by sponsors who conduct certain important in vivo BE studies (e.g., studies that compare clinical trial material with the to-be-marketed dose form). The use of the proposed individual BE criterion is based on the assessment of both means and variances of BA measures, to include a subject-by-formulation (S*F) interaction variance and within-subject variance for both test and reference products. Both population and individual criteria allow scaling of the BE limit according to variability of the reference product.

FDA has expended substantial effort in determining whether S*F interaction and increased within-subject variability occur with sufficient frequency to affect a conclusion of switchability between test and reference products. FDA believes that additional information on the frequency and the magnitude of the different variance terms, as well as other information, is needed. For this reason, this draft guidance is recommending that sponsors conduct all in vivo BE studies for: (1) IND's, (2) NDA's, (3) ANDA's, and (4) amendments and supplements to NDA's and ANDA's using replicate designs for a 2-year period following the publication of the final version of this guidance. For example, the current average BE criteria generally require 24 subjects in a two-period study design (total of 24 x 2 = 48 dosage administrations). The proposed replicate study design would require 12 subjects in a four-period study (total of 12 x 2 x 2 dosage administrations). However, there is no increase in total number of dosage administrations to be analyzed. Sponsors can analyze their data using either average or population criteria (IND's and NDA's) or average or individual criteria (ANDA's and supplements to NDA's and ANDA's). Sponsors should specify their choice in the study protocol submitted to the appropriate institutional review board prior to study initiation. At the sponsor's discretion, scaling may be used, under certain circumstances, to judge BE when either an individual or population criterion is specified. Because data from the recommended replicate studies may be powered for an average BE criterion, the burden of performing replicate BE studies is minimized. The agency in turn will perform individual BE analyses on all submitted data to determine subject x formulation interactions. Information from these studies will enable FDA to assess further the usefulness of the proposed individual and population BE criteria.

This draft guidance document is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on bioavailability and bioequivalence studies for orally administered drug products. 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 an approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may submit written comments on the draft guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The 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: August 25, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–23009 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

AIDS Education and Training Centers Evaluation Center Grant

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Availability of Funds.

SUMMARY: The Health Resources and Services Administration's (HRSA) HIV/

AIDS Bureau (HAB) announces that applications will be accepted for fiscal year (FY) 2000 grants for a discretionary grant to support a National AIDS Education and Training Centers Evaluation Center. The Center will be responsible for assisting HRSA in its capacity to document, evaluate and communicate the outcomes of education, training, and consultation activities provided by the regional AIDS Education and Training Centers (AETC) and by the National Minority AIDS Education and Training Center under section 2692 (a) of the Public Health Service Act as amended by Public Law 104–146, the Ryan White Comprehensive AIDS Resources Emergency Act Amendments of 1996.

AVAILABILITY OF FUNDS: It is anticipated that a single award will be made for the National AIDS Education and Training Centers Evaluation Center and is expected to range from $400,000 to $500,000 for the initial budget period. Funding will be made available for 12 months, with a project period of up to three years. Continuation awards within the approved project period will be made on the basis of satisfactory progress and the availability of funds.

ELIGIBLE APPLICANTS: Eligible applicants are public and nonprofit entities and schools and academic health science centers.

DATES: Applications for this grant must be received in the HRSA Grants Application Center by the close of business October 12, 1999 to be considered for competition. Applications will meet the deadline if they are either (1) received on or before the deadline date or (2) postmarked on or before the deadline date, and received in time for submission to the objective review panel. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted as proof if timely mailing. Applications received after the deadline will be returned to the applicant.

ADDRESSES: All applications should be mailed or delivered to: Grants Management Officer, HRSA Grants Application Center, Parklawn Building, 5600 Fishers Lane, Room 4–91, Rockville, Maryland 20857. Grant applications sent to any address other than that above are subject to being returned. **Federal Register** notices and application guidance for the HIV/AIDS Bureau program are available on the World Wide Web via the Internet. The web site for the HIV/AIDS Bureau is: http://www.hrsa.gov/hab/. Federal grant application forms are available at the following Internet address: http://forms.psc.gov/phsforms.htm. For those applicants who are unable to access application materials electronically, a hard copy of the official grant application kit (PHS Form 6025–1) must be obtained from the HRSA Grants Application Center (GAC). The Center may be contacted by telephone at 1–888–333–4772 until September 12, 1999, or 1–877–HRSA(4772)–123 after September 12, 1999. The e-mail address for the HRSA GAC after September 12, 1999, is hrsagac@hrsa.gov.

FOR FURTHER INFORMATION CONTACT: Additional information may be obtained from Mrs. Juanita Koziol, Deputy Chief, HIV Education Branch, Division of Training and Technical Assistance, HIV/AIDS Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 9A–39, Rockville, Maryland 20857; telephone number (301) 443–6364; FAX number (301) 443–9887.

Dated: August 30, 1999.

Claude Earl Fox,

Administrator.

[FR Doc. 99–23003 Filed 9–2–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4398–N–04]

1998 HUD Disaster Recovery Initiative Amendment

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice amends a notice published October 22, 1998, governing the allocation and use of Community Development Block Grant (CDBG) funds appropriated in the 1998 Supplemental Appropriations and Rescissions Act (Pub. L. 105–174) and made available through the HUD Disaster Recovery Initiative. It modifies the Department's policy position on the use of annual CDBG appropriations to meet non-Federal public matching funds requirements of that 1998 supplemental appropriations statute.

FOR FURTHER INFORMATION CONTACT: Jan C. Opper, Senior Program Officer, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7286, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. FAX inquiries may be sent to Mr. Opper at (202) 401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The 1998 Supplemental Appropriations and Rescissions Act (Pub. L. 105–174, 112 Stat. 58, approved May 1, 1998), required the publication of a notice governing the allocation and use of 1998 HUD Disaster Recovery Initiative grant funds. On October 22, 1998, at 63 FR 56764, HUD published a notice to address this requirement. The match requirement in the notice of October 22, 1998 is amended by this notice. Further legal review has clarified that annual appropriations of CDBG funds may be used to meet the ''25 percent in non-Federal public matching funds'' requirement in the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174) (at 112 Stat. 76). Though the Department has the authority to specify alternative requirements, it has decided to adopt this legal position.

Accordingly, FR Doc. 98–28436, the 1998 HUD Disaster Recovery Initiative Notice, published in the **Federal Register** October 22, 1998, 63 FR 56764, is amended by revising paragraph I.F.9.a., on page 56766, in column 2, to read as follows:

a. Contributions made with or derived from Federal resources or funds, regardless of when the Federal resources or funds were received or expended. Use of CDBG funds (defined at § 570.3) under section 105(a)(9) of the Act for payment of the non-Federal share required in connection with a Federal grant-in-aid program is permissible;

Authority

1998 Supplemental Appropriations and Rescissions Act (Pub. L. 105–174, 112 Stat. 58, approved May 1, 1998).

Dated: August 27, 1999.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 99–22989 Filed 9–2–99; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–35]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and

surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: September 3, 1999.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1998, court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes as Notice, on a weekly basis, identifying unutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: August 25, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 99–22487 Filed 9–2–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Arnaudo Brothers, Wathen-Castanos, Kaufman and Broad Development Sites in Merced County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: The partnership of Arnaudo Brothers and the public corporations of Wathen-Castanos and Kaufman and Broad (collectively, the Applicants) have applied to the Fish and Wildlife Service for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended. The Service proposes to issue a 5-year permit to the Applicants that would authorize take of the San Joaquin kit fox (*Vulpes macrotis mutica*) (kit fox) incidental to otherwise lawful activities. Such take would occur during the development of 170 acres of nonnative grassland and dry-farmed fields for residential and other uses. This project would permanently eliminate 170 acres of suitable habitat for the kit fox.

We request comments from the public on the permit application, and an Environmental Assessment, which are available for review. The permit application includes the proposed Habitat Conservation Plan (Plan) and an accompanying Implementing Agreement. The Plan describes the proposed project and the measures that the Applicant would undertake to minimize and mitigate take of the kit fox.

This notice is provided pursuant to section 10(a) of the Endangered Species Act and National Environmental Policy Act regulations (40 CFR 1506.6). All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

DATES: Written comments should be received on or before October 4, 1999.

ADDRESSES: Written comments should be addressed to Mr. Wayne White, Field Supervisor, Fish and Wildlife Service, 2800 Cottage Way, W–2605, Sacramento, California 95825. Comments may be sent by facsimile to (916) 414–6710.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Chrisney, Fish and Wildlife Biologist, at the above address or call (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of these documents for review by contacting the above office. Documents also will be available for public inspection, by appointment, during normal business hours at the above address.

Background

Section 9 of the Endangered Species Act and Federal regulation prohibit the ''take'' of fish or wildlife species listed as endangered or threatened, respectively. Take of listed fish or wildlife is defined under the Act to include kill, harm, or harass. The Service may, under limited circumstances, issue permits to authorize incidental take; i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

The Applicants have proposed four project sites for development within the Santa Nella Community Specific Plan Area. All of the project sites are located between Interstate 5 and the San Luis Reservoir in western Merced County, California. Typical land uses in the area surrounding the project sites are dryland farming, grazing and some residential development. The California Aqueduct and Delta-Mendota Canals are adjacent to the project sites. The San Luis Reservoir and O'Neill Forebay are west of the project sites. The Applicants propose the following land uses at the project sites: residential development, some commercial development, and open space community parks. The proposed number of home sites per acre range from 3.2 to 5.5.

Biologists surveyed the project sites for special-status plants and wildlife in 1998. Based on these surveys and previous knowledge of the area, the Service concluded that the project may result in the take of one federally listed species, the endangered San Joaquin kit fox.

The Applicants propose to implement the following measures to minimize and mitigate take of the San Joaquin kit fox: (1) conduct surveys and implement avoidance measures before and during construction activities; and (2) mitigate the loss of habitat at a 3:1 ratio (mitigation:impact) by purchasing a conservation easement for, or fee title to, 510 acres of off-site suitable kit fox habitat in the Santa Nella region. The Applicants will finance the off-site mitigation by establishing a Kit Fox Mitigation Account to be held by an appropriate entity.

The Environmental Assessment considers the environmental consequences of two alternatives in addition to the Proposed Project Alternative. The Proposed Project Alternative consists of the issuance of an incidental take permit and implementation of the Plan and its implementing Agreement, which includes measures to minimize and mitigate impacts of the project on the San Joaquin kit fox. Under the No Action Alternative, the Service would issue a permit and the project area would continue to be dry-land farmed, remain as nonnative grassland or be converted to irrigated row crops with the possibility of future adjacent development. This alternative would result in less habitat value for the kit fox than the off-site mitigation proposed under the Proposed Project Alternative. We also considered a Reduced Density Alternative. Compared to the Proposed Project, this alternative did not provide any significantly improved on-site habitat for kit fox.

This notice is provided pursuant to section 10(a) of the Endangered Species

Act and the National Environmental Policy Act of 1969 regulations (40 CFR 1506.6). We will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the National Environmental Policy Act regulations and section 10(a) of the Endangered Species Act. If we determine that those requirements are met, we will issue a permit to the Applicants for the incidental take of the San Joaquin kit fox. Our final permit decision will be made no sooner than 30 days from the date of this notice.

Dated: August 27, 1999.

Elizabeth H. Stevens,

Deputy Manager, California/Nevada Operations Office, Fish and Wildlife Service, Sacramento, California.

[FR Doc. 99–22987 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–320–1330–01–24 1A]

OMB Approval Number 1004–0103; Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). On April 7, 1999, BLM published a notice in the **Federal Register** (64 FR 16994) requesting comments on this proposed collection. The comment period ended on June 7, 1999. BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below. OMB is required to respond within 60 days but may respond after 30 days. For maximum consideration, your comments and suggestions on the requirement should be sent directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0103), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW, Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Mineral Materials Disposal.

OMB Clearance No.: 1004–0103.

Abstract: BLM proposes to extend the currently approved collection of information for the disposal through sale of mineral materials, such as sand, gravel, and petrified wood, on public lands. BLM uses the information that applicants provide to: (1) determine if the sale of the mineral materials is in the public interest, (2) mitigate any environmental impacts associated with mineral development, (3) get fair market value for the material sold, and (4) prevent the trespass removal of the resource. The collection also includes a sale contract form, BLM 3600–1.

Bureau Form: 3600–1 (combines forms 3600–4, Contract for Cash Sale of Mineral Materials, Appraised at Less Than $2,000; and 3600–5, Contract for the Sale of Units of Materials, Appraised at $2,000 or More)

Frequency: Once or twice per year.

Description of Respondents: Respondents are operators desiring sand, gravel, stone, and other mineral materials from lands under BLM jurisdiction.

Annual Respondents: 2,700.

Annual Responses: 2,800.

Annual Burden Hours: 1,475.

Collection Clearance Officer: Carole Smith, (202) 452–0367.

Dated: August 12, 1999.

Carole J. Smith,

Information Collection Clearance Officer.

[FR Doc. 99–22977 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–700–99–5440–00–C023]

Notice of Availability

AGENCY: Bureau of Land Management, Interior; Forest Service, Agriculture. Responsible Officials: Ann Morgan, State Director, Colorado State Office, Bureau of Land Management, 2850 Youngfield, Denver, CO 80215 and Robert L. Storch, Forest Supervisor, Grand Mesa, Uncompahgre and Gunnison National Forests, U.S. Forest Service, 2250 US Hwy 50, Delta, CO 81416.

ACTION: Notice of Availability of North Fork Coal Draft Environmental Impact Statement (DEIS) and Notice of Public Hearing and Request for Comments on the DEIS, Maximum Economic Recovery Report, and Fair Market Value; for lease and exploration license applications of Federal coal in Delta and Gunnison Counties, Colorado (COC61209, COC61357, COC61945).

SUMMARY: Pursuant to 40 CFR 1500–1508, the Bureau of Land Management (BLM) and the Forest Service (FS) announce the availability of the North Fork Coal DEIS for the Iron Point and Elk Creek Coal Lease Tracts for competitive leasing and the Iron Point Coal Exploration license for exploration drilling in accordance with 43 CFR 3425 and 3410. The scheduled date and place for a public hearing pursuant to 43 CFR 3425.4 is announced. The purpose of the hearing is to solicit comments on the DEIS and on the fair market value (FMV) and Maximum Economic Recovery (MER) of the proposed lease tract.

DATES: The public hearing will be held at 7:00 p.m. MDT, on October 14, 1999, at the Hotchkiss High School, Hotchkiss, Colorado. To assist the public in formulating their comments, there will also be an informal open house on October 7, 1999, starting at 7:30 p.m. MDT, at the Hotchkiss High School, Hotchkiss, Colorado to answer questions regarding the organization and technical content of the DEIS. Written comments on the DEIS, fair market value and maximum economic recovery will be accepted for 60 days following the date the Environmental Protection Agency (EPA) publishes their Notice of Availability in the **Federal Register**. We expect the EPA notice will be published on September 3, 1999. Written comments on the DEIS, fair market value and maximum economic recovery must be received by November 3, 1999.

ADDRESSES: Please address questions and comments on the DEIS to the Bureau of Land Management, Attn: Jerry Jones, 2465 South Townsend Ave., Montrose, CO 81401, or fax them to 970–240–5368. E-mail can be sent to Jerry__Jones@co.blm.gov.

FOR FURTHER INFORMATION CONTACT: Jerry Jones at the above address, or phone: 970–240–5338.

SUPPLEMENTARY INFORMATION: As a result of two applications for coal leasing and one application for a coal exploration license, the following lands were analyzed in this DEIS.

T. 12 S., R. 90 W., 6th P.M.
Sec. 31, lots 1 to 14, inclusive, and NE¼;
Sec. 32, lots 3 to 6, inclusive, lots 11 to 14, inclusive, and NW¼.
T. 12 S., R. 91 W., 6th P.M.
Sec. 14, lots 7,8, S½S½, NE¼SW¼, NW¼SE¼;
Sec. 22, S½;
Sec. 23, lots 1 to 7, inclusive, W½, and that part of HES No. 133 lying in the S½SE¼;
Sec. 26, lots 1 to 5, inclusive, W½, N½SE¼, that part of HES No. 133 lying in the NE¼ and that part of HES No. 134 lying in the SE¼;
Sec. 27, all;
Sec. 28, S½;
Sec. 29, SE¼;
Sec. 32, lots 1, 2, 7 to 10, inclusive, lots 15, 16, and NE¼;
Sec. 33, lots 1 to 16, inclusive, and N½;
Sec. 34, lots 1 to 16, inclusive, and N½;
Sec. 35, lots 1 to 22, that part of HES No. 134 lying in the NE¼; N½NW¼, and SW¼NW¼.
Sec. 36, lots 1 to 17, inclusive, NE¼, E½NW¼, SW¼NW¼, and that part of HES No.134 lying in lot 1.
T. 13 S., R. 90 W., 6th P.M.
Sec. 5, lots 7 to 10, inclusive;
Sec. 6, lots 8 to 17, inclusive.
T. 13 S., R. 91 W., 6th P.M.
Sec. 1, lots 1 to 4, inclusive, S½NW¼ and SW¼;
Sec. 2, lot 1, and S½NE¼, SW¼NW¼, NW¼SW¼, and E½SW¼;
Sec. 3, lots 1 to 4, inclusive, S½N½, and N½S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 11 and 12, SE¼, E½SW¼, SW¼NE¼, and SE¼NW¼;
Sec. 8, NE¼;
Sec. 9, NW¼, and N½SW¼;
Sec. 11, NE¼NW¼.
Sec. 12, S½NE¼, and NW¼.

The area described contains approximately 11,646 +/− acres.

Bowie Resources, Ltd. and Oxbow Mining, Inc. applied to the BLM for the Iron Point and Elk Creek coal lease tracts respectfully to extend the production life of their existing underground mines. Similarly, Bowie applied to the BLM for an exploration license to further delineate coal resource in lands adjacent to their ongoing mining. The requested Iron Point Tract and the exploration license area are adjacent to the presently approved permit area for the Bowie No. 2 Mine which is operated by Bowie. Likewise, the requested Elk Creek Tract is adjacent to the presently approved permit area for the Sanborn Creek Mine which is operated by Oxbow. These applications encompass federal coal on BLM and National Forest system lands.

The DEIS analyzes four alternatives. Besides the no-action alternative and the plans as submitted in the applications, two other alternatives were examined in the draft EIS. The other alternatives analyzed the possibility of multiseam mining and the restriction of subsidence due to underground mining activity in key areas to protect surface resources.

The coal resource to be offered is limited to coal recoverable by underground mining methods. The purpose of the hearing is to obtain public comments on the DEIS and on the following items:

(1) The method of mining to be employed to obtain maximum economic recovery of the coal,

(2) The impact that mining or exploration of the coal may have on the area, and

(3) The methods of determining the fair market value of the coal to be offered.

Written requests to testify orally at the October 14, 1999, public hearing should be received at the BLM prior to the close of business on October 14, 1999. Those who indicate they wish to testify when they register at the hearing may have an opportunity if time is available.

In addition, the public is invited to submit written comments concerning the fair market value and maximum economic recovery of the coal resource. Public comments will be utilized in establishing fair market value for the coal resource in the described lands. Proprietary data marked as confidential may be submitted to the Bureau of Land Management in response to this solicitation. This information should be labeled as such and stated in the first page of the submission. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information. Comments on fair market value and maximum economic recovery should be sent to the Bureau of Land Management and should address, but not necessarily be limited to, the following information:

1. The quality and quantity of the coal resource.

2. The price that the mined coal would bring in the market place.

3. The cost of producing the coal.

4. The interest rate at which anticipated income streams would be discounted.

5. Depreciation and other accounting factors.

6. The mining method or methods which would achieve maximum economic recovery of the coal.

7. Documented information on the terms and conditions of recent and similar coal land transactions in the lease area, and

8. Any comparable sales data of similar coal lands.

Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering. Coal quantities and the FMV of the coal developed by BLM may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

The Draft EIS and Maximum Economic Recovery Report are available from the Uncompahgre Field Office upon request. A copy of the DEIS, the Maximum Economic Recovery Report, the case file, and the comments submitted by the public, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the BLM Uncompahgre Field Office.

The comment period on the Draft EIS will be sixty (60) days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. It is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the Draft EIS stage but that are not raised until after completion of the Final EIS may be waived or dismissed by the courts, City of Angoon v. Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986) and Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1334, 1338 (e.d. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the agencies at a time when they can meaningfully consider them and respond to them. To assist the agencies in identifying and

considering issues and concerns on the proposed action, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Freedom of Information

Comments, including names and street addresses of respondents, will be available for public review at the addresses listed above during regular business hours (7:45 a.m.–4:30 p.m.), Monday through Friday, except holidays, and may be published as part of the Final EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the 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 entirety. Proprietary data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information.

Dated: August 25, 1999.

Jerald L. Jones,

EIS Project Manager.

[FR Doc. 99–22773 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–961–1020–00]

Notice of Meeting

AGENCY: Bureau of Land Management, Lewistown Field Office.

ACTION: Notice of meeting.

SUMMARY: The Central Montana Resource Advisory Council will meet September 22 and 23, 1999, at the Lewis and Clark Interpretive Center, in Great Falls, Montana.

The September 22 portion of the meeting will begin at 8:00 am. The day's business will include an introduction of new council members, field manager updates, BLM presentations about public land features in the Missouri River Breaks (current management, issues, future management, etc.) and a report about the formation of a council sub-group. A primary entry on the day's agenda will be accepting public comments concerning the future management of public lands in the Missouri River Breaks area of north central Montana. The BLM is interested in maintaining the special cultural, historical and scenic values of these lands and is considering a designation of some level as a means of recognizing while maintaining these values as well as benefiting local communities and lifestyles. The council will hear presentations from groups and organizations from 12:45 pm through 5:00 pm. Then from 7:00 pm through 9:00 pm that evening, the council will host a public comment period for individuals.

The September 23 portion of the meeting will begin at 9:00 am. From 9:00 am through 11:00 am, the council will continue the public comment period for individuals concerning the future management of public lands in the Missouri River Breaks. The remainder of the day will consist of a discussion of business topics along with council members' reports on the Lewis and Clark Bicentennial, and administrative arrangements for the council's next meeting.

DATES: September 22 and 23.

LOCATION: Lewis and Clark Interpretive Center, Great Falls, Montana.

FOR FURTHER INFORMATION CONTACT: Phillips Field Manager, 501 S. 2nd St. E., HC 65, Box 5000, Malta, Montana 59538.

SUPPLEMENTARY INFORMATION: The meeting is open to the public and there will be a formal comment period for groups and organizations and two public comment periods as detailed above.

David L. Mari,

Lewistown Field Manager.

[FR Doc. 99–22976 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–910–09–0777–30]

Northeastern Great Basin Resource Advisory Council Meeting Location and Time

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Councils' meeting location and time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), Council meetings will be held as indicated below. The agenda for the September 27, 1999 meeting includes: approval of minutes of the previous meeting, Standards and Guidelines for wild horses, Wilderness Study Areas, Wild Fire and Emergency Fire Rehabilitation Updates, Pinyon-juniper Standards and Guidelines and subject matter for future meetings.

All meetings are open to the public. Citizens may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments.

Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend or need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Curtis Tucker, Special Projects Coordinator, Ely Field Office, 702 North Industrial Way, HC 33 Box 33500, Ely, NV 89301–9408.

DATES, TIMES AND LOCATION: The time and location of the meeting is as follows: Northeastern Great Basin Resource Advisory Council meeting, September 27, 1999, starting at 9 a.m., Elko Field Office, 3900 East Idaho Street, Elko, NV; public comments will be at 11:30 a.m.; tentative adjournment 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Curtis Tucker, Special Projects Coordinator, Ely Field Office, 702 North Industrial Way, HC 33 Box 33500, Ely, NV 89301–9408, telephone 775–289–1841.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues, associated with the management of the public lands.

Dated: August 24, 1999.

Helen Hankins,

Field Manager, Elko.

[FR Doc. 99–22980 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–952–09–1420–00]

Montana: Filing of Amended Protraction Diagram Plats

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plats of the amended protraction diagrams accepted August 24, 1999, of the following described lands, are scheduled to be officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

Tps. 5, 6, 7, and 8 N., Rs. 21, 22, and 23 W.
The plat, representing Amended Protraction Diagram 16 Index of unsurveyed Townships 5, 6, 7, and 8 North, Ranges 21, 22, and 23 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 5 N., R. 21 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 5 North, Range 21 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 5 N., R. 22 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 5 North, Range 22 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 5 N., R. 23 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 5 North, Range 23 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 6 N., R. 22 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 6 North, Range 22 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 6 N., R. 23 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 6 North, Range 23 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 7 N., R. 21 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 7 North, Range 21 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 7 N., R. 22 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 7 North, Range 22 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 7 N., R. 23 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 7 North, Range 23 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 8 N., R. 21 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 8 North, Range 21 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 8 N., R. 22 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 8 North, Range 22 West, Principal Meridian, Montana, was accepted August 24, 1999.

T. 8 N., R. 23 W.
The plat, representing Amended Protraction Diagram 16 of unsurveyed Township 8 North, Range 23 West, Principal Meridian, Montana, was accepted August 24, 1999.

The amended protraction diagrams were prepared at the request of the U.S. Forest Service to accommodate Revision of Primary Base Quadrangle Maps for the Geometronics Service Center.

A copy of the preceding described plats of the amended protraction diagrams, accepted August 24, 1999, will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against these amended protraction diagrams, accepted August 24, 1999, as shown on these plats, is received prior to the date of the official filings, the filings will be stayed pending consideration of the protests.

These particular plats of the amended protraction diagrams will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5001 Southgate Drive (59101), P.O. Box 36800, Billings, Montana 59107–6800.

Dated: August 24, 1999.

Daniel T. Mates,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 99–22982 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–01; COC–63081]

Proposed Withdrawal; Opportunity for Public Meeting; Colorado

August 27, 1999.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw approximately 12,236 acres of public lands and 1,020 acres of reserved mineral estate for 20 years to protect the Upper Colorado River Special Recreation Management Area. This notice closes the public lands to surface entry and mining and the reserved mineral interests to mineral entry for up to 2 years. The lands have been and remain open to mineral leasing.

DATES: Comments on this proposed withdrawal must be received on or before December 2, 1999.

ADDRESSES: Comments and/or requests to be heard should be sent to the Colorado State Director, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303–239–3706.

SUPPLEMENTARY INFORMATION: On August 12, 1999, a petition was approved allowing the Bureau of Land Management to file an application to withdraw lands for the Upper Colorado River Special Recreation Management Area.

1. The following described public lands will be withdrawn from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Sixth Principal Meridian

T. 1 N., R. 79 W.,
Sec. 8, S½SW¼;
Sec. 17, NW¼ and N½SW¼;
Sec. 18, lot 3.

T. 1 N., R. 80 W.,
Sec 13, lots 1 thru 4, inclusive;
Sec. 14, SW¼SE¼ and a reconveyed parcel in the S½S½SW¼;
Sec. 15, lots 9 and 11, S½S½, and a reconveyed parcel in the N½SW¼;
Sec. 16, a reconveyed parcel in the S½S½;
Sec. 19, NE¼SE¼, and a reconveyed parcel in the NE¼NE¼ and the NW¼NE¼;
Sec. 20, lots 2 and 3, S½N½, and NE¼SW¼;
Sec. 21, N½NE¼, S½NW¼ and a reconveyed parcel in the N½N½NW¼;
Sec. 22, lots 1 thru 4, inclusive.

T. 1 N., R. 81 W.,

Sec. 13, SW¼SW¼;
Sec. 23, SE¼NW¼, NE¼SW¼, and NE¼SE¼;
Sec. 24, S½N½ and N½SE¼;
Sec. 27, N½, SW¼, and NW¼SE¼;
Sec. 28, SE¼ and SE¼SW¼;
Sec. 32, E½ and SW¼;
Sec. 33, N½NE¼, SW¼NE¼, and W½.
T. 1 S., R. 81 W.,
Sec. 5, lots 8 and 9;
Sec. 6, lots 6, 7, 9 thru 18, inclusive;
Sec. 7, lots 5 thru 19, inclusive;
Sec. 18, lots 1 and 2, and E½NW¼.
T. 1 S., R. 82 W.,
Sec. 12, lots 1 thru 5, inclusive, SW¼NE¼, E½SW¼, SW¼SW¼, and W½SE¼.
Sec. 13, lots 1 thru 9, inclusive, W½SW¼ and that portion of Tract 53 lying westerly of the centerline of the Colorado River;
Sec. 14, SE¼SW¼, E½SE¼, and SW¼SE¼;
Sec. 22, SE¼;
Sec. 23, NE¼, E½NW¼, N½S½, and S½SW¼;
Sec. 24, lots 1, 2, and 3, NW¼NW¼, and S½NW¼;
Sec. 27, W½NW¼, SW¼SW¼, and reconveyed parcels in the W½NE¼ and the E½NW¼;
Sec. 28, lots 4 thru 6, inclusive, NE¼NE¼, S½NE¼, NE¼SW¼, NW¼SE¼, and SE¼SE¼;
Sec. 32, lots 1, 3, 4, 5, and 8, SW¼SE¼, those portions of unpatented Mineral Survey No. 13963 lying within the E½ of Section 32, and that portion of Tract 82 within the E½ of Section 32;
Sec. 33, lots 1, 3, 4, 5, 6, 8 thru 11, inclusive, NE¼, E½NW¼, SW¼NW¼, and the Bona Dea Placer;
Sec. 34, lot 1 and NW¼NW¼.
T. 2 S., R. 82 W.,
Sec. 4, lots 12, 14, 15, 17, 18, 19, 26 thru 30, inclusive, S½NW¼, NW¼SW¼, and the Bona Dea Placer;
Sec. 5, lots 5, 6, 11, 14 thru 23, inclusive, 25 and 26, S½NE¼, and N½SE¼;
Sec. 6, Lots 20, 30, 31, 32, 37, and 38, S½NE¼, E½SW¼, SE¼NW¼ and SE¼;
Sec. 7, lots 5, 6, 7, and 11 thru 21, inclusive, and NE¼NE¼, SE¼SW¼, and SW¼SE¼;
Sec. 18, Lots 5 thru 12, inclusive, 14 thru 17, inclusive.
T. 2 S., R. 83 W.,
Sec. 12, lot 4;
Sec. 13, lots 1 thru 4, inclusive, W½E½, and E½SW¼;
Sec. 23, E½NE¼, S½SW¼, SW¼SE¼, NE¼SE¼, N½SE¼SE¼, and N½S½SE¼SE¼;
Sec. 24, lot 1, W½E½, and W½;
Sec. 25, NW¼;
Sec. 26, NW¼NW¼NE¼, S½NW¼NE¼, S½NE¼, and NW¼.

The areas described aggregate approximately 12,236.73 acres of public lands in Grand and Eagle Counties.

2. The reserved mineral interests in the following identified privately owned lands would be withdrawn from location and entry under the U.S. mining laws:

Sixth Principal Meridian

T. 1 N., R. 80 W.,
Sec. 20, NW¼NW¼.
T. 1 N., R., 81 W.,
Sec. 28, N½SW¼ and SW¼SW¼;
Sec. 29, SE¼SE¼.
T. 1 S., R. 82 W.,
Sec. 14, SW¼SW¼;
Sec. 22, N½NE¼, SW¼NE¼, and SW¼,
Sec. 23. NW¼NW¼;
Sec. 26, lot 1 and SW¼NW¼;
Sec. 27, lots 1 and 2, inclusive, and N½SE¼;
Sec. 33, that portion of Tract 70 lying within the NW¼NW¼.
T. 2 S., R. 82 W.,
Sec. 4, lot 22;
Sec. 7, that portion of Tract 41 lying in Section 7.

The areas described aggregate approximately 1,020 acres of reserved mineral interests.

3. The following described private or State owned lands located within the exterior boundary of the proposed withdrawal would become subject to the withdrawal if they should pass to Federal ownership:

Sixth Principal Meridian

T. 1 N., R. 79 W.,
Sec. 7, lot 4, SE¼SW¼, and S½SE¼;
Sec. 18, lots 1 and 2, and NE¼, E½NW¼, NE¼SW¼, and N½SE¼.
T. 1 N., R. 80 W.,
Sec. 12, S½S½;
Sec. 13, N½ and SW¼;
Sec. 14, N½, N½S½, N½S½SW¼, and SE¼SE¼;
Sec. 15, lots 8 and 10, S½NE¼, N½SE¼, N½NW¼SW¼, and S½NE¼SW¼;
Sec. 16, N½S½ exclusive of horse corral;
Sec. 17, S½;
Sec. 18, lots 2, 3, and 4, SE¼NW¼, E½SW¼, and SE¼;
Sec. 19, lots 1, 2, and 3, W½NE¼, SE¼NE¼, E½NW¼, NE¼SW¼ and NW¼SE¼;
Sec. 20, N½N½, SE¼SW½, and W½SW¼;
Sec. 21, N½NW¼.
T. 1 N., R. 81 W.,
Sec. 13, S½NE¼, N½SW¼, SE¼SW¼, and SE¼;
Sec. 14, SE¼ and E½SW¼;
Sec. 22, NE¼NE¼, S½NE¼, S½SW¼, and SE¼;
Sec. 23, NE¼, N½NW¼, SW¼NW¼, W½SW¼, SE¼SW¼, W½SE¼, and SE¼SE¼;
Sec. 24, N½N½;
Sec. 26, NW¼;
Sec. 28, N½SW¼ and SW¼SW¼;
Sec. 29, SE¼SE¼.
T. 1 S., R. 81 W.,
Sec. 6, lots 4 and 5;
Sec. 7, Lot l.
T. 1 S., R. 82 W.,
Sec. 12, NW¼SW¼ and that portion of Tract 37 in the NE¼ of Section 12;
Sec. 13, that portion of Tract 53 lying easterly of the centerline of the Colorado River, and all of Tract 54;
Sec. 14, SW¼SW¼ and NW¼SE¼;
Sec. 22, NE¼ and SW¼;
Sec. 23, W½NW¼;
Sec. 24, Tract 76 lying in the E½NE¼ of Section 24;
Sec. 26, NW¼NW¼;
Sec. 27, lots 1 and 2, E½NE¼, N½SW¼, SE¼SW¼, N½SE¼ and those portions of the W½NE¼ and the E½NW¼ exclusive of reconveyed land;
Sec. 28, NE¼SE¼ and Tract 81 lying in the SW¼SE¼;
Sec. 32, Mineral Survey Nos. 13963, 18347A, and 18671;
Sec. 33, Mineral Survey Nos. 18801, 18671, 18347A and B, and that portion of Tract 70 lying within the NW¼NW¼ of Section 33.
T. 2 S., R. 82 W.,
Sec. 4, lot 22;
Sec. 5, that portion of Tract 39 lying within the S½SW¼NW¼, and NW¼SW¼.
Sec. 7, Tracts 38 and that portion of Tract 41 in Section 7.
T. 2 S., R. 83 W.,
Sec. 23, S½S½SE¼SE¼;
Sec. 26, NE¼NE¼ and NE¼NW¼NE¼.

The purpose of this withdrawal is to protect important scenic, resource, and recreation values and recreation improvements in the Upper Colorado River Special Recreation Management Area.

For a period of 90 days from the date of publication of this notice, all parties who wish to submit comments, suggestions, or objections in connection with this proposed action should submit their views in writing to the Colorado State Director at the address listed in this order. A public meeting will be scheduled and held on this proposed action and will be conducted in accordance with 43 CFR 2310.3–1(c)(2). A notice of the meeting will be published in the **Federal Register** at least 30 days prior to the scheduled meeting.

This application will be processed in accordance with the regulations set forth in 43 CFR Part 2310.

For a period of two years from the date of publication in the **Federal Register**, these public lands and public minerals will be segregated as specified above, unless the application is denied or cancelled or the withdrawal is approved prior to that date. During this period the Bureau of Land Management will continue to manage these lands.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 99–22979 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Submission of Study Package to Office of Management and Budget; Opportunity for Public Comment

AGENCY: Department of the Interior; National Park Service; and Cuyahoga Valley National Recreation Area.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service is conducting a study to assess the positive and negative social consequences of various potential deer management alternatives in Cuyahoga Valley National Recreation Area (CVNRA). This information will be used to help the staff at CVNRA develop a deer management strategy that considers public desires and concerns relating to management of the CVNRA. The following specific study objectives have been identified:

1. Determine the acceptability, tolerance, and preferences among the local public for: Deer management activities, the perceived positive and negative consequences of deer management activities, and deer population levels;

2. Identify and determine the intensity of the psychological and emotional impacts among the local public served by CVNRA due to various deer management actions;

3. Determine the effect of deer management activities on local public attitudes toward the park, its services, and park staff;

4. Determine the degree to which deer management activities may affect park visitation patterns among the local public.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on the proposed information collection request (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The purpose of the proposed ICR is to assess the positive and negative social consequences of various potential deer management alternatives in Cuyahoga Valley National Recreation Area. This information will be used to help the staff at CVNRA develop a deer management strategy that considers public desires and concerns relating to management of the CVNRA.

There were no public comments received as a result of publishing in the **Federal Register** a 60 day notice of intention to request clearance of information collection for this survey.

DATES: Public comments will be accepted on or before thirty days from date of publication in the **Federal Register**.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20530. Please also send comments to David C. Fulton, Ph.D., Assistant Unit Leader, Minnesota Cooperative Fish and Wildlife Research Unit, Department of Fisheries and Wildlife, University of Minnesota, 200 Hodson Hall 1980 Folwell Ave., St. Paul, MN 55108.

Public comments, including names and addresses of respondents, may be made available for public review. Individual respondents may request that their address be withheld from the public comment record. This will be honored to the extent allowable by law. There also may be circumstances in which a respondent's identity would be withheld from the public comment record, as allowable by law. If you wish to withhold your name and/or address, you must state this prominently at the beginning of your comment. Anonymous comments will not be considered. Comments from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses may be made available for public inspection in their entirety.

Copies of the proposed ICR requirement can be obtained from David C. Fulton, Ph.D., Assistant Unit Leader, Minnesota Cooperative Fish and Wildlife Research Unit, Department of Fisheries and Wildlife, University of Minnesota, 200 Hodson Hall 1980 Folwell Ave., St. Paul, MN 55108.

The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments on or before thirty days from date of publication in the **Federal Register**.

FOR FURTHER INFORMATION OR A COPY OF THE STUDY PACKAGE SUBMITTED FOR OMB REVIEW, CONTACT: David Fulton, phone: 612–625–5256.

SUPPLEMENTARY INFORMATION:

Title: Assessing Public Reactions To Potential Deer Management Program in Cuyahoga Valley National Recreation Area.

Form Number: Not applicable.

OMB Number: To be assigned.

Expiration Date: To be assigned.

Type of Request: Request for new clearance.

Description of Need: The National Park Service needs information concerning public opinion about deer management strategies at Cuyahoga Valley National Recreation Area for planning and management purposes.

The propose information to be collected regarding the local public served by this park is not available from existing records, sources, or observations. Automated Data Collection: At the present time, there is no automated way to gather this information, since it includes asking visitors to evaluate potential deer management activities and the effect of these activities on their views toward CVNRA and its staff.

Description of Respondents: A sample of residents within 9 counties in northeast Ohio near the Cuyahoga Valley National Recreation Area.

Estimated Average Number of Respondents: 600.

Estimated Average Number of Responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated Average Burden Hours Per Response: 20 minutes.

Frequency of Response: One time per respondent.

Estimated Annual Reporting Burden: 200 hours.

Leonard E. Stowe,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 99–22948 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of the Finding of No Significant Impact for the Proposed Land Exchange, George Washington Memorial Parkway, City of Alexandria and Arlington County, Virginia

AGENCY: Notice of availability of the Finding of No Significant Impact (FONSI) for the proposed land exchange, George Washington Memorial

Parkway, City of Alexandria and Arlington County, Virginia.

SUMMARY: Pursuant to the Council of Environmental Quality regulations and National Park Service (NPS) policy, NPS prepared an environmental assessment (EA) for the proposed land exchange, George Washington Memorial Parkway, City of Alexandria and Arlington County, Virginia. The availability of the EA for a 30-day public comment period was announced in the **Federal Register** on June 8, 1999, 64 FR 30537. After the end of the 30-day public comment period, NPS selected the preferred alternative which is the proposed action, followed by a determination that the proposed land exchange will not cause significant environmental impact. The National Park Service is desirous of acquiring the access rights to the George Washington Memorial Parkway belonging to Commonwealth Atlantic Properties, Inc. (Commonwealth) in the City of Alexandria, Virginia, as well as set-back and height restrictions over 29.1 acres of land in Arlington County, Virginia, currently owned by Commonwealth, and in return is willing to relinquish the United States' interests in restricting the use of that 29.1 acres.

SUPPLEMENTARY INFORMATION: Requests for copies of the FONSI, or for any additional information, should be directed to: Mr. John G. Parsons, Associate Regional Director for Lands, Resources, and Planning, National Capital Region, National Park Service, 1100 Ohio Drive, SW, Room 220, Washington, D.C., 20242, Telephone: (202) 619–7025.

Dated: August 19, 1999.

Joseph M. Lawler,

Acting Regional Director, National Capital Region.

[FR Doc. 99–22949 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Draft General Management Plan/ Environmental Impact Statement, Whitman Mission National Historic Site, Washington

AGENCY: National Park Service.

ACTION: Notice of availability of Draft Environmental Impact Statement (DEIS).

SUMMARY: This notice announces the availability of a Draft Environmental Impact Statement (DEIS) for the General Management Plan, Whitman Mission National Historic Site. This notice also announces public meetings for the purpose of information exchange and receiving public comments on the DEIS. All comments received will become part of the public record and copies of comments, including names, addresses and telephone numbers provided by respondents, may be released for public inspection.

DATES: Comments on the DEIS should be received no later than November 12, 1999. Public meetings, for the purpose of receiving comments and information exchange, will be held in Walla Walla, WA, on September 29, 1999, 7–9 p.m. at the Walla Walla Community College Administrative Building Dining Room, and in Mission, OR, on September 30, 1999, 6–8 p.m. at the Confederated Tribes of the Umatilla Indian Reservation Yellowhawk Conference Room.

ADDRESSES: Written comments on the DEIS should be submitted to Superintendent, Whitman Mission National Historic Site, Route 2, Box 247, Walla Walla, WA 99362–9699, (509) 522–6360.

SUPPLEMENTARY INFORMATION: This DEIS for the General Management Plan presents a proposed action and three alternative strategies for guiding future management of the national historic site. Alternative A is a continuation of current management practices, often referred to as a ''no action'' alternative. Alternative B provides a minimum level of improvements regarding visitor facilities and interpretation in order to make the visitor experience more rewarding and informative.

Alternative C is the ''preferred alternative'' and proposed action by the National Park Service. This alternative includes provisions for a three-dimensional delineation of the original structures, substitution of native grasses for the existing lawn at the Mission Grounds, a recreational trail along the riparian area of the Walla Walla River, construction of additional exhibit and administrative space in the visitor center, and possible acquisition by a non-profit land trust of conservation easements on visually sensitive properties adjacent to the national historic site. In addition, Alternative C contains a development concept plan to include reconfiguration of the main parking lot, addition of a group shelter to the picnic area, improvements to the visitor center entry, construction of additional administrative space on the administrative wing, and reconfiguration of pedestrian access to the Oregon Trail and the Mission Grounds.

Alternative D goes beyond the preferred alternative, building on the initiatives of Alternative C. It would include establishing historic fence alignments and enlarging the orchard, conducting archeological research regarding the Whitman sawmill site, permitting cattle grazing in the pasture and river oxbow, replicating a Cayuse village on the Walla Walla River floodplain, constructing a new administrative building, and recommending an approximate 450-acre boundary adjustment to protect the foreground viewshed. The DEIS evaluates the potential environmental impacts associated with the strategies comprising the four alternatives.

Copies of the Draft General Management Plan and Environmental Impact Statement can be obtained from Whitman Mission National Historic Site, Route 2, Box 247, Walla Walla, WA 99362–9699. They are also available at public libraries in the Walla Walla area and on the internet at www.NPS.gov.

Dated: August 24, 1999.

Rory D. Westberg,

Acting Regional Director, Pacific West Region.

[FR Doc. 99–22946 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Cape Cod National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, October 1, 1999.

The Commission was reestablished pursuant to Pub. L. 87–126 as amended by Pub. L. 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting—June 18, 1999
3. Reports of Officers
4. Subcommittee Reports
   Off-Road Vehicle Subcommittee
   Personal Watercraft Subcommittee
   Nickerson Fellowship Committee
5. Superintendent's Report:
   Introduce Nancy Finley
   Visitor's Guide
   Land-transfer ceremony
   Highlands Center
   Hatches Harbor
   Americorps
   Water EIS

Shuttle buses
News from Washington
6. Old Business:
Head of the Meadow Gas Station—Commercial Certificate
7. New Business—preparation, elections
8. Agenda for next meeting
9. Date for next meeting—November 19, 1999
10. Public comment
11. Adjournment

The Commission members will meet at 1:00 p.m. at headquarters, Marconi Station, Wellfleet, Massachusetts for the regular business meeting to discuss the following:

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: August 26, 1999.

Maria Burks,

Superintendent.

[FR Doc. 99–22947 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Capital Memorial Commission Notice of Public Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission (the Commission) will be held at 2 p.m. on Thursday, September 23, 1999, at the National Building Museum, Room 312, 5th and F Streets, NW., Washington, D.C.

The purpose of the meeting will be to discuss currently authorized and proposed memorials in the District of Columbia and environs.

In addition to discussing general matters and routine business, the agenda is expected to include the following:

I. Consultation: Memorial proponents will consult with the Commission on aspects of these authorized memorials:

Site selection alternatives for the Benjamin Banneker Memorial along the L'Enfant Promenade.

The Commission will consider these matters and take action as appropriate in order to advise the Secretary of the Interior (the Secretary).

II. Review of Legislation: The Commission will review the following legislative proposals:

S. 311 and H.R. 1509, bills to authorize the Disabled Veterans LIFE Foundation to establish a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the Armed Forces of the United States.

III. The Commission will continue deliberations on a draft report of its review of the Commemorative Works Act of 1986. This report was requested by the Subcommittee on National Parks, Historic Preservation, and Recreation, United States Senate Committee on Energy and Natural Resources. The Commission will review recommendations offered by the National Capital Planning Commission/National Capital Memorial Commission/Commission of Fine Arts Joint Task Force on Memorials which convened, in part, to assist in an evaluation of that Act.

The Commission was established by Public Law 99–652, the Commemorative Works Act, to advise the Secretary and the Administrator, General Services Administration, (the Administrator) on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters as it may deem appropriate concerning commemorative works.

The Commission examines each memorial proposal for conformance to the Commemorative Works Act, and makes recommendations to the Secretary and the Administrator and to Members and Committees of Congress. The Commission also serves as a source of information for persons seeking to establish memorials in Washington, D.C., and its environs.

The members of the Commission are as follows:

Director, National Park Service
Chairman, National Capital Planning Commission
Architect of the Capitol
Chairman, American Battle Monuments Commission
Chairman, Commission of Fine Arts
Mayor of the District of Columbia
Administrator, General Services Administration
Secretary of Defense

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact Ms. Nancy Young, Executive Secretary to the Commission, at (202) 619–7097.

Dated: August 30, 1999.

Joseph M. Lawler,

Regional Director, National Capital Region.

[FR Doc. 99–23028 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Standard Concession Contract; Revision

ACTION: Proposed revision of the National Park Service Standard Concession Contract.

SUMMARY: The National Park Service (NPS) authorizes business entities to operate concessions in areas of the national park system. The agreements embodying these authorizations consist primarily of standard language that incorporate NPS terms and conditions established by law and prudent contract administration. In 1998, Public Law 105–391 was enacted which in many significant ways affects the content of concession contracts to be entered into after its effective date. Accordingly, NPS proposes to amend its existing standard concession contract to conform to the requirements of Public Law 105–391 and to otherwise make improvements to the standard form. NPS, although not legally required to do so, seeks public comments on the proposed standard concession contract to assist it in the development of a final version as a matter of public policy.

DATES: NPS will accept written comments on the proposed standard contract on or before November 2, 1999.

ADDRESSES: Comments should be addressed to: Concession Program Manager, National Park Service, 1849 ''C'' Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Wendelin Mann, Concession Program, National Park Service, 1849 ''C'' Street, NW, Washington, DC 20240 (202/565–1219).

SUPPLEMENTARY INFORMATION: Public Law 105–391, enacted on November 13, 1998, among other matters, amended the statutory policies and procedures under which NPS operated its concession program. The new law requires adoption of new regulations governing the award, content and management of concession contracts. On June 30, 1999, NPS published for public comment

proposed regulations implementing the new law. The proposed standard concession contract set forth in this notice reflects the requirements of the new law and the concomitant requirements of the proposed regulations. It also reflects a variety of improvements NPS wishes to make to its standard concession contract, including a new organizational structure for the sake of clarity. NPS is not publishing for public comment the various exhibits that will be attached to the standard contract. The exhibits only encompass legally mandated provisions, ministerial procedures under the terms of the standard concession contract, or documents that will substantially vary from contract to contract. These exhibits will be publicly available after adoption of the standard contract language. NPs plans to adopt both the new regulations and the new standard concession contract contemporaneously after due consideration of all public comments received on both documents.

NPS, after adoption of the new regulations and the new standard contract, also intends to develop and adopt a ''short-form'' concession contract that will be used for smaller concession operations that do not involve the concessioner obtaining a compensable interest in real property located on park area lands.

United States Department of the Interior

National Park Service

_____

[Name of Area]

_____

[Site]

_____

[Type of Service]

Concession Contract No. _____

_____

[Name of Concessioner]

_____

_____

[Address, including email address and phone number]

Doing Business As

_____

Covering the Period _____
through _____

Concession Contract

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[Corporation]

This Contract is made and entered into by and between the United States of America, acting in this matter by the Director of the National Park Service, through the Regional Director of the _____ Region, hereinafter referred to as the ''Director,'' and, a corporation organized and existing under the laws of the State of _____ doing business as *hereinafter* referred to as the ''Concessioner'':

[Partnership]

This Contract is made and entered into by and between the United States of America, acting in this matter by the Director of the National Park Service, through the Regional Director of the _____ Region, hereinafter referred to as the ''Director'', and *of* _____, _____, and _____ of, partners, doing business as, pursuant to a partnership agreement dated _____, with the principal place of business at _____, hereinafter referred to as the ''Concessioner'':

[Sole Proprietorship]

This Contract made and entered into by and between the United States of America, acting in this matter by the Director of the National Park Service, through the Regional Director of the _____ Region, hereinafter referred to as the ''Director,'' and, an individual of, doing business as _____, hereinafter referred to as the ''Concessioner'':

WITNESSETH

That Whereas, [*Name of Park, Recreation Area, etc.*] is administered by the Director as a unit of the national park system to conserve the scenery and the natural and historic objects and the wild life therein, and to provide for the public enjoyment of the same in such manner as will leave such Area unimpaired for the enjoyment of future generations; and

Whereas, to accomplish these purposes, the Director has determined that certain visitor services are necessary and appropriate for the public use and enjoyment of the Area and

should be provided for the public visiting the Area; and

Whereas, the Director desires the Concessioner to establish and operate these visitor services at reasonable rates under the supervision and regulation of the Director;

Now, Therefore, pursuant to the authority contained in the Acts of August 25, 1916 (16 U.S.C. 1, 2–4), and November 13, 1998 (Pub. L. 105–391), and other laws that supplement and amend the Acts, the Director and the Concessioner agree as follows:

Sec. 1 Term of Contract

This Concession Contract No. _____ (''Contract'') shall be effective as of _____, and shall be for the term of [approximately] _____ (____) years from _____, 20_____, [if the Concessioner satisfactorily completes the Concession Facilities Improvement program described in Section 9(e) of this Contract. If the Concessioner fails to complete this program to the satisfaction of the Director within the time specified, then this Contract shall be for the term of _____ (_____) years from _____.]

Sec. 2 Definitions

The following terms used in this Contract will have the following meanings, which apply to both the singular and the plural forms of the defined terms:

(a) ''Applicable Laws'' means the laws of Congress governing the Area, including, but not limited to, the rules, regulations, requirements and policies promulgated under those laws, whether now in force, or amended, enacted or promulgated in the future, including, without limitation, federal, state and local laws, rules, regulations, requirements and policies governing nondiscrimination, protection of the environment and/or protection of public health and safety.

(b) ''Area'' means the property within the boundaries of [*Name of Park Unit*].

(c) ''Capital Improvement'' shall have the meaning set forth in 36 CFR Part 51 as of the effective date of this Contract.

(d) ''Concession Facilities'' shall mean all Area lands assigned to the Concessioner under this Contract and all real property improvements assigned to or constructed by the Concessioner under this Contract. The United States retains title and ownership to all Concession Facilities.

(e) ''Director'' means the Director of the National Park Service and his duly authorized representatives unless otherwise indicated.

(f) ''Exhibit'' or ''Exhibits'' shall mean the various exhibits, which are attached to this Contract, each, of which is hereby made a part of this Contract.

(g) ''Gross Receipts'' means the total amount received or realized by, or accruing to, the Concessioner from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted by this Contract, including gross receipts of subconcessioners as herein defined, commissions earned on contracts or agreements with other persons or companies operating in the Area, and gross receipts earned from electronic media sales, but excluding:

(i) Intracompany earnings on account of charges to other departments of the operation (such as laundry);

(ii) Charges for employees' meals, lodgings, and transportation;

(iii) Cash discounts on purchases;

(iv) Cash discounts on sales;

(v) Returned sales and allowances;

(vi) Interest on money loaned or in bank accounts;

(vii) Income from investments;

(viii) Income from subsidiary companies outside of the Area;

(ix) Sale of property other than that purchased in the regular course of business for the purpose of resale;

(x) Sales and excise taxes that are added as separate charges to approved sales prices, gasoline taxes, fishing license fees, and postage stamps, provided that the amount excluded shall not exceed the amount actually due or paid government agencies;

(xi) Receipts from the sale of handcrafts that have been approved for sale by the Director as constituting authentic American Indian, Alaskan Native, Native Samoan, or Native Hawaiian handicrafts.

All monies paid into coin operated devices, except telephones, whether provided by; the Concessioner or by others, shall be included in gross receipts. However, only revenues actually received by the Concessioner from coin-operated telephones shall be included in gross receipts. All revenues received from charges for in-room telephone or computer access shall be included in gross receipts.

(h) ''Gross receipts of subconcessioners'' means the total amount received or realized by, or accruing to, subconcessioners from all sources, as a result of the exercise of the rights conferred by subconcession contracts hereunder without allowances, exclusions or deductions of any kind or nature whatsoever.

(i) ''Leasehold Surrender Interest'' shall have the meaning set forth in 36 CFR Part 51 as of the effective date of this Contract.

(j) ''Leasehold Surrender Interest Value'' or the ''value'' of a Leasehold Surrender Interest shall have the meaning set forth in 36 CFR Part 51 as of the effective date of this Contract.

(k) ''Major Rehabilitation'' shall have the meaning set forth in 36 CFR Part 51 as of the effective date of this Contract.

(l) ''Possessory Interest'' shall have the meaning set forth in 36 CFR Part 51.

(m) ''Real Property Improvements'' means real property other than land, including, but not limited to, capital improvements.

(n) ''Superintendent'' means the manager of the Area.

(o) ''Visitor services'' means the accommodations, facilities and services that the Concessioner is required and authorized to provide by section 3(a) of this Contract.

Sec. 3 Services and Operations

(a) Required and Authorized Visitor Services

During the term of this Contract, the Director requires and authorizes the Concessioner to provide the following visitor services for the public within the Area:

(1) *Required Visitor Services.* The Concessioner is required to provide the following visitor services during the term of this Contract:

[Provide detailed description of required services. Broad generalizations such as ''any and all facilities and services customary in such operations'' or ''such additional facilities and services as may be required'' are not to be used. A provision stating ''The Concessioner may provide services incidental to the operations authorized hereunder at the request and written approval of the Director'' is acceptable.]

(2) *Authorized Visitor Services.* The Concessioner is authorized but not required to provide the following visitor services during the term of this Contract:

[Provide detailed description of authorized services.]

(b) Operation and Quality of Operation

The Concessioner shall provide, operate and maintain the required and authorized visitor services and any related support facilities and services in accordance with this Contract to such an extent and in a manner considered satisfactory by the Director. The Concessioner shall provide the plant, personnel, equipment, goods, and commodities necessary for providing, operating and maintaining the required and authorized visitor services in accordance with this Contract. The Concessioner's authority to provide visitor services under the terms of this Contract is non-exclusive.

(c) Operating Plan

The Director, acting through the Superintendent, shall establish and revise, as necessary, specific requirements for the operations of the Concessioner under this Contract in the form of an Operating Plan (including, without limitation, a risk management program, that must be adhered to by the Concessioner). The initial Operating Plan is attached to this Contract as Exhibit ''G.'' The Director in his discretion, after consultation with the Concessioner, may make modifications to the initial Operating Plan provided that these modifications shall not be inconsistent with the terms and conditions of the main body of this Contract.

(d) Merchandise and Services

(1) The Director reserves the right to determine and control the nature, type and quality of the visitor services described in this Contract, including, but not limited to, the nature, type, and quality of merchandise, if any, to be sold or provided by the Concessioner within the Area.

(2) All material, regardless of media format (i.e., printed, electronic, broadcast media), provided to the public by the Concessioner, including promotional material, must be approved in writing by the Director prior to use. All such material will identify the Concessioner as an authorized Concessioner of the National Park Service, Department of the Interior.

(3) The Concessioner, where applicable, will develop and implement a plan satisfactory to the Director that will assure that all gift merchandise, if any, to be sold or provided reflects the purpose and significance of the Area, including, but not limited to, merchandise that reflects the conservation of the Area's resources or the Area's geology, wildlife, plant life, archeology, local Native American culture, local ethnic culture, and historic significance.

(e) Rates

All rates and charges to the public by the Concessioner for visitor services shall be reasonable and appropriate for the type and quality of facilities and/or services required and/or authorized under this Contract. The Concessioner's rates and charges to the public must be approved by the Director in accordance with rate approval procedures and guidelines promulgated by the Director from time to time.

(f) Impartiality as to Rates and Services

(1) In providing visitor services, the Concessioner must require its employees to observe a strict impartiality as to rates and services in all circumstances. The Concessioner shall comply with all Applicable Laws relating to nondiscrimination in providing visitor services to the public including, without limitation, those set forth in Exhibit ''A.''

(2) The Concessioner may grant complimentary or reduced rates under such circumstances as are customary in businesses of the character conducted under this Contract. However, the Director reserves the right to review and modify Concessioner's complimentary or reduced rate policies and practices.

(3) The Concessioner will provide Federal employees conducting official business reduced rates for lodging, essential transportation and other specified services necessary for conducting official business in accordance with guidelines established by the Director. Complimentary or reduced rates and charges shall otherwise not be provided to Federal employees by the Concessioner except to the extent that they are equally available to the general public.

Sec. 4 Concessioner Personnel

(a) Employees

(1) The Concessioner shall provide all personnel necessary to provide the visitor services required and authorized by this Contract.

(2) The Concessioner shall comply with all Applicable Laws relating to employment and employment conditions, including, without limitation, those identified in Exhibit ''A.''

(3) The Concessioner shall ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public. The Concessioner shall have its employees who come in direct contact with the public, so far as practicable, wear a uniform or badge by which they may be identified as the employees of the Concessioner.

(4) The Concessioner shall establish pre-employment screening, hiring, training, employment, termination and other policies and procedures for the purpose of providing visitor services through its employees in an efficient and effective manner and for the purpose of maintaining a healthful, law abiding, and safe working environment for its employees. The Concessioner shall conduct appropriate background reviews of applicants for employment to assure that they conform to the hiring policies established by the Concessioner.

(5) The Concessioner shall hire, to the greatest extent possible, people who are both interested in serving the public in a national park environment and interested in being positive contributors to the park's purpose.

(6) The Concessioner shall ensure that its employees are provided the training needed to provide quality visitor services and to maintain up-to-date job skills.

(7) The Concessioner shall review the conduct of any of its employees whose action or activities are considered by the Concessioner or the Director to be inconsistent with the proper administration of the Area and enjoyment and protection of visitors and shall take such actions as are necessary to fully correct the situation.

(8) The Concessioner shall maintain, to the greatest extent possible, a drug free environment, both in the workplace and in any employee housing within the Area.

(9) The Concessioner shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and in the Area, and specifying the actions that will be taken against employees for violating this prohibition. In addition, the Concessioner shall establish a drug-free awareness program to inform employees about the danger of drug abuse in the workplace and the Area, the availability of drug counseling, rehabilitation and employee assistance programs, and the Concessioner's policy of maintaining a drug-free environment both in the workplace and in the Area.

(10) The Concessioner shall take appropriate personnel action, up to and including termination or requiring satisfactory participation in a drug abuse or rehabilitation program which is approved by a Federal, State, or local health, law enforcement or other appropriate agency, for any employee that violates the prohibition on the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

(b) Employee Housing, Meals and Recreation

(1) If the Concessioner is required to provide employee housing under this Contract, the housing must be in good condition and must meet employee needs. The Concessioner's charges to its employees for this housing must be reasonable.

(2) If the visitor services required and/or authorized under this Contract are located in a remote or isolated area, the Concessioner shall provide adequate

employee recreational facilities and services.

Sec. 5 Legal, Regulatory, Policy Compliance

(a) Legal, Regulatory and Policy Compliance

This Contract, operations thereunder by the Concessioner and the administration of it by the Director shall be subject to all Applicable Laws. The Concessioner must comply with all Applicable Laws in fulfilling its obligations under this Contract at the Concessioner's sole cost and expense. Certain Applicable Laws governing protection of the environment are further described in this Contract. Certain Applicable Laws relating to nondiscrimination in employment and providing accessible facilities and services to the public are further described in this Contract.

(b) Notice

The Concessioner shall give the Director immediate written notice of any violation of Applicable Laws and, at its sole cost and expense, must promptly rectify any such violation.

(c) How and Where To Send Notice

All notices required by this Contract, shall be in writing and shall be served on the parties at the following addresses. The mailing of a notice by registered or certified mail, return receipt requested, shall be sufficient service. Notices sent to the Director shall be sent to the following address:

Superintendent
Park name
Address
Attention:

Notices sent to the Concessioner shall be sent to the following address:

Concessioner
Address
Attention:

Sec. 6 Environmental and Cultural Protection

(a) Environmental Protection

(1) In addition to complying with all Applicable Laws pertaining to the protection of natural resources within the area, the Concessioner will conduct its operation, construction, maintenance, acquisition, and provision of visitor services in a manner that prevents or reduces environmental degradation and that promotes the use of environmentally beneficial products. The Concessioner will develop, pursuant to guidelines provided by the Director, and carry out, to the satisfaction of the Director, a documented environmental monitoring program or programs to ensure that park resources affected by concessioner activities under this Contract are not unduly impaired. The Concessioner shall be financially responsible for environmental audits that may be required by the Director for each three-year period of this Contract.

(2) The Concessioner shall obtain the Director's approval prior to using any chemicals, pesticides, any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(3) The Concessioner shall monitor, test, maintain, repair, upgrade, replace, remove, or mitigate, in accordance with Applicable Laws and in accordance with the requirements of the Director:

(i) Any discharge, release or threatened release (whether solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product on or to the Area, including soil, surface water or groundwater;

(ii) Any materials, equipment, and facilities associated with such discharge, release or threatened release; or

(iii) Any materials, equipment and facilities used in the handling, storage, disposal, transport or other use of any such hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(4) The Concessioner shall timely contact, notify and/or otherwise confer with appropriate federal, state and/or local agencies with respect to any reporting obligation arising out of Concessioner's operations under this Contract and the Concessioner shall simultaneously provide notice of such contact to the Director and allow the Director the opportunity to participate in any such proceedings.

(5) The Concessioner shall give the Director immediate notice of any discharge, release or threatened release (whether solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(6) The Concessioner shall give the Director immediate written notice of any threatened or actual notice of violation of any federal, state or local law, rule, regulation, requirement or policy relating to or governing the use, handling, storage, disposal, transport, presence, acceptable concentration, or remediation of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product received by Concessioner.

(7) The Concessioner, at its sole cost and expense, shall promptly rectify any discharge or release as set forth in this section or any threatened or actual violation as set forth in this section, including, but not limited to, payment of any fines or penalties imposed thereon.

(8) The Concessioner shall indemnify the United States in accordance with section 12 of the Contract from losses, damages or judgements (including, without limitation, fines and penalties) and expenses (including, without limitation, attorneys fees and experts fees) arising out of the activities of the Concessioner pursuant to this section. Such indemnification shall survive termination of this Contract.

(9) If the Concessioner does not promptly rectify the discharge or release (whether solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product, the Director may, in its sole discretion and after notice to Concessioner, take any such action the Director deems necessary to minimize, remediate, or otherwise clean up such release or discharge, and recover any costs associated with such action from the Concessioner upon demand.

(10) Even if not specifically required by Applicable Laws, the Concessioner shall comply with directives of the Director to clean up or remove any materials, product or by-product used, handled, stored, disposed, transported onto or into the Area by the Concessioner to ensure that the Area remains in good condition.

(11) The Concessioner shall be responsible for managing weeds, harmful insects, rats, mice and other pests on all lands and improvements assigned to the Concessioner under this Contract. All such weed and pest management activities shall be in accordance with guidelines established by the Director.

(c) Protection of Cultural and Archeological Resources

The Concessioner shall ensure that any protected sites and archeological resources within the Area are not disturbed or damaged by the Concessioner, including the Concessioner's employees, subcontractors or agents, except in accordance with Applicable Laws, and only with the prior approval of the Director. Discoveries of any archeological resources by Concessioner shall be promptly reported to the Director. The Concessioner shall cease work or other disturbance which may impact any protected site or archeological resource until the Director grants approval, upon such terms and conditions as the Director deems necessary, to continue such work or other disturbance.

Sec. 7 Interpretation of Area Resources

(a) Concessioner Obligations

(1) The Concessioner shall provide all visitor services in a manner that is consistent with and supportive of the interpretive themes, goals and objectives of the Area.

(2) The Concessioner may assist in Area interpretation at the request of the Director to enhance visitor enjoyment of the Area. Any additional visitor services that may result from this assistance must be recognized in writing through written amendment of Section 3 of this Contract.

(b) Director Review of Content

The Concessioner must submit the proposed content of any interpretive programs, exhibits, materials or displays to the Director for review and approval prior to offering such programs, exhibits or displays to Area visitors.

(c) Provision of Interpretation Not Exclusive

Notwithstanding any provision of this Contract to the contrary, the Director retains the right to provide Area interpretation, including without limitation, the conduct of interpretive programs and the sale of interpretive materials, directly or through cooperative or other agreements with third parties, as the Director determines to be necessary or appropriate.

Sec. 8 Concession Facilities Used in Operations by Concessioner

(a) Assignment of Concession Facilities

(1) The Director hereby assigns the following Concession Facilities to the Concessioner for the purposes of this Contract:

(i) Certain parcels of Area land as described in Exhibit B upon which, among other matters, the Concessioner may be authorized to construct real property improvements; and

(ii) Certain real property improvements described in Exhibit B in existence as of the effective date of this Contract, as may be modified from time to time to include additional real property improvements completed in accordance with the terms and conditions of this Contract.

(2) The Director shall from time to time amend Exhibit B to reflect changes in Concession Facilities assigned to Concessioner, including, without limitation, real property improvements completed in accordance with the terms and conditions of this Contract.

(b) Concession Facilities Withdrawals

The Director may withdraw all or portions of these Concession Facilities assignments at any time during the term of this Contract if:

(1) The withdrawal is for the purpose of enhancing or protecting Area resources or visitor enjoyment or safety;

(2) The operations utilizing the assigned Concession Facilities have been terminated or suspended by the Director; or

(3) Land or real property improvements assigned to the Concessioner are no longer necessary for the concession operation.

(c) Effect of Withdrawal

Any permanent withdrawal of assigned Concession Facilities which the Director considers as essential for the Concessioner to provide the visitor services required by this Contract will be treated by the Director as a termination of this Contract pursuant to Section 16. The Concessioner will be compensated pursuant to Section 17 for the value of any Leasehold Surrender Interest it may have, if any, in permanently withdrawn Concession Facilities. No other compensation is due the Concessioner in these circumstances.

(d) Right of Entry

The Director shall have the right at any time to enter upon or into the Concession Facilities assigned to the Concessioner under this Contract for any purpose he may deem necessary for the administration of the Area.

(e) Personal Property

(1) *Personal Property Provided by the Concessioner.* The Concessioner shall provide all personal property, including removable equipment, furniture and goods, necessary for its operations under this Contract.

(2) *Personal Property Provided by the Government.* The Director may provide certain items of government personal property and equipment for the Concessioner's use in the performance of this Contract. The Director hereby assigns government personal property and equipment listed in Exhibit C to the Concessioner as of the effective date of this Contract. This Exhibit C will be modified from time to time by the Director as items may be withdrawn or additional items added. The Concessioner shall be accountable to the Director for the government personal property and equipment assigned to it and shall be responsible for maintaining the property and equipment as necessary to keep it in good and operable condition. If the property ceases to be serviceable, it shall be returned to the Director for disposition.

(f) Condition of Concession Facilities

Concessioner has inspected the Concession Facilities and any assigned government personal property, is thoroughly acquainted with their condition, and accepts the Concession Facilities, and any assigned government personal property, ''as is.''

(g) Utilities Provided by the Director

The Director may provide utilities to the Concessioner for use in connection with the operations required and/or authorized under this Contract when available at rates to be fixed by the Director under applicable guidelines.

(h) Utilities Not Provided by the Director

If the Director does not provide these utilities, the Concessioner shall, with the written approval of the Director and under any requirements that the Director shall prescribe, secure necessary utilities at its own expense from sources outside the Area or shall install the utilities within the Area with the written permission of the Director, subject to the following conditions:

(1) Any water rights deemed necessary by the Concessioner for use of water on Area or other federal lands must be acquired at the Concessioner's expense in accordance with applicable State procedures and law. Upon expiration or termination of this Contract for any reason, the Concessioner must assign these water rights to the United States without compensation, and these water rights will become the property of the United States;

(2) If requested by the Director, the Concessioner must provide to the

Director any utility service provided by the Concessioner under this section to such extent as will not unreasonably restrict anticipated use by the Concessioner. Unless otherwise agreed by the Concessioner and the Director, the rate per unit charged the Director for such service shall be approximately the average cost per unit of providing such service; and

(3) All appliances and machinery to be used in connection with the privileges granted in this Section, as well as the plans for location and installation of such appliances and machinery, shall first be approved by the Director.

Sec. 9 Construction or Installation of Real Property Improvements

(a) Construction of Real Property Improvements

The Concessioner may construct or install upon lands assigned to the Concessioner under this Contract only those real property improvements that are determined by the Director to be necessary and appropriate for the conduct by the Concessioner of the visitor services required and/or authorized under this Contract. Construction or installation of real property improvements may occur only after the written approval by the Director of their location, plans, and specifications. The form and content of the application and the procedures for such approvals, as may be modified by the Director from time to time, are set forth in Exhibit H. All real property improvements constructed or installed by Concessioner will immediately become the property of the United States and be considered Concession Facilities.

(b) Removal of Real Property Improvements

(1) The Concessioner may not remove, dismantle, or demolish real property improvements without the prior approval of the Director.

(2) Any salvage resulting from the authorized removal, severance or demolition of a Capital Improvement shall be the property of the Concessioner. Any salvage resulting from the authorized removal, severance or demolition of real property improvements other than a Capital Improvement shall be the property of the United States.

(3) In the event that an assigned real property improvement is removed, abandoned, demolished, or substantially destroyed and no other improvement is constructed on the site, the Concessioner, at its expense, shall promptly, upon the request of the Director, restore the site as nearly as practicable to its original condition.

(c) Leasehold Surrender Interest

(1) This Contract hereby provides the Concessioner, subject to all applicable definitions, requirements and limitations of 36 CFR Part 51 as it existed as of the effective date of this Contract, a Leasehold Surrender Interest in Capital Improvements constructed by the Concessioner under the terms of this Contract, including, but not limited to, those Capitol Improvements constructed as part of the Concession Facilities Improvement Program and those Capitol Improvements which result from the major rehabilitation, as defined by 36 CFR Part 51, of an existing real property improvement. Upon completion of a major rehabilitation by the Concessioner, an existing real property improvement assigned to the Concessioner in which the Concessioner had no Leasehold Surrender Interest prior to the major rehabilitation shall be considered as a Capital Improvement for all purposes of this Contract.

(2) This Contract also provides the Concessioner a Leasehold Surrender Interest in real property improvements resulting from possessory interest obtained under the terms of a possessory interest concession contract where required by 36 CFR Part 51 as it existed as of the effective date of this Contract. Exhibit D to this Contract describes the real property improvements in which the Concessioner has such a Leasehold Surrender Interest and states the value of this Leasehold Surrender Interest as of the effective date of this Contract.

(3) The Concessioner shall not obtain Leasehold Surrender Interest under this Contract except as may be provided in 36 CFR Part 51 as it exists as of the effective date of this Contract. Among other matters, no Leasehold Surrender Interest shall be obtained as a result of expenditures from the Maintenance Reserve described in this Contract and this Contract does not provide a Leasehold Surrender Interest as a result of expenditures for repair and maintenance of Concession Facilities of any nature.

(d) Concession Facilities Improvement Program

(1) The Concessioner shall undertake and complete an improvement program (hereinafter ''Concession Facilities Improvement Program'') costing not less than $_____ as adjusted for each project to reflect par value in the year of actual construction in accordance with the appropriate indexes of the Department of Commerce's ''Construction Review.''

(2) The Concession Facilities Improvement Program shall include:

[Provide detailed description of the Concession Facilities Improvement Program.]

(3) The Concessioner shall commence construction under the Concession Facilities Improvement Program on or before _____ in a manner that demonstrates to the satisfaction of the Director that the Concessioner is in good faith carrying the Concession Facilities Improvement Program forward reasonably under the circumstances. No construction may begin until the Concessioner receives written approval from the Director of plans and specifications in accordance with Exhibit H. During the period of construction, the Concessioner shall provide the Director with such evidence or documentation, as may be satisfactory to the Director, to demonstrate that the Concession Facilities Improvement Program duly is being carried forward. The Concessioner shall complete and have the improvements and buildings available for public use on or before _____.

Sec. 10 Maintenance

(a) Maintenance Obligation

The Concessioner shall be solely responsible for maintenance, repairs, housekeeping, and groundskeeping for all Concession Facilities to the satisfaction of the Director.

(b) Maintenance Plan

For these purposes, the Director, acting through the Superintendent, shall undertake appropriate inspections, and shall establish and revise, as necessary, a Maintenance Plan consisting of specific maintenance requirements which shall be adhered to by the Concessioner. The initial Maintenance Plan is set forth in Exhibit F. The Director in his discretion may modify the Maintenance Plan from time to time after consultation with the Concessioner. Such modifications shall not be inconsistent with the terms and conditions of the main body of this Contract.

(c) Maintenance Reserve

[No Maintenance Reserve is included in this Contract.] or

(1) The Concessioner shall establish and manage a Maintenance Reserve. The funds in this Reserve shall be used to carry out, on a project basis, repair and maintenance of Concession Facilities that are non-recurring within a seven year time frame. Such projects may include repair or replacement of

foundations, building frames, window frames, sheathing, subfloors, drainage, rehabilitation of building systems such as electrical, plumbing, built-in heating and air conditioning, roof replacement and similar projects. Projects will be carried out by the Concessioner as the Director shall direct in writing in advance of any expenditure being made and in accordance with project proposals approved by the Director. No projects may be commenced until the Concessioner receives written approval from the Director.

(2) Projects paid for with funds from the Maintenance Reserve will not include routine, operational maintenance of facilities or housekeeping and groundskeeping activities. Nothing in this section shall lessen the responsibility of the Concessioner to carry out the maintenance and repair of Concession Facilities as required by this Contract from Concessioner funds exclusive of the funds contained in the Maintenance Reserve.

(3) The Concessioner shall establish within its accounting system a Maintenance Reserve. The Concessioner shall debit to this Reserve, within fifteen (15) days after the last day of each month that the Concessioner operates a sum equal to: _____ percent (____%) of the Concessioner's Gross Receipts for the previous month. If the Concessioner fails to make timely debits to the Maintenance Reserve, the Director may terminate this Contract for default or require the Concessioner to post a bond in an amount equal to the estimated annual Maintenance Reserve allocation, based on the preceding year's Gross Receipts.

(4) The balance in the Maintenance Reserve shall be available for projects in accordance with the Reserve's purpose. For all expenditures made for each project from the Maintenance Reserve, the Concessioner shall maintain auditable records including invoices, billings, canceled checks, and other documentation satisfactory to the Director.

(5) Maintenance Reserve funds shall not be used for a major rehabilitation as defined in this Contract. The Concessioner shall obtain no ownership, Leasehold Surrender Interest, or other compensable interest as a consequence of the expenditure of Maintenance Reserve funds.

(6) Any Maintenance Reserve funds not duly expended by the Concessioner as of the termination or expiration of this Contract shall be immediately remitted by the Concessioner to the Director as an additional franchise fee under section 11 of this Contract.

Sec. 11 Fees

(a) Franchise Fee

(1) For the term of this Contract, the Concessioner shall pay to the Director for the privileges granted under this Contract a franchise fee equal to _____ percent (____%) of the Concessioner's Gross Receipts for the preceding year or portion of a year.

(2) Neither the Concessioner nor the Director shall have a right to an adjustment of the fees except as provided below. The Concessioner has no right to waiver of the fees under any circumstances.

(b) Payments Due

(1) The franchise fee shall be due on a monthly basis at the end of each month and shall be paid by the Concessioner in such a manner that the Director shall receive payment within fifteen (15) days after the last day of each month that the Concessioner operates. This monthly payment shall include the franchise fee equal to the specified percentage of gross receipts for the preceding month.

(2) The Concessioner shall pay any additional fee amounts due at the end of the operating year as a result of adjustments at the time of submission of the Concessioner's Annual Financial Report. Overpayments shall be offset against the following year's fees.

(3) All franchise fee payments consisting of $10,000 or more, shall be deposited electronically by the Concessioner using the Treasury Financial Communications System.

(c) Interest

An interest charge will be assessed on overdue amounts for each thirty (30) day period, or portion thereof, that payment is delayed beyond the fifteen (15)-day period provided for above. The percent of interest charged will be based on the current value of funds to the United States Treasury as published quarterly in the Treasury Fiscal Requirements Manual. The Director may also impose penalties for late payment to the extent authorized by Applicable Law.

(d) Reconsideration of Franchise Fee

(1) The Concessioner may request, in the event the Concessioner considers that extraordinary, unanticipated changes have occurred after the effective date of this Contract, a reconsideration and possible subsequent adjustment of the franchise fee established in this section. For the purposes of this section, the phrase ''extraordinary, unanticipated changes'' shall mean extraordinary, unanticipated changes from the conditions existing or reasonably anticipated before the effective date of this Contract which have or will significantly affect the probable value of the privileges granted to the Concessioner by this Contract. For the purposes of this section, the phrase ''probable value'' means a reasonable opportunity for net profit in relation to capital invested and the obligations of this Contract.

(2) The Concessioner must make a request for a reconsideration by mailing, within thirty (30) days from the date that the Concessioner becomes aware, or should have become aware, of the possible extraordinary, unanticipated changes, a written notice to the Director that includes a description of the possible extraordinary, unanticipated changes and why Concessioner believes they will significantly effect the probable value of the privileges granted by this Contract. A government official subordinate to the Director may also initiate such a reconsideration by so notifying the Concessioner in accordance with this section.

(3) If a franchise fee reconsideration is timely initiated in this manner, the Director shall make a written determination as to whether extraordinary, unanticipated changes exist. If a subordinate official to the Director initiated the reconsideration, an official appointed by the Director other than the subordinate initiating official shall make the determination. If the Director determines that extraordinary, unanticipated changes have not occurred, the reconsideration process shall terminate without an adjustment to the franchise fee. If the Director determines that extraordinary, unanticipated changes did occur, the Concessioner and the Director will undertake a good faith negotiation as to an appropriate adjustment of the franchise fee.

(4) The negotiation will last for a period of sixty (60) days from the date the Director makes his or her determination that extraordinary unanticipated changes occurred. If the negotiation results in agreement as to an adjustment (up or down) of the franchise fee within this period, the franchise fee will be adjusted accordingly, retroactive to the date for which the notice of reconsideration was given.

(5) If the negotiation does not result in agreement as to the adjustment of the franchise fee within this sixty (60) day period, then either the Concessioner or the Director may request binding arbitration to determine the adjustment to franchise fee in accordance with this section. Such a request for arbitration

must be made by mailing notice to the other party within fifteen (15) days of the expiration of the sixty (60) day period.

(6) Within thirty (30) days of receipt of such a notice, the Concessioner and the Director shall each select an arbiter. These two arbiters, within thirty (30) days of selection, must agree to the selection of a third arbiter to complete the arbitration panel. The third arbiter shall be the chairperson of the panel. The Director and the Concessioner shall share equally the expenses of the third arbiter and other common expenses associated with the arbitration. Within thirty (30) days of the selection of the third arbiter, the arbitration panel must hold an informal meeting with the Concessioner and the Director. At such meeting, the Concessioner and the Director shall be permitted to present their written and oral views and any accompanying documentation as to their position on an adjustment to the franchise fee and the members of the panel may pose questions to the Concessioner and the Director. Non-adjudicative procedures only shall be used in the arbitration proceedings. The arbitration panel shall not have the power to compel the production of documents or witnesses and shall not receive or take into account information or documents developed by the Concessioner or the Director for pre-negotiation or negotiation purposes. All actions related to the arbitration are subject to the applicable requirements of 36 CFR Part 51 as it may be amended from time to time.

(7) The arbitration panel shall consider the written submissions and any oral presentations made by the Concessioner and the Director and provide its decision on an adjusted franchise fee (up, down or unchanged) that is consistent with the probable value of the privileges granted by this Contract within sixty (60) days of the informal meeting.

(8) Any adjustment to the franchise fee resulting from this Section shall be effective retroactive to the date for which the notice of reconsideration was given and for the remaining term of this Contract, subject to the results of any further reconsideration.

(9) If an adjustment to the franchise fee results in higher fees, the Concessioner will pay all back franchise fees due (with accrued interest) at the time of the next regular franchise fee payment. If an adjustment results in lower franchise fees, the Concessioner may withhold the difference from future franchise fee payments until such time as the Concessioner has recouped the overpayment. Any payments made in arrears by the Concessioner shall include interest at a percent based on the current value of funds to the United States Treasury as published quarterly in the Treasury Fiscal Requirements Manual.

(10) Any adjustment to the franchise fee will be embodied in an amendment to this Contract.

(11) During the pendency of the process described in this Section, the Concessioner shall continue to make the established franchise fee payments required by this Contract.

Sec. 12 Indemnification and Insurance

(a) Indemnification

The Concessioner agrees to assume liability for and does hereby agree to save, hold harmless, protect, defend and indemnify the United States of America, its agents and employees from and against any and all liabilities, obligations, losses, damages or judgments (including without limitation penalties and fines), claims, actions, suits, costs and expenses (including without limitation attorneys fees and experts fees) of any kind and nature whatsoever on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, in any way relating to or arising out of the activities of the Concessioner, his employees, subcontractors or agents under this Contract. This indemnification shall survive the termination or expiration of this Contract.

(b) Insurance in General

(1) The Concessioner shall obtain and maintain during the entire term of this Contract at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of this Contract. The Director shall approve the types and amounts of insurance coverage purchased by the Concessioner.

(2) The Director will not be responsible for any omissions or inadequacies of insurance coverages and amounts in the event the insurance purchased by the Concessioner proves to be inadequate or otherwise insufficient for any reason whatsoever.

(3) At the request of the Director, the Concessioner shall at the time insurance is first purchased and annually, thereafter, provide the Director with a Certificate of Insurance that accurately details the conditions of the policy as evidence of compliance with this section. The Concessioner shall provide the Director thirty (30) days advance written notice of any material change in the Concessioner's insurance program hereunder.

(c) Commercial Public Liability

(1) The Concessioner shall provide commercial general liability insurance against claims arising out of or resulting from the acts or omissions of the Concessioner or its employees in carrying out the activities and operations required and/or authorized under this Contract.

(2) This insurance shall be in the amount commensurate with the degree of risk and the scope and size of the activities required and/or authorized under this Contract, as more specifically set forth in Exhibit E. Furthermore, the commercial general liability package shall provide the coverages and limits described in Exhibit E.

(3) All liability policies shall specify that the insurance company shall have no right of subrogation against the United States of America and shall provide that the United States of America is named an additional insured.

(4) From time to time, as conditions in the insurance industry warrant, the Director may modify Exhibit E to revise the minimum required limits or to require additional types of insurance.

(d) Property Insurance

(1) In the event of damage or destruction, the Concessioner will repair or replace those Concession Facilities and personal property utilized by the Concessioner in the performance of the Concessioner's obligations under this Contract.

(2) For this purpose, the Concessioner shall provide fire and extended insurance coverage on Concession Facilities in amounts that the Director may require during the term of the Contract. The values currently in effect are set forth in Exhibit E. This Exhibit will be revised at least every three (3) years, or earlier if there is a substantial change in value of Concession Facilities.

(3) Commercial property insurance shall provide for the Concessioner and the United States of America to be named insured as their interests may appear.

(4) In the event of loss, the Concessioner shall use all proceeds of such insurance to repair, rebuild, restore or replace Concession Facilities and or personal property utilized in the Concessioner's operations under this Contract, as directed by the Director. Policies may not contain provisions limiting insurance proceeds to in situ replacement. The lien provision of

Section 13 shall apply to such insurance proceeds.

(5) Insurance policies that cover Concession Facilities shall contain a loss payable clause approved by the Director which requires insurance proceeds to be paid directly to the Concessioner without requiring endorsement by the United States. The use of insurance proceeds for repair or replacement of Concession Facilities will not alter their character as properties of the United States and, notwithstanding any provision of this Contract to the contrary, the Concessioner shall gain no ownership, Leasehold Surrender Interest or other compensable interest as a result of the use of these insurance proceeds.

(6) The commercial property package shall include the coverages and amounts described in Exhibit E.

Sec. 13 Bonds and Liens

(a) Bonds

The Director may require the Concessioner to furnish appropriate forms of bonds acceptable to the Director conditioned upon faithful performance of its obligations under this Contract, in such form and in such amount as the Director may deem adequate.

(b) Lien

As additional security for the faithful performance by the Concessioner of its obligations under this Contract, and the payment to the Government of all damages or claims that may result from the Concessioner's failure to observe any such obligations, the Government shall have at all times the first lien on all assets of the Concessioner within the Area, including, but not limited to, all personal property of the Concessioner used in performance of the Contract hereunder and any Leasehold Surrender Interest of the Concessioner.

Sec. 14 Accounting Records and Reports

(a) Accounting System

(1) The Concessioner shall maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system shall be capable of providing the information required by this Contract, including but not limited to the Concessioner's repair and maintenance obligations. The Concessioner's system of accounts classification shall be directly related to the Concessioner Annual Financial Report Form issued by the Director.

(2) If the Concessioner's annual gross receipts are $250,000 or more, the Concessioner must use the accrual accounting method.

(3) In computing net profits for any purposes of this Contract, the Concessioner shall keep its account in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized hereunder by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.

(b) Annual Financial Report

(1) The Concessioner shall submit annually as soon as possible but not later than ninety (90) days after the last day of its fiscal year a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director (''Concessioner Annual Financial Report'').

(2) If the annual gross receipts of the Concessioner are in excess of $1,000,000, the financial statements shall be audited by an independent Certified Public Accountant in accordance with the Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(3) If annual gross receipts are between $250,000, and $1,000,000, the financial statements shall be reviewed by an independent Certified Public Accountant in accordance with the Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(4) If annual gross receipts are less than $250,000, the financial statements may be prepared without involvement by an independent Certified Public Accountant, unless otherwise directed by the Director.

(c) Other Financial Reports

(1) *Balance Sheet.* Within ninety (90) days of the execution of this Contract or its effective date, whichever is later, the Concessioner shall submit to the Director a balance sheet as of the beginning date of the term of this Contract. The balance sheet shall be audited or reviewed, as determined by the gross receipts, by an independent Certified Public Accountant. The balance sheet shall be accompanied by a schedule that identifies and provides details for all capital improvements in which the Concessioner claims a Leasehold Surrender Interest. The schedule must describe these capital improvements in detail showing for each such capital improvement the date acquired, useful life, cost and book value.

(2) *Statements of Reserve Activity* The Concessioner shall submit annually, not later than _____ (____) days after the end of the Concessioner's accounting year, a statement reflecting total activity in the Maintenance Reserve for the preceding accounting year. The statement must reflect monthly inflows and outflows on a project by project basis.

Sec. 15 Other Reporting Requirements

The following describes certain other reports required under this Contract:

(a) Insurance Certification

As specified in Section 12, at the time insurance is first purchased, and annually thereafter, the Concessioner shall provide the Director with a Certificate of Insurance for all insurance coverages related to its operations under this Contract. The Concessioner shall give the Director thirty (30) days advance written notice of any material change in its insurance program.

(b) Environmental Reporting

The Concessioner shall submit a quarterly report on any matters related to the Concessioner's environmental compliance requirements under this Contract.

(c) Miscellaneous Reports and Data

The Director from time to time may require the Concessioner to submit other reports and data regarding its performance under the Contract or otherwise, including, but not limited to, operational information.

Sec. 16 Suspension and Termination

(a) Suspension

The Director may temporarily suspend operations under this Contract in whole or in part when necessary for administrative purposes or to enhance or protect Area resources, visitor enjoyment or safety. No compensation of any nature shall be due the Concessioner in the event of a suspension of operations, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the suspension.

(b) Termination

(1) The Director may terminate this Contract in whole or part at any time when necessary for the purpose of enhancing or protecting Area resources or visitor enjoyment or safety.

(2) The Director may terminate this Contract in whole or part for default if the Director determines that the

Concessioner has breached any requirement of this Contract, including, but not limited to, the requirement to maintain and operate visitor services to the satisfaction of the Director, the requirement to provide only visitor services required or authorized by the Director, the requirement to pay the established franchise fee, and the requirement to comply with Applicable Laws.

(3) In the event of a breach of the Contract, the Director will provide the Concessioner an opportunity to cure by providing written notice to the Concessioner of the breach. In the event of a monetary breach, the Director will give the Concessioner a fifteen (15) day period to cure the breach. If the breach is not cured within that period, then the Director may terminate the Contract for default. In the event of a nonmonetary breach, if the Director considers that the nature of the breach so permits, the Director will give the Concessioner thirty (30) days to cure the breach, or to provide a plan, to the satisfaction of the Director in his sole discretion, to cure the breach over a specified period of time. If the breach is not cured within this specified period of time, the Director may terminate the Contract for default. Notwithstanding this provision, repeated breaches of the same nature shall be grounds for termination for default without a cure period. In the event of a breach of any nature, the Director may suspend the Concessioner's operations as appropriate in accordance with Section 16(a).

(4) The Director may terminate this Contract upon the filing or the execution of a petition in bankruptcy by or against the Concessioner, a petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, an assignment by the Concessioner for the benefit of creditors, a petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity. The Director may terminate this Contract if the Director determines that the Concessioner is unable to perform the terms of Contract due to bankruptcy or insolvency.

(5) Termination of this Contract for any reason shall be by written notice to the Concessioner.

(c) Notice of Bankruptcy or Insolvency

The Concessioner must give the Director notice fifteen (15) days prior to filing any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The Concessioner must also give the Director immediate notice of any petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity. For purposes of the bankruptcy statutes, this Contract is not a lease, but is an executory contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 1135.

(d) Requirements in the Event of Termination

(1) In the event of termination of this Contract by the Director for any reason, the total compensation due the Concessioner for such termination shall be as described in section 17 of this Contract. No other compensation of any nature shall be due the Concessioner in the event of a termination of this Contract, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the termination.

(2) Upon termination of this Contract for any reason, and except as otherwise provided in this section, the Concessioner shall, at Concessioner's expense, promptly vacate the Area, remove all of Concessioner's personal property, repair any injury occasioned by installation of removal of such property, and ensure that Concession Facilities are in as good condition as they were at the beginning of the term of this Contract, reasonable wear and tear excepted.

(3) To avoid interruption of services to the public upon the termination of this Contract for any reason, the Concessioner, upon the request of the Director, shall continue to conduct all operations hereunder under the terms and conditions of this Contract for a reasonable period of time as determined by the Director, not to exceed the time limitations contained in 36 CFR Part 51 as it existed as of the effective date of this Contract applicable to payment of leasehold surrender interest value.

(4) To avoid interruption of services to the public upon expiration of this Contract or upon its termination for any reason, the Concessioner, upon the request of the Director, shall consent to the use by another operator of the Concessioner's personal property, excluding inventories if any, not including current or intangible assets, for a period of time not to exceed one year from the date of such termination or expiration. The other operator shall pay the Concessioner an annual fee for use of such property, prorated for the period of use, in the amount of the annual depreciation of such property, plus a return on the book value of such property equal to the prime lending rate, effective on the date the operator assumes managerial and operational responsibilities, as published by the Federal Reserve System Board of Governors. In such circumstances, the method of depreciation applied shall be either straight line depreciation or depreciation as shown on the Concessioner's Federal income tax return, whichever is less. To avoid interruption of services to the public upon expiration of this Contract or termination of this Contract for any reason, the Concessioner shall, upon the request of the Director, sell its existing inventory to another operator at the purchase price as shown on applicable invoices.

Sec. 17 Compensation

(a) Just Compensation

The compensation provided by this Section shall constitute full and just compensation to the Concessioner for all losses and claims occasioned by the circumstances described below.

(b) Compensation for Contract Expiration or Termination

If, for any reason, including Contract expiration or termination, the Concessioner shall cease to be authorized by the Director to conduct operations under this Contract, the Concessioner shall convey to a person designated by the Director (including the Director if appropriate) any Leasehold Surrender Interest it has under the terms of this Contract and the Director shall assure, subject to subsection (c) below, that the Concessioner is paid the Leasehold Surrender Interest Value in accordance with the requirements of 36 CFR Part 51 as they existed as of the effective date of this Contract. The Concessioner shall not be required to convey such Leasehold Surrender Interest until the Concessioner is paid in accordance with 36 CFR Part 51 as it existed as of the effective date of this Contract.

(c) Compensation When Contract Terminated for Default

Notwithstanding any other provision of this Contract to the contrary, in the event of termination of this Contract for default, the Concessioner shall be entitled to the payment of any

Leasehold Surrender Interest Value it may have under the terms of this Contract, but such payment may be offset by the Director by any damages due the Director from the Concessioner as a result of the breach of Contract which resulted in the termination for default or by other funds due the Director under the terms of this Contract.

(d) Procedures for Establishing the Value of a Leasehold Surrender Interest

(1) In the event that agreement as to the value of a Leasehold Surrender Interest cannot be reached by the Concessioner and the Director such value shall be determined by binding arbitration, subject to applicable limitations of 36 CFR Part 51 as it existed as of the effective date of this Contract. In these circumstances, the Concessioner and the Director shall each select an arbiter. These two arbiters, within thirty (30) days of selection, must agree to the selection of a third arbiter to complete the arbitration panel. The third arbiter shall be the chairperson of the panel. The Director and the Concessioner shall share equally the expenses of the third arbiter and other common expenses associated with the arbitration. Within thirty (30) days of the selection of the third arbiter, the arbitration panel must hold an informal meeting with the Concessioner and the Director. At such meeting, the Concessioner and the Director shall be permitted to present their written and oral views and any accompanying documentation as to their position on the value of the Leasehold Surrender Interest and the members of the panel may pose questions to the Concessioner and the Director. Non-adjudicative procedures only shall be used in the arbitration proceedings. The arbitration panel shall not have the power to compel the production of documents or witnesses and shall not receive or take into account information or documents developed by the Concessioner or the Director for pre-negotiation or negotiation purposes. All aspects of the arbitration are subject to the applicable requirements of 36 CFR Part 51 as it existed as of the effective date of this Contract.

(2) The arbitration panel shall consider the written submissions and any oral presentations made by the Concessioner and the Director and provide its decision on the value of the Leasehold Surrender Interest consistent with the terms of this Contract and 36 CFR Part 51 as it existed as of the effective date of this Contract.

(3) The Concessioner shall, at any time requested by the Director, enter into negotiations with the Director as to the value of the Concessioner's Leasehold Surrender Interest under this Contract. In the event that such negotiations fail to determine an agreed upon value, the Director may initiate arbitration proceedings to determine such value upon written request to the Concessioner. Such arbitration proceedings shall be conducted in accordance with the arbitration procedures set forth in this section. The arbitration panel shall determine the value of the Concessioner's Leasehold Surrender Interest consistent with the terms of this Contract and 36 CFR Part 51 as it existed as of the effective date of this Contract. The arbitration panel shall also provide a means to calculate the change in the value of such Leasehold Surrender Interest as may occur for up to two years from the date of the initial determination. The determination of the arbitration panel shall be binding on the Director and the Concessioner.

(d) Compensation for Personal Property

Except as otherwise provided in this Contract, upon expiration or termination of this Contract for any reason, the Concessioner shall remove its personal property from the Area unless it is sold to the Director or a successor concessioner. No compensation is due the Concessioner from the Director or a successor concessioner for such personal property. The Director or a successor concessioner may purchase such personal property from the Concessioner subject to mutually agreed upon terms. Personal property not removed from the Area by the Concessioner as of the date of expiration or termination of this Contract, unless the Director in writing extends such date of removal, shall be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner, in accordance with Applicable Laws. Any cost or expense incurred by the Director as a result of such disposition may be offset from any amounts owed to Concessioner by the Director.

Sec. 18 Assignment, Sale or Encumbrance of Interests

(a) This Contract is subject to the requirements of 36 CFR Part 51 as it may be amended from time to time with respect to proposed conveyances and encumbrances as those terms are defined in 36 CFR Part 51, including, but not limited to, proposed management and subconcession agreements. Failure by the Concessioner to comply with 36 CFR Part 51 is a material breach of this Contract for which the Director may terminate this Contract for default. The Director shall not be obliged to recognize any right of any person or entity to an interest in this Contract of any nature, including, but not limited to, Leasehold Surrender Interest or operating rights under this Contract, if obtained in violation of 36 CFR Part 51.

(b) The Concessioner shall advise any person(s) or entity proposing to enter into a transaction which may be subject to 36 CFR Part 51 of the requirements of that regulation.

Sec. 19 General Provisions

(a) The Director and Comptroller General of the United States, or any of their duly authorized representatives, shall have access to the records of the Concessioner as provided by 36 CFR Part 51 as it may now exist or be amended from time to time.

(b) All information required to be submitted to the Director by the Concessioner pursuant to this Contract is subject to public release by the Director to the extent required or authorized by Applicable Laws.

(c) Subconcession or other third party agreements, including management agreements, for the provision of principal services required and/or authorized under this Contract are not permitted. However, subconcession or other third party agreements may be allowed for incidental or specialized services which are incidental to the principal services required and/or authorized under this Contract. Any proposal to provide incidental or specialized services through subconcession or other third party agreements must be submitted to the Director in writing, along with a copy of the proposed subconcession or third party agreement, and shall be effective only if approved in writing by the Director. If the Director approves a subconcession or other third party agreement, the Concessioner and the Director will amend the Contract to reflect such approval. Agreements with others to provide vending or other coin-operated machines shall not be considered subconcession agreements.

(d) The Concessioner is not entitled to be awarded or to have negotiating rights to any Federal procurement or service contract by virtue of any provision of this Contract.

(e) Any and all taxes or assessments of any nature that may be lawfully imposed by any State or its political subdivisions upon the property or business of the Concessioner shall be paid promptly by the Concessioner.

(f) No member of, or delegate to, Congress or Resident Commissioner shall be admitted to any share or part of this Contract or to any benefit that may arise from this Contract but this restriction shall not be construed to extend to this Contract if made with a corporation or company for its general benefit.

(g) This Contract is subject to the provisions of 43 CFR, Subtitle A, Subpart D, concerning nonprocurement debarment and suspension. The Director may recommend that the Concessioner be debarred or suspended in accordance with the requirements and procedures described in those regulations, as they are effective now or may be revised in the future.

(h) This Contract contains the sole and entire agreement of the parties. No oral representations of any nature form the basis of or may amend this Contract. This Contract may be extended, renewed or amended only when agreed to in writing by the Director and the Concessioner.

(i) The Concessioner is not granted by this Contract any rights to renewal of this Contract or to award of a new contract of any nature.

(j) This Contract does not grant rights or benefits of any nature to any third party.

(k) The invalidity of a specific provision of this Contract shall not affect the validity of the remaining provisions of this Contract.

In Witness Whereof, the duly authorized representatives of the parties have executed this Contract as of the _____ day of _____, _____.

Concessioner

By _____
(Title)
(Company Name)

United States of America

By _____
Director
National Park Service

[corporations]

Attest:

By _____
Title

[Sole Proprietorship]

Witnesses:

Name
Address
Title

Name
Address
Title

[Partnership]

Witnesses as to each:

Name _____
Address
Name _____
Address

[*Concessioner*]
(Name)
(Name)

Dated: August 20, 1999.

Maureen Finnerty,

Associate Director, Park Operations and Education, National Park Service.

[FR Doc. 99–23029 Filed 9–2–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Justice Management Division

Notice of FIPS Waiver

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: The Chief Information Officer for the Department of Justice has granted a waiver to the Agency to use the cryptographical features provided in Entrust/Authority,™ Entrust/Entelligence,™ and Entrust/Client,™ by Entrust Technologies, Inc., in lieu of the Data Encryption Standard (FIPS Pub 46–2).

DATES: This waiver was approved on May 25, 1999.

ADDRESSES: U.S. Department of Justice, Justice Management Division, Information Resources Management, 10th and Constitution Avenue NW, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Richard Bowler, Information Management and Security Staff, U.S. Department of Justice, National Place Building, Suite 1220, 1331 Pennsylvania Avenue, NW, Washington, DC 20530, email: *richard.w.bowler@usdoj.gov*, voice: 202–616–1171, fax: 202–616–5455.

SUPPLEMENTARY INFORMATION: The Federal Information Processing Standards Publication (FIPS Pub) 46–2 entitled ''Data Encryption Standard (DES)'' requires the use of DES, other FIPS-approved methods of encryption (FIPS 185 Escrowed Encryption Standard) or methods approved for classified information, where encryption of sensitive but unclassified information is deemed necessary. The Department plans to conduct testing of several public key encryption and digital signature prototypes using Entrust/Authority,™ Entrust/Entelligence,™ and Entrust/Client,™ by Entrust Technologies, Inc. The Entrust products are not compliant with FIPS 46–2, other FIPS-approved methods of encryption or for use with classified information. Accordingly, a waiver is required if the Entrust products are utilized.

The domestic versions of Entrust's Entelligence™ and Client™ products use the CAST–128 encryption algorithm for the storage of user profile information at the client's desktop. CAST–128 has not been approved by the National Institute of Standards and Technology. Additionally, in order to provide stronger security than that currently required under FIPS Pub 46–2, the Department will utilize Triple DES provided in Entrust's Authority,™ Entelligence,™ and Client.™

The Department of Justice's Chief Information Officer has determined that compliance with FIPS 46–2 would adversely affect the accomplishment of the mission of the Department. Accordingly, he has granted a waiver of the FIPS to allow the Department to use these Entrust products. The tests will involve approximately 200 users and will be conducted over a period of six months. Actual data as opposed to test data will be transmitted during the six month test.

In accordance with FIPS Pub 46–2, notice of this waiver will be sent to the National Institute of Standards and Technology, the Committee on Government Reform and Oversight of the United States House of Representatives, and the Committee on Governmental Affairs of the United States Senate.

Dated: August 17, 1999.

Stephen R. Colgate,

Assistant Attorney General for Administration.

[FR Doc. 99–22968 Filed 9–2–99; 8:45 am]

BILLING CODE 4410–26–M

DEPARTMENT OF LABOR

Employment and Training Administration

Unemployment Compensation for Ex-Servicemembers (UCX) Handbook; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized,

collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed revision and extension of the Unemployment Compensation for Ex-Servicemembers (UCX) Handbook.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before November 2, 1999.

ADDRESSES: Written comments on this notice may be mailed or delivered to Charles E. Longus, Jr., Unemployment Insurance Service, U.S. Department of Labor, Room S–4522, Frances Perkins Building, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 219–7301 ext 189 (this is not a toll-free number), fax number (202) 219–8506.

SUPPLEMENTARY INFORMATION:

I. Background

The UCX law (5 U.S.C. 8521–8523) requires State employment security agencies to administer the UCX program in accordance with the same terms and conditions of the paying State's unemployment insurance law which apply to unemployed claimants who worked in the private sector. Each State agency must be able to obtain certain military service information from each claimant filing claims for UCX benefits to enable them to determine his/her eligibility for benefits. The State agencies record or obtain required UCX information on forms developed by the Department of Labor, ETA 841 and ETA 843. The use of each of these forms is essential to the UCX claims process.

Information pertaining to the UCX claimant can only be obtained from the individual's military discharge papers, the appropriate branch of military service or the Department of Veterans Affairs (formerly the Veterans Administration). If the claimant does not have this information available, the most feasible and effective way to obtain this information is by use of the forms prescribed by the Department of Labor for State agency use. Without this information, we could not adequately determine the eligibility of ex-servicemembers and would not be able to properly administer the program.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

This is a request for OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)) of an extension to an existing collection of information previously approved and assigned OMB control No. 1205–0176. A current inventory of 76,647 UCX claims were filed in FY 1998 and a proposed inventory of 66,126 UCX claims will be reported for FY 1999 reflecting a significant decrease of 10,521 from the previous fiscal year resulting in a reduction of –789 hours towards ETA's Information Collection Budget.

Fifty-three (53) SESAs fill out these forms. Form ETA 841 is completed by SESAs whenever an ex-servicemember files: (1) A ''first claim'' (UCX) for unemployment compensation, whereby an assignment of Federal military service is recorded; or (2) a request for determination of entitlement to UCX benefits, whether or not such request results in a ''first claim.'' ETA 843 is used by SESAs only when it is necessary to obtain additional clarifying information from the military pertaining to the UCX claimant or to obtain a copy of DD Form 214 that was not issued to the claimant when separated from military service. Accordingly, the ETA 843 is used for only 5% of the UCX ''first claims.'' This is then sent to any one of the four branches of military service (Army, Navy, Marines, Air Force), the Coast Guard, or the National Oceanic Atmospheric Administration (they are considered branches of military service for UCX purposes but are not under the jurisdiction of the Department of Defense).

Type of Review: Revision.

Agency: Employment and Training Administration.

Title: Unemployment Compensation for Ex-Servicemembers (UCX) Handbook.

OMB Number: 1205–0176.

Recordkeeping: The Department of Labor (DOL) does not maintain a system of records for the UCX program. UCX records are maintained by the SESAs acting as agents for the Federal Government in the administration of the UCX program. The DOL procedures permit the SESAs, upon request, to dispose of UCX records according to State law provisions, 3 years after final action (including appeals or court action) on the claim, or such records may be transferred in less than the 3-year period if microphotographed in accordance with appropriate microphotography standards.

Affected Public: State governments (State employment security agencies).

Cite/Reference/Form/etc: Forms ETA 841 and ETA 843.

Total Respondents: 66,126.

Frequency: As needed.

Total Responses: 66,126.

Average Time per Response: 1.5 min.

Estimated Total Burden Hours: 1,708 hrs.

Cite/Reference	Total respondents	Frequency	Total responses	Average time per response (min.)	Burden (hrs.)
ETA 841	66,126	As needed	66,126	1.5	1,653
ETA 843	3,306	As needed	3,306	1.0	55
Totals			69,432		1,708

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $1,526,952.

Comments submitted in response to this comment request will be

summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 30, 1999.

Cheryl Atkinson,

Deputy Director, Unemployment Insurance Service.

[FR Doc. 99–23014 Filed 9–2–99; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determination in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CAR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

Modificaitons to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register**, are in parentheses following the decisions being modified.

Volume I

Connecticut:
- CT990001 (MAR. 12, 1999)
- CT990004 (MAR. 12, 1999)

Maine:
- ME990005 (Mar. 12, 1999)
- ME990007 (Mar. 12, 1999)
- ME990010 (Mar. 12, 1999)
- ME990022 (Mar. 12, 1999)
- ME990037 (Mar. 12, 1999)

New Jersey:
- NJ990001 (Mar. 12, 1999)
- NJ990002 (Mar. 12, 1999)
- NJ990003 (Mar. 12, 1999)
- NJ990004 (Mar. 12, 1999)
- NJ990005 (Mar. 12, 1999)
- NJ990007 (Mar. 12, 1999)

New York:
- NY990002 (Mar. 12, 1999)
- NY990003 (Mar. 12, 1999)
- NY990004 (Mar. 12, 1999)
- NY990005 (Mar. 12, 1999)
- NY990006 (Mar. 12, 1999)
- NY990007 (Mar. 12, 1999)
- NY990008 (Mar. 12, 1999)
- NY990010 (Mar. 12, 1999)
- NY990011 (Mar. 12, 1999)
- NY990012 (Mar. 12, 1999)
- NY990015 (Mar. 12, 1999)
- NY990016 (Mar. 12, 1999)
- NY990018 (Mar. 12, 1999)
- NY990019 (Mar. 12, 1999)
- NY990020 (Mar. 12, 1999)
- NY990021 (Mar. 12, 1999)
- NY990022 (Mar. 12, 1999)
- NY990025 (Mar. 12, 1999)
- NY990031 (Mar. 12, 1999)
- NY990032 (Mar. 12, 1999)
- NY990033 (Mar. 12, 1999)
- NY990034 (Mar. 12, 1999)
- NY990036 (Mar. 12, 1999)
- NY990037 (Mar. 12, 1999)
- NY990038 (Mar. 12, 1999)
- NY990039 (Mar. 12, 1999)
- NY990040 (Mar. 12, 1999)
- NY990041 (Mar. 12, 1999)
- NY990042 (Mar. 12, 1999)
- NY990043 (Mar. 12, 1999)
- NY990044 (Mar. 12, 1999)
- NY990046 (Mar. 12, 1999)
- NY990047 (Mar. 12, 1999)
- NY990048 (Mar. 12, 1999)
- NY990049 (Mar. 12, 1999)
- NY990051 (Mar. 12, 1999)
- NY990060 (Mar. 12, 1999)
- NY990072 (Mar. 12, 1999)
- NY990073 (Mar. 12, 1999)
- NY990078 (Mar. 12, 1999)

Volume II

District of Columbia:
- DC990001 (MAR. 12, 1999)
- DC990003 (MAR. 12, 1999)

Maryland:
- MD990001 (MAR. 12, 1999)
- MD990040 (MAR. 12, 1999)
- MD990048 (MAR. 12, 1999)
- MD990058 (MAR. 12, 1999)

Pennsylvania:
- PA990005 (MAR. 12, 1999)
- PA990006 (MAR. 12, 1999)
- PA990026 (MAR. 12, 1999)
- PA990031 (MAR. 12, 1999)

Virginia:
- VA990014 (MAR. 12, 1999)
- VA990047 (MAR. 12, 1999)
- VA990062 (MAR. 12, 1999)
- VA990092 (MAR. 12, 1999)
- VA990099 (MAR. 12, 1999)

Volume III

Alabama:
- AL990004 (MAR. 12, 1999)
- AL990006 (MAR. 12, 1999)
- AL990008 (MAR. 12, 1999)
- AL990034 (MAR. 12, 1999)
- AL990044 (MAR. 12, 1999)

Florida:

FL990017 (MAR. 12, 1999)
Georgia:
GA990003 (MAR. 12, 1999)
GA990022 (MAR. 12, 1999)
GA990040 (MAR. 12, 1999)
GA990058 (MAR. 12, 1999)
GA990065 (MAR. 12, 1999)
GA990066 (MAR. 12, 1999)
GA990085 (MAR. 12, 1999)
GA990086 (MAR. 12, 1999)
GA990087 (MAR. 12, 1999)
GA990088 (MAR. 12, 1999)

Volume IV

Illinois:
IL990001 (MAR. 12, 1999)
IL990002 (MAR. 12, 1999)
IL990003 (MAR. 12, 1999)
IL990004 (MAR. 12, 1999)
IL990005 (MAR. 12, 1999)
IL990006 (MAR. 12, 1999)
IL990008 (MAR. 12, 1999)
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IL990014 (MAR. 12, 1999)
IL990015 (MAR. 12, 1999)
IL990016 (MAR. 12, 1999)
IL990021 (MAR. 12, 1999)
IL990022 (MAR. 12, 1999)
IL990023 (MAR. 12, 1999)
IL990024 (MAR. 12, 1999)
IL990025 (MAR. 12, 1999)
IL990026 (MAR. 12, 1999)
IL990027 (MAR. 12, 1999)
IL990029 (MAR. 12, 1999)
IL990030 (MAR. 12, 1999)
IL990031 (MAR. 12, 1999)
IL990032 (MAR. 12, 1999)
IL990033 (MAR. 12, 1999)
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IL990035 (MAR. 12, 1999)
IL990036 (MAR. 12, 1999)
IL990037 (MAR. 12, 1999)
IL990039 (MAR. 12, 1999)
IL990040 (MAR. 12, 1999)
IL990041 (MAR. 12, 1999)
IL990042 (MAR. 12, 1999)
IL990043 (MAR. 12, 1999)
IL990045 (MAR. 12, 1999)
IL990046 (MAR. 12, 1999)
IL990048 (MAR. 12, 1999)
IL990049 (MAR. 12, 1999)
IL990050 (MAR. 12, 1999)
IL990051 (MAR. 12, 1999)
IL990052 (MAR. 12, 1999)
IL990054 (MAR. 12, 1999)
IL990056 (MAR. 12, 1999)
IL990059 (MAR. 12, 1999)
IL990061 (MAR. 12, 1999)
IL990065 (MAR. 12, 1999)
IL990066 (MAR. 12, 1999)
IL990067 (MAR. 12, 1999)
IL990068 (MAR. 12, 1999)
IL990069 (MAR. 12, 1999)
IL990070 (MAR. 12, 1999)
Indiana:
IN990001 (MAR. 12, 1999)
IN990002 (MAR. 12, 1999)
IN990003 (MAR. 12, 1999)
IN990004 (MAR. 12, 1999)
IN990005 (MAR. 12, 1999)
IN990006 (MAR. 12, 1999)
IN990016 (MAR. 12, 1999)
IN990017 (MAR. 12, 1999)
IN990018 (MAR. 12, 1999)
IN990039 (MAR. 12, 1999)
IN990059 (MAR. 12, 1999)
IN990060 (MAR. 12, 1999)
IN990061 (MAR. 12, 1999)
Minnesota:
MN990001 (MAR. 12, 1999)
MN990003 (MAR. 12, 1999)
MN990005 (MAR. 12, 1999)
MN990007 (MAR. 12, 1999)
MN990008 (MAR. 12, 1999)
MN990012 (MAR. 12, 1999)
MN990015 (MAR. 12, 1999)
MN990027 (MAR. 12, 1999)
MN990031 (MAR. 12, 1999)
MN990035 (MAR. 12, 1999)
MN990039 (MAR. 12, 1999)
MN990043 (MAR. 12, 1999)
MN990049 (MAR. 12, 1999)
MN990058 (MAR. 12, 1999)
MN990061 (MAR. 12, 1999)
MN990063 (MAR. 12, 1999)
MN990071 (MAR. 12, 1999)

Volume V

Kansas:
KS990009 (MAR. 12, 1999)
KS990017 (MAR. 12, 1999)
KS990025 (MAR. 12, 1999)
KS990026 (MAR. 12, 1999)
KS990029 (MAR. 12, 1999)
Missouri:
MO990001 (MAR. 12, 1999)
MO990003 (MAR. 12, 1999)
MO990004 (MAR. 12, 1999)
MO990005 (MAR. 12, 1999)
MO990006 (MAR. 12, 1999)
MO990010 (MAR. 12, 1999)
MO990011 (MAR. 12, 1999)
MO990012 (MAR. 12, 1999)
MO990015 (MAR. 12, 1999)
MO990016 (MAR. 12, 1999)
MO990020 (MAR. 12, 1999)
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MO990043 (MAR. 12, 1999)
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MO990048 (MAR. 12, 1999)
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MO990052 (MAR. 12, 1999)
MO990053 (MAR. 12, 1999)
MO990056 (MAR. 12, 1999)
MO990057 (MAR. 12, 1999)
MO990062 (MAR. 12, 1999)
MO990064 (MAR. 12, 1999)
MO990066 (MAR. 12, 1999)
MO990068 (MAR. 12, 1999)
MO990069 (MAR. 12, 1999)
MO990070 (MAR. 12, 1999)
MO990071 (MAR. 12, 1999)
Nebraska:
NE990001 (MAR. 12, 1999)
NE990003 (MAR. 12, 1999)
NE990011 (MAR. 12, 1999)
NE990019 (MAR. 12, 1999)
NE990025 (MAR. 12, 1999)
NE990038 (MAR. 12, 1999)
NE990044 (MAR. 12, 1999)
New Mexico:
NM990001 (MAR. 12, 1999)
NM990005 (MAR. 12, 1999)
Texas:
TX990002 (MAR. 12, 1999)
TX990005 (MAR. 12, 1999)
TX990011 (MAR. 12, 1999)
TX990012 (MAR. 12, 1999)
TX990013 (MAR. 12, 1999)
TX990014 (MAR. 12, 1999)
TX990051 (MAR. 12, 1999)

Volume VI

Colorado:
CO990001 (MAR. 12, 1999)
North Dakota:
ND990015 (MAR. 12, 1999)
ND990016 (MAR. 12, 1999)
ND990017 (MAR. 12, 1999)
ND990018 (MAR. 12, 1999)
ND990019 (MAR. 12, 1999)
ND990020 (MAR. 12, 1999)
ND990027 (MAR. 12, 1999)
Oregon:
OR990001 (MAR. 12, 1999)
OR990017 (MAR. 12, 1999)
Washington:
WA990001 (MAR. 12, 1999)
WA990002 (MAR. 12, 1999)
WA990003 (MAR. 12, 1999)
WA990005 (MAR. 12, 1999)
WA990007 (MAR. 12, 1999)
WA990008 (MAR. 12, 1999)
WA990011 (MAR. 12, 1999)
WA990013 (MAR. 12, 1999)
Wyoming:
WY990009 (MAR. 12, 1999)

Volume VII

California:
CA990001 (MAR. 12, 1999)
CA990002 (MAR. 12, 1999)
CA990004 (MAR. 12, 1999)
CA990009 (MAR. 12, 1999)
CA990028 (MAR. 12, 1999)
CA990029 (MAR. 12, 1999)
CA990030 (MAR. 12, 1999)
CA990033 (MAR. 12, 1999)
CA990035 (MAR. 12, 1999)
CA990036 (MAR. 12, 1999)
CA990037 (MAR. 12, 1999)
CA990038 (MAR. 12, 1999)
CA990039 (MAR. 12, 1999)
CA990040 (MAR. 12, 1999)
CA990041 (MAR. 12, 1999)
Hawaii:
HI990001 (MAR. 12, 1999)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC, this 26th day of August, 1999.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–22660 Filed 9–2–99; 8:45 am]

BILLING CODE 4510–27–M

MARINE MAMMAL COMMISSION

Sunshine Act Meeting

TIME AND DATE: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet in executive session on Tuesday, October 19, 1999, from 8:30 a.m. to 10:00 a.m. The public sessions of the Commission on the Committee meeting will be held on Tuesday, October 19, from 10:00 a.m. to 5:45 p.m., on Wednesday, October 20, from 8:30 a.m. to 6:00 p.m., and on Thursday, October 21, from 8:30 a.m. to 3:45 p.m.

PLACE: The Embassy Suites Hotel, 1441 Canyon Del Rey, Seaside, California, 93955. Phone number 831/393–1115. Fax number 831/393–1113.

STATUS: The executive session will be closed to the public. At it, matters relating to international negotiations in process, personnel, and the budget of the Commission will be discussed. All other portions of the meeting will be open to public observation. Public participation will be allowed as time permits and as determined to be desirable by the Chairman.

MATTERS TO BE CONSIDERED: The Commission and Committee will meet in public session to discuss a broad range of marine mammal matters. The focus of the meeting will be on species that occur in waters along the Pacific Coast of the United States. While subject to change, major issues that the Commission plans to consider at the meeting include: research and management issues related to California sea otters, pinniped-fishery interactions, Steller sea lions, beluga whales, and other species that inhabit Alaskan waters, gray whales, Hawaiian monk seals, and research on the effects of the eastern tropical Pacific tuna fishery on dolphins.

CONTACT PERSON FOR MORE INFORMATION: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, 4340 East-West Highway, Room 905, Bethesda, MD, 20814, 301/504–0087.

Dated: August 30, 1999.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 99–23144 Filed 9–1–99; 10:56 am]

BILLING CODE 6820–31–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before October 4, 1999 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Virginia Huth, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–713–6730 or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for these information collections on June 28,1999 (64 FR 34687 and 34688). No comments were received. NARA has submitted the described information collections to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (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 information technology. In this notice, NARA is soliciting comments concerning the following information collections:

1. *Title:* Application for Attendance at the Institute for the Editing of Historical Documents.

OMB number: 3095–0012.

Agency form number: None.

Type of review: Regular.

Affected public: Individuals, often already working on documentary editing projects, who wish to apply to attend the annual one-week Institute for the Editing of Historical Documents, an intensive seminar in all aspects of modern documentary editing techniques taught by visiting editors and specialists.

Estimated number of respondents: 25.

Estimated time per response: 1.5 hours.

Frequency of response: On occasion, no more than annually (when respondent wishes to apply for attendance at the Institute).

Estimated total annual burden hours: 37.5 hours.

Abstract: The application is used by the NHPRC staff to establish the applicants' qualifications and to permit selection of those individuals best qualified to attend the Institute jointly sponsored by the NHPRC, the State Historical Society of Wisconsin, and the University of Wisconsin. Selected applicants' forms are forwarded to the resident advisors of the Institute, who use them to determine what areas of instruction would be most useful to the applicants.

2. *Title:* National Historical Publications and Records Commission Grant Program.

OMB number: 3095–0013.

Agency form number: None.

Type of review: Regular.

Affected public: Nonprofit organizations and institutions, state and local government agencies, Federally acknowledged or state-recognized Native American tribes or groups, and individuals who apply for NHPRC grants for support of historical documentary editions, archival preservation and planning projects, and other records projects.

Estimated number of respondents: 134 per year submit applications; approximately 100 grantees among the

applicant respondents also submit semiannual narrative performance reports.

Estimated time per response: 54 hours per application; 2 hours per narrative report.

Frequency of response: On occasion for the application; semiannually for the narrative report. Currently, the NHPRC considers grant applications 2 times per year; respondents usually submit no more than one application per year.

Estimated total annual burden hours: 7,636 hours.

Abstract: The application is used by the NHPRC staff, reviewers, and the Commission to determine if the applicant and proposed project are eligible for an NHPRC grant, and whether the proposed project is methodologically sound and suitable for support. The narrative report is used by the NHPRC staff to monitor the performance of grants.

3. *Title:* Applications for Archival Administration and Historical Documentary Editing Fellowships.

OMB number: 3095–0014.

Agency form number: None.

Type of review: Regular.

Affected public: Individuals who wish to apply for an NHPRC fellowship in archival administration or historical documentary editing. Applicants for the archival administration fellowship must have at least two years' professional archival work experience; applicants for the editing fellowship must hold a Ph.D. or have completed all requirement for the degree except the dissertation.

Estimated number of respondents: 9.

Estimated time per response: 8 hours.

Frequency of response: Generally one-time.

Estimated total annual burden hours: 72 hours.

Abstract: The application is used by the NHPRC staff to establish the applicants' qualifications and to permit selection by the host institution of those individuals best qualified for the fellowships. One fellowship in archival administration and one fellowship in historical editing are awarded each year.

4. *Title:* Application for Host Institutions of Archival Administration and Historical Editing Fellowships.

OMB number: 3095–0015.

Agency form number: None.

Type of review: Regular.

Affected public: Nonprofit institutions or organizations that have active archival or special collections programs, and historical documentary publication projects that have received an NHPRC grant.

Estimated number of respondents: 9.

Estimated time per response: 17 hours.

Frequency of response: Generally, one-time although an institution may apply in subsequent years.

Estimated total annual burden hours: 153 hours.

Abstract: The application is used by the NHPRC staff to select applicants to serve as host institutions for the two fellowships supported by the NHPRC each year.

Dated: August 30, 1999

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 99–23018 Filed 9–2–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On May 26, 1999, the National Science Foundation published a notice in the **Federal Register** of Waste Management permit applications received. A Waste Management permit was issued on August 27, 1999 to the following applicant:

Antarctic Support Associates, Permit No.: 2000WM–01 (ASA)

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 99–22966 Filed 9–2–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Meeting Notice

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 64, No. 167/Tuesday, August 31, 1999.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., Tuesday, September 8, 1999.

CHANGE IN MEETING: A majority of the Board members determined by recorded vote to cancel the September 8, 1999 Board meeting that was to consider the following item:

7047A: Aviation Accident Report: Crash During Landing, Federal Express, Inc., Flight 14, McDonnell Douglas MD–11, N611FE, Newark International Airport, Newark, New Jersey, July 31, 1997.

FOR MORE INFORMATION CONTACT: Rhonda Underwood, (202) 314–6065.

Dated: September 1, 1999.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 99–23227 Filed 9–1–99; 3:20 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 72–1015]

NAC International, Inc.; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Exemption from Requirements of 10 CFR Part 72

By letter dated July 19, 1999, NAC International, Inc., (NAC or applicant) requested an exemption, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.234(c). NAC, located in Norcross, Georgia, is seeking Nuclear Regulatory Commission (NRC or the Commission) approval to procure materials for and fabricate 36 transportable storage canisters (TSCs), 36 vertical concrete casks (VCCs), and 1 transfer cask prior to receipt of the Certificate of Compliance (CoC) for the UMS Universal Storage System (UMS). The UMS TSC, VCC, and transfer cask are basic components of the UMS system, a cask system designed for the dry storage and transportation of spent fuel. The UMS system is intended for use under the general license provisions of subpart K of 10 CFR part 72 by Maine Yankee Atomic Power Company (MYAPC) at the Maine Yankee Atomic Power Station (Maine Yankee), located in Wiscasset, Maine. The application for the CoC was submitted by NAC to the Commission on August 29, 1997, as supplemented.

Environmental Assessment (EA)

Identification of Proposed Action: NAC is seeking Commission approval to procure materials for and fabricate 36 TSCs, 36 VCCs, and 1 transfer cask prior to receipt of the CoC. The applicant is requesting an exemption from the requirements of 10 CFR 72.234(c), which states that ''Fabrication of casks under the Certificate of Compliance must not start prior to receipt of the Certificate of Compliance for the cask

model.'' The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7.

Need for the Proposed Action: NAC requested the exemption from 10 CFR 72.234(c) to ensure the availability of storage casks so that Maine Yankee can decommission as scheduled. As a subcontractor to MYAPC, NAC is to supply a total of 66 UMS systems. Maine Yankee's decommissioning schedule is based on initiating spent fuel loading operations in April 2001 using the UMS system. The UMS CoC application is under consideration by the Commission. It is anticipated that, if approved, the CoC would be issued in late 2000.

MYAPC plans to continue loading the UMS canisters until all spent fuel is in dry storage. The current Maine Yankee loading plan specifies 24 UMS systems to be loaded by October 2001. NAC also requested an exemption to fabricate a 90-day supply of additional UMS systems to support the Maine Yankee decommissioning plan. Specifically, NAC stated that, in addition to the fabrication exemption for the 24-required UMS systems, a fabrication exemption is also needed for an additional 12 TSCs and VCCs to ensure a continuous Maine Yankee loading campaign. Consequently, NAC requested a fabrication exemption for a total of 36 TSCs and VCCs.

To support training and dry run operations, NAC indicated that the first of the UMS TSCs, VCCs, and transfer cask are required by October 2000. To meet this decommissioning schedule, NAC stated that procurement of the TSCs, VCCs, and transfer cask materials must begin by September 1999.

The proposed procurement and fabrication exemption will not authorize use of the UMS system to store spent fuel. That will occur only when, and if, a CoC is issued. NRC approval of the procurement and fabrication exemption request should not be construed as an NRC commitment to favorably consider NAC's application for a CoC. NAC will bear the risk of all activities conducted under the exemption; including the risk that the 36 TSCs, 36 VCCs, and 1 transfer cask that NAC plans to construct may not be usable as a result of not meeting specifications or conditions delineated in a CoC that NRC may ultimately approve.

Environmental Impacts of the Proposed Action: The Environmental Assessment for the final rule, ''Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites'' (55 FR 29181 (1990)), considered the potential environmental impacts of casks which are used to store spent fuel under a CoC and concluded that there would be no significant environmental impacts. The proposed action now under consideration would not permit use of the UMS system, only procurement and fabrication. There are no radiological environmental impacts from procurement or fabrication since the TSC, VCC, and transfer cask material procurement and fabrications do not involve radioactive materials. The major non-radiological environmental impacts involve use of natural resources due to fabrication. Each TSC weighs approximately 18 tons and consists mainly of steel. Each VCC weighs approximately 119 tons and is comprised primarily of concrete. The transfer cask weighs approximately 60 tons and consists mainly of steel.

The amount of steel required for the TSCs and transfer cask is expected to have insignificant impact on the steel industry. Fabrication of the TSCs and transfer cask would be at a metal fabrication facility and is insignificant compared to the amount of metal fabrication performed annually in the United States. If the TSCs and transfer cask are not usable, they could be disposed of or recycled. The amount of material disposed of would be insignificant compared to the amount of steel that is disposed of annually in the United States. Based upon this information, the procurement of materials and fabrication of the canisters and transfer cask will have no significant impact on the environment since no radioactive materials are involved, and the amount of natural resources used is minimal.

The amount of concrete required for the VCCs is expected to have an insignificant impact on the concrete industry. Fabrication of the VCCs would be in the vicinity of the reactor site and is insignificant compared to the amount of concrete fabrication performed annually in the United States. If the VCCs are not usable, they could be disposed of or recycled. The amount of material disposed of would be insignificant compared to the amount of concrete that is disposed of annually in the United States. Based upon this information, the procurement of materials and fabrication of the VCCs will have no significant impact on the environment since no radioactive materials are involved, and the amount of natural resources used is minimal.

Alternative to the Proposed Action: Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the exemption and, therefore, not allow procurement of materials and fabrication of the TSCs, VCCs, and transfer cask until a CoC is issued. This alternative would have the same environmental impact.

Given that there are no significant differences in environmental impacts between the proposed action and the alternative considered and that the applicant has a legitimate need to procure materials and fabricate prior to certification and is willing to assume the risk that any material procured or any TSC, VCC, or transfer cask fabricated may not be approved or may require modification, the Commission concludes that the preferred alternative is to approve the procurement and fabrication request and grant the exemption from the prohibition on fabrication prior to receipt of a CoC.

Agencies and Persons Consulted: Clough Toppon from the State of Maine Bureau of Health was contacted about the EA for the proposed action and had no comments.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.234(c) so that NAC may procure materials for and fabricate 36 TSCs, 36 VCCs, and 1 transfer cask prior to issuance of a CoC for the UMS system will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

The request for the exemption from 10 CFR 72.234(c) was filed by NAC on July 19, 1999. For further details with respect to this action, see the application for a CoC for the UMS system, dated August 29, 1997, as supplemented January 29, February 12, and July 16, 1999. The exemption request and CoC application are docketed under 10 CFR part 72, Docket 72–1015.

The exemption request and the non-proprietary version of the CoC application are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 20th day of August 1999.

For the Nuclear Regulatory Commission.

Susan F. Shankman,

Acting Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–23077 Filed 9–2–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Materials and Metallurgy; Notice of Meeting

The ACRS Subcommittee on Materials and Metallurgy will hold a meeting on September 22, 1999, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, September 22, 1999—1:00 p.m. until the conclusion of business.

The Subcommittee will review the staff's proposed revision to 10 CFR 50.55a, ''Codes and standards,'' that eliminates the requirement to update inservice inspection and inservice testing programs to the latest American Society for Mechanical Engineers (ASME) Code edition every 120 months and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman. Written statements will be accepted and made available to the Committee. 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 Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, the Nuclear Energy Institute, ASME, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: August 30, 1999.

Richard P. Savio,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–23072 Filed 9–2–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on September 23, 1999, in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, September 23, 1999—8:30 a.m. until 12:00 Noon.

The Subcommittee will review the status of the staff activities associated with the Generic Aging Lessons Learned (GALL) program and the license renewal issue process, the proposed format of license renewal applications, and other selected license renewal issues. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. 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 Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: August 30, 1999.

Richard P. Savio,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–23073 Filed 9–2–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Joint Meeting of the ACRS Subcommittees on Reliability and Probabilistic Risk Assessment and on Regulatory Policies and Practices; Notice of Meeting

The ACRS Subcommittees on Reliability and Probabilistic Risk Assessment and on Regulatory Policies and Practices will hold a joint meeting on September 23–24, 1999, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, September 23, 1999—1:00 p.m. until the conclusion of business

The Subcommittees will review proposed revisions to the NRC PRA Implementation Plan.

Friday, September 24, 1999—8:30 a.m. until the conclusion of business

The Subcommittees will review the proposed rulemaking plan and study for development of risk-informed revisions to 10 CFR Part 50, ''Domestic Licensing of Production and Utilization Facilities.'' The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. 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 Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m.(EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: August 30, 1999

Richard P. Savio,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–23074 Filed 9–2–99; 8:45 am]

BILLING CODE 7590–01–U

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Notice of Failure To Make Required Contributions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of the collection of information under Part 4043 of its regulations relating to Notice of Failure to Make Required Contributions (OMB control number 1212–0041; expires November 30, 1999). This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by October 4, 1999.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. Copies of the request for extension (including the collection of information) are available from the Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call the Federal relay service toll-free at 1–800–877–8339 and request connection to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 302(f) of the Employee Retirement Income Security Act of 1974 (''ERISA'') and section 412(n) of the Internal Revenue Code of 1986 (''Code'') impose a lien in favor of an underfunded single-employer plan that is covered by the termination insurance program if (1) Any person fails to make a required payment when due, and (2) the unpaid balance of that payment (including interest), when added to the aggregate unpaid balance of all preceding payments for which payment was not made when due (including interest), exceeds $1 million. (For this purpose, a plan is underfunded if its funded current liability percentage is less than 100 percent.) The lien is upon all property and rights to property belonging to the person or persons who are liable for required contributions (*i.e.*, a contributing sponsor and each member of the controlled group of which that contributing sponsor is a member).

Only the PBGC (or, at its direction, the plan's contributing sponsor or a member of the same controlled group) may perfect and enforce this lien. Therefore, ERISA and the Code require persons committing payment failures to notify the PBGC within 10 days of the due date whenever there is a failure to make a required payment and the total of the unpaid balances (including interest) exceeds $1 million.

PBGC Form 200, Notice of Failure to Make Required Contributions, and related filing instructions, implement the statutory notification requirement. Submission of Form 200 is required by 29 CFR § 4043.81.

The collection of information under the regulation has been approved through November 30, 1999, by OMB under control number 1212–0041. The PBGC is requesting that OMB extend approval for another three years. 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 PBGC estimates that it will receive Form 200 filings with respect to up to 10 single-employer plans per year under this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 42.5 hours and $6,375.

Issued in Washington, DC, this 31st day of August, 1999.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 99–23079 Filed 9–2–99; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Reportable Events

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of the collection of information under Part 4043 of its regulations relating to Reportable Events (OMB control number 1212–0013; expires November 30, 1999). This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by October 4, 1999.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. Copies of the request for extension (including the collection of information) are available from the Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call the Federal relay service toll-free at 1–800–877–8339 and request connection to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 4043 of the Employee Retirement Income Security Act of 1974 (ERISA) requires plan administrators and plan sponsors to report certain plan and corporate events to the PBGC. The reporting requirements give the PBGC timely notice of events that indicate plan or employer financial problems. The PBGC uses the information provided in determining what, if any, action it needs to take. For example, the PBGC might need to institute proceedings to terminate the plan (placing it in trusteeship) under section 4042 of ERISA to ensure the continued payment of benefits to plan participants and their beneficiaries or to prevent unreasonable increases in its losses.

The collection of information under the regulation has been approved through November 30, 1999, by OMB under control number 1212–0013. The PBGC is requesting that OMB extend approval for another three years. 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 PBGC estimates that it will receive 305 reportable events notices per year under this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 1,249 hours and $187,350.

Issued in Washington, DC, this 31st day of August, 1999.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 99–23080 Filed 9–2–99; 8:45 am]

BILLING CODE 7708–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intention to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before November 2, 1999.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Mr. Leon Bechet, Assistant Administrator Division of Program Certification and Eligibility, Office of Minority Enterprise Development, Small Business Administration, 409 3rd Street SW., Suite 8000, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Leon Bechet, Assistant Administrator Division Program Certification and Eligibility, 202–205–6416 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: Personal Financial Statement 8(a) Business Development/SDB Certification Program.

Type of Request: New Information Collection.

Form No: SBA Form 2099.

Description of Respondents: Small Business Owners.

Annual Responses: (estimate 10,000).

Annual Burden: 15,000–20,000 hours (per application).

Dated: August 26, 1999.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–23050 Filed 9–2–99; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Announcement of Public Forum on Regulatory Flexibility Analysis

TIME AND DATE: 1:00 p.m.–4:00 p.m., September 21, 1999.

PLACE: Room 10234, Nassif Building, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

STATUS: Open to public with attendance limited to space available.

PURPOSE: The purpose of the forum is to have an exchange of ideas and to start a dialogue that will better enable the Department to analyze its rules. We do not want comments on specific rules or proposals, although it would be appropriate to use an existing rule to illustrate a point.

SUMMARY: The Department of Transportation will be hosting a public forum on regulatory flexibility analysis in rulemaking. Expert panelists for this forum will include representatives from business, labor and government. The moderator of the forum will present a series of issues to the panel for discussion; the audience will also be encouraged to ask questions or make comments. The forum will address various issues such as improving regulatory flexibility analysis used in rulemaking decisions, helping small entities participate more effectively in rulemaking, and reviewing existing rules to determine whether they should be revised to lessen or eliminate burdens on small entities. The forum on regulatory flexibility analysis is the third in a series of public forums on rulemaking. As with the forum on economic analysis held in May and the forum on risk assessment held in June, the forum on regulatory flexibility analysis will provide an opportunity for the public to join the Department in discussing important rulemaking issues.

REGISTRATION: Participants are requested to register their intent to attend this forum meeting by sending e-mail to gwyneth.radloff@ost.dot.gov. Put the words ''Registration for Small Entities Forum'' in the subject line and the participant's name, address, phone number, and affiliation in the body of the message. If you do not have internet access, you can register by calling 202–

366–4723 or by writing to the contact person below. Please include your name, address, and phone number in your letter/postcard. Also, remember that space is limited and registration is on a first-come-first-served basis.

FOR FURTHER INFORMATION CONTACT: Gwyneth Radloff, Office of General Counsel (C–50), Department of Transportation, Room 10424, 400 Seventh Street, SW., Washington, DC 20590. Phone: (202) 366–4723 (voice), (202) 755–7687 (TDD); Email: *gwyneth.radloff@ost.dot.gov*.

Issued in Washington, D. C., this 31st day of August, 1999.

Neil Eisner,

Assistant General Counsel for Regulation and Enforcement.

[FR Doc. 99–23056 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–4501]

Navigation Safety Advisory Council; North Puget Sound Long-Term Risk Management Panel

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The North Puget Sound Long-term Risk Management Panel will meet for the first time to discuss various issues relating to the maritime safety in the North Puget Sound area. The Coast Guard is creating the Panel under the charter for the Navigation Safety Advisory Council (NAVSAC). The meeting and all subsequent meetings will be open to the public.

DATES: The North Puget Sound Long-Term Risk Management Panel will meet on Thursday and Friday, September 23 and 24, 1999, from 9:00 a.m. to 4 p.m.

ADDRESSES: The Panel will meet at the National Oceanographic and Atmospheric Administration's (NOAA's) Western Regional Center in Building 9, 7600 Sand Point Way NE., Seattle, WA 98115. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Captain Scott Davis, Coast Guard Thirteenth District, 206–220–7210, or Mr. Joe Stohr, State of Washington Department of Ecology, 360–407–7450.

SUPPLEMENTARY INFORMATION:

North Puget Sound Long-Term Risk Management Panel

The Coast Guard is creating the North Puget Sound Long-Term Risk Management Panel under the charter of the Navigation Safety Advisory Council (NAVSAC) (a Federal advisory committee under 5 U.S.C. App. 2). The Panel will develop an integrated plan for managing the marine safety risks in the North Puget Sound area and adjacent waters. The geographic area includes the entrance and approaches to the Strait of Juan de Fuca, the Strait of Juan de Fuca to Admiralty Inlet, Haro Strait and Boundary Pass, Rosario Strait, and the Strait of Georgia. The Panel will consider all relevant information and evaluate all potential measures to improve marine safety in the North Puget Sound area. By June 15, 2000, the Panel will submit a report of its recommendations via NAVSAC to the Commandant of the U.S. Coast Guard and the Governor of the State of Washington. Recommendations may involve international, Federal, State, and voluntary activities and measures. The Panel will be chaired by RADM Paul Blayney, Commander, U.S. Coast Guard Thirteenth District, and Mr. Thomas Fitzsimmons, Director, State of Washington Department of Ecology.

In accordance with NAVSAC's charter, the Commandant of the U.S. Coast Guard will invite the members of the Panel. Each member will represent one of the following groups:

1. Native Americans (1 seat).
2. Puget Sound Steamship Operators Association (1 seat).
3. Western States Petroleum Association (2 seats).
4. County governments (2 seats).
5. North Pacific Fishing Vessel Operators Association (1 seat).
6. Washington Environmental Council (2 seats).
7. Washington Public Ports Association (1 seat).
8. Shellfish Growers Association (1 seat).
9. American Waterways Operators (1 seat).
10. Puget Sound Pilots Association (1 seat).
11. City Government (1 seat).
12. State legislators (4 seats).
13. U.S. Congressional staff (1 seat).
14. Canadian Coast Guard (1 seat).
15. Transport Canada (1 seat).

Agendas of Meetings

The meetings will include evaluations of the components of the existing safety system as well as detailed discussions of various potential improvements to maritime safety in the region. The Panel will use an approach based on recognized risk assessment and risk management practices to develop an integrated plan to manage identified risks. The plan development process will include evaluation of a broad range of information about the safety and marine transportation systems along with relevant risk information on hazards, incident history, oil movements, environmental sensitivity, response capability and other information.

Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Procedural

The meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Co-Chairs' discretion, members of the public may make oral presentations during the meetings. The Co-Chairs and the Panel members will determine the time and place of subsequent meetings of the Panel. For information about subsequent meetings, contact a person listed in **FOR FURTHER INFORMATION CONTACT**.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact Captain Scott Davis at 206–220–7210.

Dated: August 30, 1999.

Josepth J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 99–23025 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1998–4765]

Coast Guard ''Optimize Training Infrastructure'' Initiative: Programmatic Environmental Assessment and Proposed Finding of No Significant Impact

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability, notice of meetings, and request for comments.

SUMMARY: The Coast Guard announces the availability of a Programmatic Environmental Assessment (PEA) and a proposed Finding of No Significant Impact (FONSI) for the ''Optimize Training Infrastructure'' (OTI) Initiative. The OTI Initiative examined the ability of the Coast Guard's training infrastructure (training methods, personnel, and facilities) to support changing technological and operational conditions in an efficient, cost-effective manner. This notice also announces

public meetings and requests comments on the PEA and proposed FONSI.

DATES: The dates of the public meetings are—

1. September 13, 1999, from 6:30 p.m. to 9 p.m., Cape May, NJ; and

2. September 15, 1999, from 6:30 p.m. to 9 p.m., Petaluma, CA.

The meetings may close early if all business is finished. A public open house will be held before each meeting from 4:30 p.m. to 6:30 p.m.

Comments must reach the Coast Guard on or before October 8, 1999.

ADDRESSES: The locations of the public meetings are-

1. Cape May—Grand Hotel, Ocean Front and Philadelphia Streets, Cape May, NJ; and

2. Petaluma—Kenilworth Junior High School, 998 East Washington St., Petaluma, CA.

Electronic copies of the Programmatic Environmental Assessment (PEA) and proposed Finding of No Significant Impact (FONSI) are available through the OTI web site at http://www.ttsfo.com/USCG. The documents may be viewed in text-readable form or downloaded.

Bound copies may be viewed at the following locations:

1. Cape May Public Library, 110 Ocean Street, Cape May, NJ.

2. Newport News Public Library, 2400 Washington Avenue, Newport News, VA.

3. Pasquotank—Camden Library, 205 East Main Street, Elizabeth City, NC.

4. Petaluma Library, 100 Fairgrounds Drive, Petaluma, CA.

Electronic copies may also be viewed in the Department of Transportation's Docket Management System at http://dms.dot.gov (located at docket USCG–1998–4765). The PEA, proposed FONSI, comments submitted during public scoping, and other relevant materials are available for viewing at this site in a ''scanned image'' format, rather than as text. All comments received during this phase, and other relevant materials, will be placed in the docket. They will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001, on the Plaza level of the Nassif Building between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may mail, FAX, email, or hand-deliver your comments to Ms. Susan Boyle, U.S. Coast Guard, c/o Tetra Tech, 180 Howard Street, Suite 250, San Francisco, CA 94105, Phone 510–437–3973, FAX 415–974–5914, or email CoastGuard@ttsfo.com.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, the NEPA process, and NEPA documents, contact Ms. Susan Boyle, Commander(se), USCG MLC Pacific, Coast Guard Island #54D, Alameda, CA 94501–5100, 510–437–3973. For questions on the OTI Initiative, contact LCDR Keith Curran, Reserve and Training Directorate (G–WT), Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593, phone 202–267–2429 or email CoastGuard@ttsfo.com. For questions on viewing material in the OTI web site, contact Mr. John Bock, Tetra Tech, 415–974–1221. For questions on viewing material in the Department of Transportation's Docket Management System, contact Ms. Dorothy Walker, Chief, Dockets, Department of Transportation, 202–366–9329.

SUPPLEMENTARY INFORMATION:

The OTI Initiative

Under the ''Optimize Training Infrastructure'' (OTI) Initiative, the Coast Guard examined the ability of its training infrastructure to support changing technological and operational conditions in a cost-effective and efficient manner. All aspects of the training infrastructure were evaluated, including hard infrastructure (e.g., buildings, utilities, and classroom types) and soft infrastructure (e.g., training staff, class size, curricula, training delivery methods, mid-level management, and financial resources). This process emphasized optimizing training, while maintaining the flexibility to meet future needs.

Preferred Alternative

The Coast Guard announced its preferred alternative in the **Federal Register** on July 16, 1999 (64 FR 38498). The preferred alternative is to retain all four training centers (Training Center Cape May, NJ; Training Center Petaluma, CA; Reserve Training Center Yorktown, VA; and Aviation & Technical Training Center Elizabeth, NC) and, where cost effective, fill any excess training capacity with non-training and training-related functions. No major new construction projects are associated with this alternative.

Programmatic Environmental Assessment

The Programmatic Environmental Assessment (PEA) describes and compares the potential environmental and socioeconomic effects of each of the alternatives under consideration. We have determined that no significant environmental or socioeconomic impacts would result from the implementation of the preferred alternative (Alternative 3) and that the preparation of an environmental impact statement is not necessary. As a result, a proposed Finding of No Significant Impact (FONSI) has been prepared.

The PEA evaluates the full range of resources affected by each alternative. The resources include land, infrastructure, transportation assets, hazardous materials and wastes, biological resources, cultural resources, air, noise, water, geology, soils, and socioeconomic conditions relevant to the programmatic level of analysis and decision-making. Specific socioeconomic conditions include population, demographics, employment, income, housing, schools, and public services.

Public Participation

On November 19, 1998, we published a notice in the **Federal Register** entitled ''Intent to Prepare a Programmatic Environmental Assessment for the Coast Guard 'Optimize Training Infrastructure' Initiative'' (63 FR 64309). The purpose for the notice was to announce our intent to prepare a PEA and to begin the process of gathering the public's comments to assist us in developing the PEA. It included a description of the recommended alternatives and announced three public meetings to assist in gathering public comments. With the publication of the notice, a period of public outreach and comment (scoping period) began and ran until January 6, 1999. However, comments received after that date were also reviewed and, as appropriate, incorporated in the NEPA process.

In addition to the notice of intent, the public was notified of the scoping process through notices mailed directly to numerous public officials, agencies, and organizations. Scoping notices also were published in the Cape May Star and Wave (Cape May, New Jersey), the Atlantic City Press (Atlantic City, New Jersey), the Daily Press (Yorktown, Virginia), the Argus Courier (Petaluma, California), and the Press Democrat (Santa Rosa, California).

During the public scoping period, the Coast Guard received letters and statements from 481 individuals and form letters from 337 individuals. In addition, 121 people made verbal comments at the public meetings. In total, 897 people participated in the scoping process by providing written or verbal comments. Additionally, local governments submitted resolutions addressing the proposed action and issued petitions, generally voicing opposition to one of the proposed closure alternatives. The issues and concerns expressed in the public

comments during the scoping phase of the planning process are summarized in the scoping report, Appendix A of the PEA. Transcripts from the scoping meetings and all written material received during the scoping period can be viewed at the web site for Department of Transportation's Docket Management System at http://dms.dot.gov (located at docket USCG–1998–4765).

The present notice of availability begins the second phase of public involvement by seeking comments on the PEA. Following the comment period on the PEA and an analysis of comments received, the Commandant of the Coast Guard will weigh appropriate information and make a final decision. That decision will be published in the **Federal Register**.

Public Meetings

Two public meetings will be held on the PEA and proposed FONSI. (See **DATES** and **ADDRESSES.**) Please note that the meetings may close early if all business is finished. For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact Ms. Boyle (See **FOR FURTHER INFORMATION CONTACT**) as soon as possible.

A public meeting has not been scheduled for Yorktown, VA, since there was little public interest in OTI at RTC Yorktown during the scoping phase of the NEPA process. However, if public interest in this next phase increases, a meeting may be scheduled there.

Request for Comments

We encourage you to participate by submitting written comments on the PEA and FONSI or by presenting verbal comments at a public meeting. If you submit written comments, please include your name and address and identify the docket number for this notice (USCG–1998–4765). Please submit written comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to Ms. Boyle at the address under **ADDRESSES**. If you would like to know we received your comments, please enclose a stamped, self-addressed postcard or envelope.

Dated: August 26, 1999.

J. B. Willis,

Captain, U. S. Coast Guard, Acting Director of Reserve and Training.

[FR Doc. 99–22927 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program; Rickenbacker International Airport, Columbus, Ohio

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Rickenbacker Port Authority, Columbus, Ohio, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On January 22, 1999, the FAA determined that the noise exposure maps submitted by Rickenbacker Port Authority under part 150 were in compliance with applicable requirements. On July 14, 1999, the Assistant Administrator for Airports approved the Rickenbacker International Airport noise compatibility program.

A total of twenty-six (26) measures were included in the Rickenbacker Port Authority Noise Compatibility Plan, which continue or expand the intent of the approved 1989 NCP. Of the twenty-six (26) measures included, four (4) are listed as ''Noise Abatement Plan Measures,'' five (5) are listed as ''Program Management Measures,'' and seventeen (17) are listed as ''Land Use Management Plan.'' The FAA has approved twenty (20) of the twenty-six (26) measures.

EFFECTIVE DATE: The effective date of the FAA's approval of the Rickenbacker International Airport noise compatibility program is July 14, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Jagiello, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, 734–487–7296. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Rickenbacker International Airport, effective July 14, 1999.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to the FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a

commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Detroit Airports District Office in Belleville, Michigan.

Rickenbacker Port Authority submitted to the FAA on April 17, 1998, noise exposure maps, descriptions, and other documentation. This documentation was produced during the Airport Noise Compatibility Planning (part 150) Study at Rickenbacker International Airport from 1997 through 1998. Rickenbacker International Airport noise exposure maps were determined by the FAA to be in compliance with applicable requirements on January 22, 1999. Notice of this determination was published in the **Federal Register** on February 24, 1999.

The Rickenbacker Port Authority study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2002. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on January 22, 1999, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period would have been deemed to be an approval of such program.

The submitted program proposed by the airport sponsor contained twenty-six (26) measures for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. Twenty (20) of the twenty-six (26) measures were approved by the Assistant Administrator for Airports effective July 14, 1999.

Four (4) of the twenty-six (26) measures submitted are listed as ''Noise Abatement Plan Measures.'' These four (4) measures were approved which deal with departure flight tracks, and acquiring one periodic noise monitor. Five (5) of the twenty-six (26) measures submitted are listed as ''Program Management Measures'' which were all approved. These five (5) measures include maintaining its Noise Abatement Committee, the analysis of noise contours and update of noise contour maps, establishment of a noise complaint office, preparation of updated noise exposure maps, and development of a format public information program to increase public awareness of the Airport's Noise Compatibility Program. Seventeen (17) of the twenty-six (26) measures submitted are listed as ''Land Use Management Plan.'' Eleven (11) of the seventeen (17) measures were approved. These include the purchase of homes within the 65 DNL noise contour, purchase of undeveloped land within the 70 DNL noise contour, and encouragement of local jurisdictions to adopt compatible land use zoning, noise overlay zoning, subdivision regulations, comprehensive planning, land use policies, guidelines for discretionary project review, land use controls, and amend the purpose paragraphs of the zoning, subdivision, and building codes of the Columbus City Codes to include Rickenbacker International Airport. Five (5) of the seventeen (17) measures do not require FAA action. These five (5) measures include adoption of height and hazard zoning, encouragement of local jurisdictions to adopt floodplain zoning, establishment of a local program to purchase avigation easements over property eligible under the 1989 NCP, purchase of selected homes in the forecasted 1992 70 DNL noise contour completed under the 1989 NCP, and sound insulation of schools completed under the 1989 NCP. One (1) of the twenty-six (26) measures was withdrawn. This measure was to purchase development rights on specific parcels of undeveloped land within the 192 65 DNL noise contours. These twenty-six (26) determinations are set fourth in detail in a Record of Approval endorsed by the Assistant Administrator for Airports on July 14, 1999. The Record of Approval, as well as other evaluation materials and documents which comprised the submittal to the FAA, are available for review at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591.

Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Room 261, Des Plaines, Illinois 60018.

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

Rickenbacker Port Authority, Rickenbacker International Airport, 7400 Alum Creek Drive, Columbus, Ohio 43217–1248.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Belleville, Michigan, August 6, 1999.

Dean C. Nitz,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 99–23021 Filed 9–2–99; 8:45 am]

BILING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice To Prepare an Environmental Impact Statement and Conduct Scoping for Air Traffic Control Procedural Changes in and Near the Baltimore-Washington Metropolitan Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement and conduct scoping meetings.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered to assess the potential impacts of changes to air traffic control procedures and aircraft routings. These changes are associated with the consolidation of four stand-alone Terminal Radar Approach Control (TRACON) facilities. The TRACONs are currently located at Baltimore-Washington International Airport, Ronald Reagan Washington National Airport, and Washington Dulles International Airport; and the FAA operated TRACON located at Andrews Air Force Base, Maryland.

All reasonable alternatives will be considered including a no-change option. The airspace EIS will evaluate alternatives to aircraft routes and air traffic control procedures beyond the immediate airport area. Changes to existing take-off and/or landing noise abatement procedures, or other initial departure or final arrival procedures are not being considered. In order to ensure that all significant issues pertaining to the proposed action are identified, public scoping meetings will be held.

This EIS is being tiered from an earlier EIS that examined the impacts associated with consolidation of four TRACONs and construction of a new consolidated facility called the Potomac Consolidated TRACON (PCT). A Record of Decision (ROD) on that first tier was published in the **Federal Register** on

June 9, 1999. The ROD documented FAA's decision to consolidate the TRACONs in a new building to be built at the former Vint Hill Farms Station in Fauquier County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Champley, Project Support Specialist, Federal Aviation Administration, FAA Air Traffic Control Systems Command Center, Potomac Program Office, 13600 EDS Drive, Suite 100, Herndon, VA 20171–3233 (800) 762–9531. Email: joe.champley@faa.gov.

SUPPLEMENTARY INFORMATION: A TRACON facility provides radar air traffic control (ATC) services to aircraft operating on Instrument Flight Rules (IFR) and Visual Flight Rules (VFR) procedures generally beyond 5 miles and generally within 50 miles of the host airport at altitudes from the surface to approximately 17,000 feet. These distances and altitudes may vary depending on local conditions and infrastructure constraints such as adequate radar and radio frequency coverage. The primary function of the TRACON is to provide a variety of ATC services to arrival, departure, and transient aircraft within its assigned airspace. These services include aircraft separation, in-flight traffic advisories and navigational assistance. The four existing TRACON facilities provide terminal radar ATC services to aircraft approaching/leaving the four major airport areas and a number of small reliever airports located within the study area. They will be consolidated and replaced by a single facility to be built at Vint Hill Farms in Fauquier County, VA. FAA expects to commission the new facility in May 2002. FAA operated control towers will remain at each of the airports after the TRACON consolidation.

FAA will conduct an in depth analysis of aircraft routes and altitudes as well as ATC procedures. The purpose is to determine what, if any, new routes, altitudes or procedures could be implemented that would take advantage of the TRACON consolidation, improved aircraft performance, and new and emerging ATC technologies. The goals of the study are to enhance safety, reduce operating costs and reduce environmental impacts of Potomac TRACON controlled aircraft in the study area. The project study area is generally within a 75 mile radius of the Georgetown Non-Directional Radio Beacon, a radio navigational aid located near the Chain Bridge in Washington, DC.

Additional information on the Potomac TRACON is available on the Internet at *http://www.faa.gov/ats/potomac*.

Public Scoping Meetings: To facilitate the receipt of comments on the EIS, five public scoping meetings will be held. The meetings will be held from 1:30 to 3 p.m. and 7 to 9 p.m. at the following locations:

—October 19, 1999 at the Dulles Airport Hilton, 13869 Park Center Road, Herndon, VA 22071 (Off McLearen Rd, at Route 28)

—October 20, 1999 at the Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877 (On I–270), take Exit 11 to Montgomery Village Ave (Rt. 124 East). Right at second light (Rt. 355). Right at first light to Perry Parkway. Proceed to Hilton beyond circle)

—October 26, 1999 at the Colony South, 7401 Suratts Road, Clinton, MD 20748 (Near Andrews AFB, off Route 5 in Clinton, MD)

—October 27, 1999 at the Maritime Institute of Training and Graduate Studies, 5700 Hammons Ferry Road, Linthicum Heights, MD 21090 (On I–295 (BWI Parkway), take West Nursey Road exit. (If you are heading North towards Baltimore on I–295, at end of exit, bear right onto Nursey Road. If you are heading South towards Washington on I–295, at end of exit, bear left onto Nursey Road). Go to first traffic light and turn left onto International Drive. Go to first street and turn left onto Aero Dr. This will dead end into MITAGS property. Turn right on the driveway and follow signs to Conference Center. Proceed to Building #3 (Academic Building). Meeting is on the Lower Level in Classroom #1)

—October 28, 1999 at the National Rural Electric Cooperative Association, 4301 Wilson Blvd., Arlilngton, VA 22203 (Intersection of Wilson Blvd. and Taylor Street in the Ballston area opposite the Ballston Mall. Parking is available in the garage under the building. Enter off Taylor Street. Ballston Metro stop is approximately two blocks away. Meeting will be in the first floor Conference Center)

A separate meeting will be held from 1:30 to 4 p.m. primarily for Federal, State and local agency staff in accordance with NEPA coordination requirements. However, this meeting is also open to the public:

—October 21, 1999 at the Holiday Inn Capitol, 550 C Street SW, Washington, DC 20024 (Between National Air and Space Museum and Dept. of Transportation (intersection of C and 6th Street) near L'Enfant Plaza Metro Station)

If there is a demand and adequate interest from other areas that could be affected by the airspace redesign, additional meetings may be scheduled. Additionally, for those unable to attend a meeting written comments sent to the address shown below are invited.

The scoping period for this project formally begins with this announcement. Scoping will conclude ninety days after the date of this announcement. To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions on the scope are invited from Federal, State, and local agencies, and other interested parties. Comments and suggestions may be sent to: FAA Potomac TRACON Project, c/o Mr. Fred Bankert, PRC, Inc., 12005 Sunrise Valley Drive, Reston, VA 20191–3423. EMAIL: fred.ctr.bankert@faa.gov.

Dated: August 30, 1999.

John Mayhofer,

Director TRACON Development Program.

[FR Doc. 99–23024 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 193/Eurocae Working Group 44 Terrain and Airport Databases

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 193/EUROCAE Working Group 44 meeting to be held September 27–October 1, 1999, starting at 9 a.m. The meeting will be held at Marconi Electronic System Avionics Head Office, Airport Works, Rochester, Kent, England.

The agenda will be as follows: Monday, September 27, Opening Plenary Session: (1) Welcome and Introductions; (2) Review/Approval of Meeting Agenda; (3) Review Summary of the Previous Meeting. (4) New Business; (5) Subgroup 2, Terrain and Obstacle Databases: (a) Review of Summary of the Previous Minutes; (b) Review of Actions Taken during the Previous Meeting; (c) Presentations; (d) Review of the Draft Document. Tuesday, September 28: (6) Subgroup 2, Continuation of previous day's discussions. Wednesday, September 29: (7) Subgroup 3, Airport Databases: (a) Review of Summary of the Previous Minutes; (b) Review of Actions Taken During the Previous Meeting; (c) Presentations; (d) Review of the Draft

Document. Thursday, September 30: (8) Subgroup 3, continuation of previous day's discussions. Friday, October 1: Closing Plenary Session: (9) Summary of Subgroups 2 and 3 Meetings; (10) Assign Tasks; (11) Other Business; (12) Dates and Locations of Next Meetings; (13) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC, 20036; (202) 833–9339 (phone), (202) 833–9434 (fax), or http://www.rtca.org (web site) or Mr. Tony Henley, Point of Conduct on Site at 011–44–1634 84 44 00 (phone), or 011–44–1634 81 67 21 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 30, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–23022 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (99–03–C–00–ASE) to Impose and Use the Revenue from a Passenger Facility Charge (PFC) at the Aspen/Pitkin County Airport, Submitted by the County of Pitkin, Aspen/Pitkin County Airport, Aspen, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at the Aspen/Pitkin County Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 4, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Alan E. Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 East 68th Avenue, Suite 224; Denver, Colorado 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David C. Gordon, Interim Airport Director, at the following address: 0233 East Airport Road, Suite A, Aspen, Colorado 81611.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the Aspen/Pitkin County Airport, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher J. Schaffer, (303) 342–1258 Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 East 68th Avenue, Suite 224; Denver, Colorado 80249–6361. The application maybe reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (99–03–C–00–ASE) to impose and use PFC revenue at the Aspen/Pitkin County Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 27, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of Pitkin, Aspen/Pitkin County Airport, Aspen, Colorado, was substantially complete with the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 1, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Poposed charge effective date: March 1, 2000.

Proposed charge expiration date: October 1, 2002.

Total requested for use approval: $1,424,000.

Brief description of proposed projects: Purchase Airport Sweeper, Overlay Airport Frontage Road, and Land Acquisition.

Class or classes of air carriers, which the public agency has requested not be required to collect PFC's: All air taxi/commercial operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW, Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the applications, notice and other documents germane to the application in person at the Aspen/Pitkin County Airport.

Issued in Renton, Washington, on August 27, 1999.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 99–23023 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: SR 104—Kingston Ferry Terminal (Kitsap County) to the SR 104/101 I/C (Jefferson County), Washington; Notice of Intent/Notice of Scoping

AGENCY: Federal Highway Administration (FHWA), USDOT, in cooperation with Washington State Department of Transportation (WSDOT).

ACTION: Notice of intent and notice of scoping.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared to evaluate potential solutions to identified safety problems and traffic congestion along SR 104 in Kitsap and Jefferson Counties, Washington.

FOR FURTHER INFORMATION CONTACT: Gene Fong/Jim Leonard, Federal Highway Administration, 711 South Capitol Way, Suite 501, Olympia, Washington 98501, Telephone: (360) 753–9413/9408; or Gary Demich/Cassandra Brotherton, Washington State Department of Transportation, Olympia Region, PO Box 47440, Tumwater, WA 98504–7440, Telephone (360) 357–2605/2722.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the WSDOT, will prepare an Environmental Impact Statement (EIS) on alternative solutions that can reduce the accident rate and provide additional capacity to meet current and future needs along a 24.5 mile stretch of the State Route 104 corridor on the Olympia Peninsula. The SR 104 project is a National Environmental Policy Act (NEPA) ''pilot'' project, intended to evaluate and improve the application of the NEPA process. The ''pilot'' process was developed cooperatively by Washington State and Federal agencies, and is jointly sponsored by Washington State Department of Transportation and FHWA.

The primary need in the SR 104 corridor is to provide multi-modal transportation linkage to the Kitsap and Olympic Peninsulas that enables safe, efficient and economical movement of

people and goods. The purpose is to do so in a manner that respects and provides for the competing needs: preserving scenic and natural beauty, historic and rural character of the area, the current quality of life for both residents and users, and the integrity of the natural environment.

This segment of SR 104 includes five areas along the corridor where the projected 20 year traffic growth will cause level of service 'F', or system breakdown due to high congestion. There are also three areas, generally one mile or longer, that currently have a five-year history of higher than average accident occurrences (HAC).

There are also six locations where existing roadway geometrics, traffic volumes, and other factors indicate a high potential for vehicles to run off the roadway (Risk).

Solutions are needed to reduce the rate and severity of accidents and to provide for the projected traffic demand. While alternatives have not yet been identified, a series of reasonable alternatives that could meet the purpose and need, as generated by the corridor stakeholders and adopted by the study Steering Committee will be considered in the EIS. The list of possible alternative solutions to be addressed in the EIS will be developed after evaluation/consideration of scoping comments.

Scoping

Announcements describing the proposed study/actions and soliciting comments will be sent to appropriate Federal, State, Tribal, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Three meetings will be held to identify the scope of issues to be addressed, the significant issues, and the possible improvement alternatives. The first two meetings will be conducted on *September 22, 1999,* at, *the Kingston Community Center* in Kingston, Washington. The first meeting from 3 p.m. to 4:45 p.m. will be conducted to focus on input from governmental agencies and tribes. The second, from 5 p.m. to 8:30 p.m., will be conducted primarily for the public. The third meeting, also for the public, will be held on *September 23, 1999* at the *Port Ludlow Fire Hall,* from 5 p.m. to 8:30 p.m. Written scoping comments may be submitted to the FHWA or WSDOT at the address provided above.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this action and the EIS should also be directed to the FHWA or WSDOT 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.)

James A. Leonard, P.E.,

Transportation and Environmental Engineer, Federal Highway Administration—Washington Division.

[FR Doc. 99–22985 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Request for Statements of Interest: Availability for Demonstration of a High Speed Non-Electric (Fossil Fuel) Passenger Locomotive

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Request for expressions of interest.

SUMMARY: FRA announces the availability of a prototype high speed non-electric (fossil fuel) passenger locomotive for demonstration on designated intercity high-speed rail passenger corridors. FRA seeks statements of interest from States or consortia of States interested in participating with FRA, the manufacturer of this locomotive, and Amtrak in such demonstrations.

Eligible Participants

All States or consortia of States shall be eligible. States with high-speed rail corridors designated by the Secretary of Transportation pursuant to 23 U.S.C. 104(d) shall receive priority for the demonstration. It is expected that Federal financial assistance, if any, under this announcement will be provided only through a cooperative agreement.

Submission of Expressions of Interest

Five (5) copies of each Expression of Interest should be submitted by November 19, 1999 to the following address: Associate Administrator for Railroad Development, Federal Railroad Administration, Mail Stop 20, 1120 Vermont Avenue NW, Washington, DC 20590.

Points of Contact

Technical questions regarding this request may be directed to: Robert J. McCown, Director, Technology Development Programs, Federal Railroad Administration, Mail Stop 20, 1120 Vermont Avenue, NW, Washington, DC 20590, TEL 202–493–6350, FAX 202–493–6333.

Administrative questions regarding this request may be directed to: Robert L. Carpenter, Office of Acquisition & Grants Services, Federal Railroad Administration, Mail Stop 50, 1120 Vermont Avenue, NW, Washington, DC 20590, TEL 202–493–6153, FAX 202–493–6171.

Background

FRA's Next Generation High-Speed Rail program has been established to facilitate the deployment of technologies where improved performance or reduced cost could enhance the viability of high-speed passenger rail service, based on incremental improvements to existing rail infrastructure. The present focus of the program is in four primary areas: non-electric locomotives, grade crossing risk mitigation, track and structures, and advanced train control systems.

The successful development and demonstration of lightweight, high power, non-electric locomotives is critical to the introduction of passenger service in the United States at speeds above 90 mph. The cost of electrification may not yet be justifiable in some corridors. Further, locomotives based primarily on designs appropriate for freight applications are not practical for speeds above 100 mph, due to poor acceleration capability and weight, particularly unsprung mass, which is incompatible with sustained use on typical track structures, because of the large forces generated at high speeds. For territories where operations are shared with freight, high powered locomotives, with high rates of acceleration, are essential to the introduction of high-speed passenger operations.

FRA, in partnership with Bombardier Transit Corporation, is producing a prototype high-speed non-electric locomotive capable of 125 mph sustained operations, with the goal of ultimately being capable of 150 mph operations, with acceleration characteristics approaching or equal to current high-speed electric locomotives used on the Northeast Corridor. In future phases of the project, the locomotive may also be capable of demonstrating enhanced performance using the energy storage element of the

flywheel developed as part of FRA's Advanced Locomotive Propulsion System (ALPS) project.

The development of the locomotive has advanced to the point where FRA and Bombardier Transit Corporation anticipate that the first prototype will enter into testing during the summer of 2000. Initially, the prototype will be tested at the Transportation Technology Center, in Pueblo, Colorado and other locations, to validate its readiness for passenger operations on the general rail system of the U.S. That initial testing will be followed by more extensive demonstrations of the technology over a wide range of operating conditions in which high-speed non-electric locomotives might operate. FRA is seeking statements of interest at this time to provide all potential hosts of the proposed demonstration adequate time to plan and marshal the necessary resources for a successful demonstration.

Purpose and Project Description

The purpose of the subject demonstration is to gain information on the performance of the prototype locomotive operating under a wide range of conditions similar to those in which production versions of high-speed non-electric locomotives might operate in the future. Two distinct types of demonstrations will be conducted:

Concept Demonstration

The concept demonstration will involve demonstration of the prototype locomotive in several of the designated high-speed rail corridors for periods of three to fourteen days to obtain train performance data over a wide range of operating conditions. This type of demonstration will also gauge the reaction of and solicit input from various potential users of the equipment, including operators, host railroads, and the general public on design and performance aspects of the prototype. It is anticipated that the demonstrations will involve static display, as well as a limited number of train movements over segments of designated corridors at speeds up to the maximum allowable speed for the current track class and local conditions for those segments. FRA and Bombardier Transit Corporation anticipate that the concept demonstration will begin in the late summer of 2000.

Service Demonstration

The service demonstration will involve demonstration of the prototype locomotive in revenue service for an extended period of time (three to six months) in one or possibly two designated corridors to obtain longer term performance data concerning durability, reliability, and maintainability. This demonstration will also be used to more fully explore the capabilities of the prototype, including its ability to operate in conjunction with modern passenger rail equipment in use in North America. This part of the demonstration program will involve revenue service operation of the locomotive and appropriate passenger cars on a regular schedule by the National Railroad Passenger Corporation (Amtrak). The service demonstration will begin after completion of the initial concept demonstration and after any necessary servicing to and adjustments of the prototype have been completed. After the completion of the service demonstration, the locomotive may perform additional concept demonstrations in selected corridors before being used to test a high-speed lightweight generator system being developed by the ALPS project team. At the completion of this testing it is possible that the locomotive may again be available for additional revenue service demonstration.

Furnished Equipment

FRA and Bombardier Transit Corporation will make available one prototype high-speed non-electric locomotive for this demonstration that meets all applicable FRA safety standards for operation at speeds of up to 125mph. Depending upon final configuration, the train may be suitable for revenue service operation at speeds up to 150mph. FRA also anticipates furnishing technical guidance and assistance as appropriate throughout the project.

Bombardier Transit Corporation will make available for the concept and service demonstrations, three tilting coaches (one first class and two business class) with a total seating capacity of approximately 175, which are similar to those that will be entering Amtrak's Northeast Corridor Acela Express service in late 1999 and 2000. Two of these coaches will be modified to permit service to low platforms.

Role of the Selected States and Other Parties

The selected State or consortia of States will be responsible for all planning, coordination and management of the concept demonstration while the locomotive is located on the designated corridor. During the concept demonstration, the selected State(s) will be responsible for funding the operating expenses associated with the operation on the corridor, including, but not necessarily limited to: payments for track access, train and engine crew costs, fuel and other servicing requirements, station costs, and security. FRA estimates that costs to be borne by a selected State for a typical concept demonstration would be between $8,000 and $14,000 per day of operation. The Federal financial commitment, if any, to a selected State will be made through a cooperative agreement between that State or consortium of States and FRA.

During the service demonstration, the selected State(s) will make any necessary arrangements with Amtrak (or others, if required) to permit an extended revenue service demonstration of the prototype, including covering net operating costs incurred by Amtrak (or others, if required) during the service demonstration.

Subject to funds availability, FRA and its partners in the locomotive development will arrange for the support of costs associated with operations outside the geographic area of the selected State(s) (e.g. cost to move the locomotive from one demonstration site to another), as well as extraordinary maintenance costs, and may provide additional assistance as needed to the extent that the demonstration entails costs beyond normal train operation. Applicants should indicate whether they are in a position to contribute any funds toward these costs. Bombardier Transit Corporation will provide qualified personnel who will assist in maintenance and servicing of the equipment during the demonstration to the extent that these tasks are specific to this equipment.

After completion of the service demonstration, the State or consortium of States will prepare a report in cooperation with Amtrak, Bombardier Transit Corporation, and FRA detailing the performance, suitability, customer acceptance, and operating economics of the train during the service demonstration.

Amtrak will operate the train during the demonstration and between demonstration locations, interfacing with host railroads, providing necessary train and engine crews, any inspections required by statute or regulation, and will assist Bombardier Transit Corporation in the regular servicing of the equipment.

Statements of Interest

States interested in hosting either a concept or service demonstration must submit statements of interest to the address identified above no later than

November 19, 1999. Statements of interest shall be no more than ten pages in length. Each statement of interest shall, at a minimum, indicate whether the applicant houses a designated high-speed corridor; identify whether the applicant proposes to host a concept demonstration, service demonstration or both; provide a detailed description of the proposed demonstration(s), including the route and schedule of any demonstrations; describe how the demonstration will develop information that supports FRA's overall program goal of facilitating the introduction of high-speed rail service in corridors outside the Northeast Corridor; provide a detailed list of any resources required and outstanding issues that must be resolved before undertaking the demonstration; provide a statement from a responsible official of the host railroad concerning the anticipated availability of the rail line proposed for the demonstration during the demonstration period outlined above; and, identify the intended source(s) and commitment status of the selected State(s)'s proposed funding.

Evaluation and Selection

In cooperation with its partners, FRA will evaluate the statements of interest using the following criteria:

1. The overall scientific and/or technical merits of the proposal.
2. The degree to which the proposed demonstration will advance the feasibility of U.S. high-speed rail operations by providing public exposure of HSR technology and operational information on the performance and public acceptance of the demonstration train.
3. The qualifications and demonstrated experience of the proposing organization to support the proposed demonstration(s).
4. The reasonableness and realism of the proposed costs.
5. The degree to which Federal funds are leveraged by private, non-Federal, and/or Federal funds available from sources other than FRA programs, including the degree to which funds are offered to offset FRA's costs of moving the locomotive between demonstration corridors.
6. The availability of funds.

It is expected that this review process will be completed within 90 days of the closing date of this announcement. At that time FRA may, at its option, request more detailed proposals from some or all of the applicants, or move forward in negotiating appropriate agreements with the selected applicants, based solely upon the statements of interest.

Dated: August 27, 1999.

Jolene M. Molitoris,

Administrator.

[FR Doc. 99–23004 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Hartford to New Britain Busway Project, Hartford County, Connecticut

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration (FTA), and the Connecticut Department of Transportation (CTDOT) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) on the proposed construction of a busway along an existing rail right-of-way corridor, known as the Hartford West Corridor, between Union Station in Hartford, CT and downtown New Britain, CT.

The EIS will evaluate a no-build alternative and a busway alternative, options recommended in a Major Investment Study (MIS) completed by the CTDOT and participating agencies for the Hartford West Corridor. Further scoping will be accomplished through public meetings and hearings, neighborhood meetings, cable news segments, a newsletter, and correspondence with interested persons, organizations, the general public, federal, state and local agencies.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to the FTA or CTDOT by October 18, 1999.

ADDRESSES: *Written comments* on the project scope should be sent to Mr. Edgar T. Hurle, Connecticut Department of Transportation, 2800 Berlin Turnpike, P.O. Box 317546, Newington, CT, 06131–7546, Telephone (860) 594–2920 or Mr. Richard H. Doyle, Federal Transit Administration, 55 Broadway, Cambridge, MA, 02142, Telephone (617) 494–2055.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Beth Mello, Deputy Regional Administrator, Federal Transit Administration Region I, (617) 494–2055.

SUPPLEMENTARY INFORMATION:

I. Description of Study Area and Project Need

The proposed project corridor, known as the Hartford West corridor, extends from Union Station in Hartford, Connecticut along an existing rail-right-of-way to downtown New Britain, Connecticut. The proposed busway would extend nine miles and include twelve station locations.

The heavily urbanized Hartford West corridor is anchored by the City of Hartford and the City of New Britain. The corridor has been broadly defined to include not only I–84 but also the surrounding neighborhoods, parallel arterial roadways, and two rail lines, the Bristol-Hartford line and the New Haven-Hartford line. The corridor encompasses portions of five communities: Hartford, West Hartford, Farmington, Newington and New Britain.

To address the transportation needs in the Hartford West Corridor and evaluate the effectiveness of various transportation system improvement alternatives, the CTDOT, the Capitol Region Council of Governments (CRCOG), and the Central Connecticut Regional Planning Agency (CCRPA) undertook a Major Investment Study (MIS) for the area. During the MIS phase, the three agencies conducted an extensive public outreach effort and evaluated a full range of alternatives including, but not limited to, transit fixed guideway (light rail, commuter rail, and busway), a high occupancy vehicle lane, expressway reconstruction and operational lanes, expressway widening, transportation system management improvements and a no-build option. Based on input from the public, state and local agencies, the CTDOT identified the goals of improved mode choice, congestion reduction, improved public health and safety, community livability and quality of life, and economic expansion to guide the MIS effort.

Early in the process, the addition of travel lanes on I–84 was dropped as an alternative due to significant local opposition and cost. The remaining build alternatives included light rail service in the I–84 median; an exclusive busway in the I–84 median; a high occupancy lane added to I–84; light-rail service on Farmington Avenue (one of the arterial highways); and either light rail service or exclusive bus service in the unused half of the Amtrak inland route main line from Union Station in Hartford to New Britain. The MIS analysis indicated that a busway in the Amtrak corridor was the optimal choice. The flexibility of the busway service is

projected to produce the highest level of ridership, increased levels of mode choice, and congestion relief on both local arterials and I–84.

II. Probable Effects

The FTA and the CTDOT will evaluate all significant environmental, social and economic impacts of the alternatives analyzed in the EIS. Primary environmental issues include: station location and community impacts, construction impacts, visual/aesthetic impacts and bicycle/pedestrian access. In addition, the EIS will evaluate issues raised through a continuation of the scoping process begun under the MIS. Measures to mitigate any significant adverse impact will be developed. Throughout the EIS phase, the CTDOT will seek public input through meetings and hearings, newsletters and cable news, to further define the issues and impacts of alternatives.

Issued on: August 31, 1999.

Richard H. Doyle,

Regional Administrator.

[FR Doc. 99–23005 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption from the Federal Motor Vehicle Motor Theft Prevention Standard; Nissan

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of Nissan North America, Inc. (Nissan) for an exemption of a high-theft line (whose nameplate is confidential) from the parts-marking requirements of the Federal motor vehicle theft prevention standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. Nissan requested confidential treatment for its information and attachments submitted in support of its petition. In a letter to Nissan dated August 5, 1999, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

DATES: The exemption granted by this notice is effective beginning with the (confidential) model year.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta L. Spinner, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington D.C. 20590. Ms. Spinner's phone number is (202) 366–4802. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated July 6, 1999, Nissan North America, Inc. (Nissan), requested exemption from the parts-marking requirements of the theft prevention standard for a motor vehicle line. The nameplate of the line and the model year of introduction are confidential. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Nissan's submittal is considered a complete petition, as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6. Nissan requested confidential treatment for the information submitted in support of its petition. In a letter dated August 5, 1999, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

In its petition, Nissan provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. This antitheft device includes an engine-immobilizer system. The antitheft device is activated by turning the ignition switch to the ''OFF'' position using the proper ignition key.

In order to ensure the reliability and durability of the device, Nissan conducted tests based on its own specified standards. Nissan provided a detailed list of tests conducted and believes that its device is reliable and durable since the device complied with its specified requirements for each test.

Nissan compared the device proposed for its vehicle line with devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Nissan stated that its proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lacks an audible and visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Nissan proposes. In these instances, the agency has concluded that the lack of a visual or audible alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of this comparison, Nissan has concluded that the antitheft device proposed for its vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Nissan, the agency believes that the antitheft device for the Nissan vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR Part 543.6(a)(4) and (5), the agency finds that Nissan has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Nissan provided about its device, much of which is confidential. This confidential information included a description of reliability and functional tests conducted by Nissan for the anti-theft device and its components.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the vehicle line from the parts-marking requirements of 49 CFR Part 541. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. Advanced listing, including the release of future product nameplates, is necessary in order to notify law enforcement agencies of new models exempted from the parts-marking requirements of the Theft Prevention Standard. Therefore, since Nissan has been granted confidential treatment for its vehicle line, the confidential status of the vehicle line will be protected until the introduction of its vehicle line into the market place. At that time, Appendix A–1 will be

revised to reflect the nameplate of Nissan's exempted vehicle line.

If Nissan decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: August 30, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–23052 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket No. BTS–99–5889]

Motor Carrier Financial and Operating Information; Requests for Exemptions From Public Release of Reports

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Notice.

SUMMARY: Class I and Class II motor carriers of property and household goods are required to file annual and quarterly reports with the Bureau of Transportation Statistics (BTS). As provided by statute, carriers may request that their reports be withheld from public release. BTS has received about 25 requests covering the 1998 annual report, many of which also requested an exemption from public release of the 1999 quarterly reports. BTS invites comments on these requests.

DATES: Comments must be submitted by October 4, 1999.

ADDRESSES: Please direct comments to the Docket Clerk, Docket No. BTS–99–5889, Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590, from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Comments should identify the docket number and be submitted in duplicate to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on Docket BTS–99–5889. The Docket Clerk will date stamp the postcard and mail it back to the commenter.

If you wish to file comments using the Internet, you may use the U.S. DOT Dockets Management System website at http://dms.dot.gov. Please follow the instructions online for more information.

FOR FURTHER INFORMATION CONTACT: David Mednick, K–1, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–8871; fax: (202) 366–3640; e-mail: david.mednick@bts.gov.

SUPPLEMENTAL INFORMATION:

I. Electronic Access

You can download an electronic copy of this document using a modem and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512–1661. If you have access to the Internet, you can obtain an electronic copy at http://www.bts.gov/mcs/rulemaking.htm.

II. Background

Under 49 U.S.C. 14123 and its implementing regulations at 49 CFR part 1420, BTS collects financial and operating information from for-hire motor carriers of property and household goods. The data are collected on annual Form M, filed by Class I and Class II carriers, and quarterly Form QFR, filed only by Class I carriers. The data are used by the Department of Transportation, other federal agencies, motor carriers, shippers, industry analysts, labor unions, segments of the insurance industry, investment analysts, and the consultants and data vendors that support these users. Among the uses of the data are: (1) Developing the U.S. national accounts and preparing the quarterly estimates of the Gross Domestic Product, which help us better understand the U.S. economy and the motor carrier industry's role in it; (2) measuring the performance of the for-hire motor carrier industry and segments within it; (3) monitoring carrier safety; (4) benchmarking carrier performance; and (5) analyzing motor carrier safety and productivity.

Generally, all data are made publicly available. A carrier can, however, request that its report be withheld from public release, as provided for by statute, 49 U.S.C. 14123(c)(2), and its implementing regulations, 49 CFR 1420.9. BTS will grant a request upon a proper showing that the carrier is not a publicly held corporation or that the carrier is not subject to financial reporting requirements of the Securities and Exchange Commission, and that the exemption is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as trade secret or privileged or confidential information under 5 U.S.C. 552(b)(4). The carrier must submit a written request containing supporting information. BTS must receive the request by the report's due date, unless it is postmarked by the due date or there are extenuating circumstances. Requests covering the quarterly reports must be received by the due date of the annual report which relates to the prior year.

In accordance with our regulations, after each due date of each annual report BTS then publishes a notice, such as this one, in the **Federal Register** requesting comments on any requests its receives. After considering the requests and comments, BTS will make a decision to grant or deny each request no later than 90 days after the request's due date. While a decision is pending, BTS will not publicly release the report except as allowed under 49 CFR 1420.10(c).

III. Request for Comments

BTS invites comments on the requests for exemption from public release it has received. These requests cover the 1998 annual report and some also cover the 1999 quarterly reports. The comments should be made within the context of the governing regulations at 49 CFR 1420.9, which are published in the **Federal Register** on March 23, 1999 (64 FR 13916). The carriers that have pending requests that we invite your comments on are:

B. N. M. Fertilizer Transport, Inc. (MC 119019)
Bilbo Transports, Inc. (MC 134547)
Bolus Freight Systems, Inc. (MC 63838)
BT Incorporated (MC 182282)
Clarksville Refrigerated Lines, Inc. (MC 262995)
Contract Freighters, Inc. (MC 119399)
Cumberland Transportation Corp. (MC 144029)
Drug Transport, Inc. (MC 166323)
Dupre Transport, Inc. (MC 158069)
Gainey Transportation Services, Inc. (MC 182313)
Howard's Express, Inc. (MC 97006)
Leprino Transportation Company (MC 150255)
Lester Coggins Trucking, Inc. (MC 140484)
Melton Truck Lines, Inc. (MC 100666)
NSG Transport, Inc. (MC 222180)
Puget Sound Truck Lines, Inc. (MC 85255)
Schneider National Bulk Carriers, Inc. (MC 143594)
Schneider National Carriers, Inc. (MC 133655)
Schneider Specialized Carriers, Inc. (MC 113855)
Schneider Tank Lines, Inc. (MC 110988)
Schneider Transport, Inc. (MC 51146)
Trans American Trucking Service, Inc. (MC 149576)
Truckers Express, Inc. (MC 160919)
Umthun Trucking Co. (MC 124813)

If you wish to read the exemption requests and the comments that were submitted in response to this Notice, use the DOT Dockets Management System. This is located at the Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590, and is open from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays. Internet users can access the Dockets Management System at http://dms.dot.gov. Please follow the instructions online for more information and help.

You must also use the Dockets Management System if you wish to comment on one or more exemption requests. Please follow the instructions listed above under **ADDRESSES**.

Ashish Sen,

Director.

[FR Doc. 99–22758 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Office of Thrift Supervision

Federal Reserve System

Federal Deposit Insurance Corporation

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the OTS, the Board, and the FDIC (collectively, the ''agencies''), hereby give notice that they plan to submit to the Office of Management and Budget (OMB) requests for review of the information collection systems described below. The Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. The Agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), intend to extend without revision the following currently approved information collections: the Annual Report of Trust Assets (FFIEC 001), the Annual Report of International Fiduciary Activities (FFIEC 006), the Country Exposure Report (FFIEC 009), and the Country Exposure Information Report (FFIEC 009a), with minor clarifications to the FFIEC 009 instructions. At the end of the comment period, the comments and recommendations received will be analyzed to determine whether the FFIEC and the agencies should modify the information collections. The agencies will then submit the reports to OMB for review and approval.

DATES: Comments must be submitted on or before November 2, 1999.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments should refer to the OMB control number(s) and will be shared among the agencies.

OCC: Written comments on the FFIEC 001, 006, 009, and 009a should be submitted to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Third Floor, Attention: 1557–0127 (FFIEC 001 and 006) or 1557–0100 (FFIEC 009 and 009a). Washington, D.C. 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to regs.comments@occ.treas.gov. Comments will be available for inspection and photocopying at the OCC's Public Reference Room, 250 E Street, S.W., Washington, D.C. 20219 between 9:00 a.m. and 5:00 p.m. on business days. Appointments for inspection of comments may be made by calling (202) 874–5043.

OTS: Written comments on the FFIEC 001 should be submitted to the Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, Attention: 1550–0005. Hand deliver comments to Public Reference Room 1700 G Street, N.W., lower level, from 9:00 a.m. to 4:00 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mail to ''public.info@ots.treas.gov'', and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. N.W., from 9:00 a.m. until 4:00 p.m. on business days.

Board: Written comments on the FFIEC 001, 006, 009, and 009a should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P–500 between 9:00 a.m. and 5:00 p.m., except as provided in § 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a).

FDIC: Written comments on the FFIEC 001, 009, and 009a should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between

7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov]. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Additional information or a copy of the collection may be requested from:

OCC: Jessie Gates, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219.

OTS: Mary Rawlings-Milton, OTS Clearance Officer, (202) 906–6028, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

Board: Mary M. West, Chief, Financial Reports Section, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Proposal to extend for three years without revision the following currently approved collections of information:

1. Report Title: Annual Report of Trust Assets and Annual Report of International Fiduciary Activities.

Form Number: FFIEC 001 and FFIEC 006.

Frequency of Response: Annual.

Affected Public: Business or other for profit For OCC:

OMB Number: 1557–0127.

Number of Respondents: 809 (FFIEC 001), 100 (FFIEC 006).

Estimated Average Time per Response: 4.4 burden hours (FFIEC 001), 4.0 burden hours (FFIEC 006).

Estimated Total Annual Burden: 3,960 burden hours.

For OTS:

OMB Number: 1557–0026.

Number of Respondents: 135 (FFIEC 001).

Estimated Average Time per Response: 2.30 burden hours (FFIEC 001).

Estimated Total Annual Burden: 310.5 burden hours.

For Board:

OMB Number: 7100–0031.

Number of Respondents: 511 (FFIEC 001), 116 (FFIEC 006).

Estimated Average Time per Response: 3.82 burden hours (FFIEC 001), 4.0 burden hours (FFIEC 006).

Total Annual Burden: 2416 burden hours.

OMB Number: 3064–0024.

Number of Respondents: 1,602 (FFIEC 001).

Estimated Average Time per Response: 3.55 burden hours (FFIEC 001).

Estimated Total Annual Burden: 5,683 burden hours (FFIEC 001).

General Description of Reports

This information collection (FFIEC 001 and FFIEC 006) is mandatory. 12 U.S.C. 161 and 1817 (for national banks), 12 U.S.C. 1464, 1725, 1730 (for thrift institutions), 12 U.S.C. 248(a)(1) and (2) and 1844(c) (for state member banks and bank holding companies), and 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks). The FFIEC 006, collected by the OCC and the Board, is given confidential treatment [5 U.S.C. 552(b)(8)]. Small business (i.e., small banks) are affected.

Abstract

These interagency reports collect information on fiduciary asset totals and activities. They are used to monitor changes in the volume and character of discretionary trust activity and the volume of nondiscretionary trust activity and to determine resource needs for supervisory purposes. The data are also used for statistical and analytical purposes. No changes are proposed to the FFIEC 001 or the FFIEC 006 reporting forms or instructins.

2. Report Title: Country Exposure Report/Country Exposure Information Report.

Form Number: FFIEC 009 and FFIEC 009a.

Frequency of Response: Quarterly.

Affected Public: Business or other for profit.

For OCC:

OMB Number: 1557–0100.

Estimated Number of Repondents: 60 (FFIEC 009), 60 (FFIEC 009a).

Estimated Average Hours per Response: 30 burden hours (FFIEC 009), 5.25 burden hours (FFIEC 009a).

Estimated Total Annual Burden: 7,200 burden hours (FFIEC 009), 1,260 burden hours (FFIEC 009a).

For Board:

OMB Number: 7100–0035.

Estimated Number of Respondents: 105 (FFIEC 009), 24 (FFIEC 009a).

Estimated Average Hours per Response: 30 burden hours (FFIEC 009), 5.25 burden hours (FFIEC 009a).

Estimated Total Annual Burden: 12,600 burden hours (FFIEC 009), 504 burden hours (FFIEC 009a).

For FDIC:

OMB Number: 3064–0017.

Estimated Number of Respondents: 34 (FFIEC 009), 34 (FFIEC 009a).

Estimated Average Hours per Response: 30 burden hours (FFIEC 009), 5.25 burden hours (FFIEC 009a).

Estimated Total Annual Burden: 4,080 burden hours (FFIEC 009), 714 burden hours (FFIEC 009a).

General Description of Reports

This information collection (FFIEC 009 and FFIEC 009a) is mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 248(a), 1844(c), and 3906 (for state member banks), and 12 U.S.C. 1817 and 1820 (for insured state nonmember commercial and savings banks). The FFIEC 009 information collection is given confidential treatment (5 U.S.C. 552(b)(4) and (b)(8)). The FFIEC 009a information collection is not given confidential treatment. Small businesses (i.e., small banks) are not affected. These reports are not collected by OTS.

Abstract

The Country Exposure Report (FFIEC 009) is filed quarterly with the agencies and provides information on international claims of U.S. banks and bank holding companies that is used for supervisory and analytical purposes. The information is used to monitor country exposure of banks to determine the degree of risk in their portfolios and the possible impact on U.S. banks of adverse developments in particular countries. The Country Exposure Information Report (FFIEC 009a) is a supplement to the FFIEC 009 and provides publicly available information on material foreign country exposures (all exposures to a country in excess of one percent of total assets or 20 percent of capital, whichever is less) of U.S. banks and bank holding companies that file the FFIEC 009 report. Reporting institutions must also furnish a list of countries in which they have lending exposures above 0.75 percent of total assets or 15 percent of total capital, whichever is less. No changes are proposed to the FFIEC 009 reporting forms or the FFIEC 009a reporting forms and instructions. However, minor

clarifications are proposed to the FFIEC 009 instructions.

Current Actions

The instructional clarifications to the FFIEC 009 report that are the subject of this notice have been approved by the Agencies for implementation as of the December 31, 1999, report date. The proposed clarifications involve classifying credit derivatives as guarantees. The affected sections are; C. ''Guaranteed Claims'', E.''Contingencies and Commitments'', and the specific instructions for column 15.

Request for Comment

Comments are invited on:

a. Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated: August 25, 1999.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Dated. August 8, 1999.

John E. Werner,

Director, Information & Management Services, Office of Thrift Supervision.

Board of Governors of the Federal Reserve System, August 30, 1999.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, D.C., this 19th day of August, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–22984 Filed 9–2–99; 8:45 am]

BILLING CODE OCC: 4810–33–P; OTS: 6720–01–P; Board: 6210–01–P; FDIC: 6714–01–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Customs Modernization Act Recordkeeping Requirements

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Customs Modernization Act Recordkeeping Requirements. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 2, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Customs Modernization Act Recordkeeping Requirements.

OMB Number: 1515–0214.

Form Number: N/A.

Abstract: This information and records keeping requirement is required to allow Customs to verify the accuracy of the claims made on the entry documents regarding the tariff status of imported merchandise, admissibility, classification/nomenclature, value and rate of duty applicable to the entered goods.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 5,750.

Estimated Time Per Respondent: 127 hours.

Estimated Total Annual Burden Hours: 732,600.

Estimated Total Annualized Cost on the Public: N/A.

Dated: August 30, 1999.

J. Edgar Nichols,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 99–23057 Filed 9–2–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; General Declaration (Outward/Inward)

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the General Declaration (Outward/Inward). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 2, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: General Declaration (Outward/Inward).

OMB Number: 1515–0002.

Form Number: Customs Form 7507.

Abstract: Customs Form 7507 allows the agent or pilot to make entry or exit of the aircraft, as required by statute. The form is used to document clearance by the arriving aircraft at the required inspectional facilities and inspections by appropriate regulatory agency staffs.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 154,668.

Estimated Total Annualized Cost on the Public: $1,874,250.

Dated: August 30, 1999.

J. Edgar Nichols,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 99–23058 Filed 9–2–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Transportation Manifest (Cargo Declaration)

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Air Cargo Manifest. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 2, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Transportation Manifest.

OMB Number: 1515–0001.

Form Number: Customs Forms 1302, 1302A, 7509, and 7533C.

Abstract: Transportation Manifest (Cargo Declarations) are essential to Customs for the control of cargo and for pre-arrival targeting of shipments for enforcement examination purposes.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions and individuals.

Estimated Number of Respondents: 26,800.

Estimated Time Per Respondent: 34 minutes.

Estimated Total Annual Burden Hours: 154,668.

Estimated Total Annualized Cost on the Public: $109,920.

Dated: August 30, 1999.

J. Edgar Nichols,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 99–23059 Filed 9–2–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; North American Free Trade Agreement (NAFTA) Regulations and Certificate of Origin

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent

burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the NAFTA Regulations and Certificate of Origin. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 2, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: NAFTA Regulations and Certificate of Origin.

OMB Number: 1515–0204.

Form Number: Customs Form 434 and 446.

Abstract: The objectives of NAFTA are to eliminate barriers to trade in goods and services between the United States, Mexico, and Canada; facilitate conditions of fair competition within the free trade area; liberalize significantly conditions for investments within the free trade area; establish effective procedures for the joint administration of the NAFTA; and the resolution of disputes.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 1,155.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 2,694.

Estimated Total Annualized Cost on the Public: $43,100.

Dated: August 30, 1999.

J. Edgar Nichols,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 99–23060 Filed 9–2–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Open Meeting of Citizen Advocacy Panel, Brooklyn District

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Wednesday, September 22, 1999.

FOR FURTHER INFORMATION CONTACT: Kevin McKeon at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Wednesday, September 22, 1999, 7:00 p.m. to 9:00 p.m. at the New York City Fire Department Headquarters at 9 MetroTech Center, Ground Floor uditorium, Brooklyn, N.Y. 11201. For more information or to confirm attendance, notification of intent to attend the meeting must be made with Kevin McKeon. Mr. McKeon can be reached at 1–888–912–1227 or 718–488–3555. The public is invited to make oral comments from 7:30 p.m. to 9:00 p.m. on Wednesday, September 22, 1999. Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Kevin McKeon, CAP Office, P.O. Box R, Brooklyn, N.Y., 11202. The Agenda will include the following: introductions of the panel and open discussions with the public.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: August 27, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–22950 Filed 9–2–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Open Meeting of Citizen Advocacy Panel, Midwest District

SUMMARY: An open meeting of the Midwest Citizen Advocacy Panel will be held in Omaha, Nebraska.

DATES: The meeting will be held Thursday, September 16, 1999 and Friday, September 17, 1999.

FOR FURTHER INFORMATION CONTACT: Sandra McQuin at 1–888–912–1227, or 414–297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel (CAP) will be held Thursday, September 16, 1999, from 1:00 to 5:00 p.m. at the Ramada Inn Central, 7007 Grover Street, Omaha, NE 68106 and 7:00 p.m. to 9:00 p.m. at the Best Western Central Executive Center, 3650 S 72nd Street, Omaha, NE 68124 and Friday, September 17, 1999, from 9:00 a.m. to 3:00 p.m. at the Ramada Inn Central, 7007 Grover Street, Omaha, NE 68106. The Citizen Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service. The public is invited to make oral comments on Thursday September 16, 1999, 7:00 p.m. to 9:00 p.m.; written comments will be read into the record. Individual comments will be limited to five minutes and an additional five minutes allotted for questions and answers. If you would like to have the CAP consider a written statement or pre-register to make an oral comment, please call the CAP office at 1–888–912–1227 or 414–297–1604, FAX (414) 297–1623, or mail to Citizen Advocacy Panel, Mail Stop 1006–MIL, 310 W. Wisconsin Ave, Milwaukee, Wisconsin 53203–2221. If you would like to pre-

register for the meeting, the only information needed by the CAP office is number of attendees and zip code. The Agenda will include the following: Reports by the CAP sub-groups, presentation of taxpayer issues by individual members, CAP office report, and discussion of issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: August 27, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–22951 Filed 9–2–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Open Meeting of Citizen Advocacy Panel, Brooklyn District

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Thursday, September 16, 1999.

FOR FURTHER INFORMATION CONTACT: Kevin McKeon at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Thursday, September 16, 1999, 6:00 p.m. to 9:00 p.m. at 10 MetroTech Center, 6th Floor, 625 Fulton Street, Brooklyn, N.Y. 11201. Due to limited conference space, notification of intent to attend the meeting must be made with Kevin McKeon. Mr. McKeon can be reached at 1–888–912–1227 or 718–488–3555. The public is invited to make oral comments from 7:00 p.m. to 8:00 p.m. on Thursday, September 16, 1999. Individual comments will be limited to 5 minutes.

If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Kevin McKeon, CAP Office, P.O. Box R, Brooklyn, N.Y., 11202.

The Agenda will include the following: reports of the sub-committees and various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: August 27, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–22952 Filed 9–2–99; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INSTITUTE OF PEACE

Sunshine Act

Date /time: Thursday, September 16, 1999, 9:00 a.m.–5:30 p.m.

Location: 1200 17th Street, NW, Suite 200, Washington, DC 20036–3011.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: September 1999 Board Meeting; Approval of Minutes of the Ninetieth Meeting (June 17–18, 1999) of the Board of Directors; Chairman's Report; President's Report; Committee Reports; Fiscal Years 2000 and 2001 Budget Review; Review of Unsolicited Grant Applications; Other General Issues.

Contact: Dr. Sheryl Brown, Director, Office of Communications, Telephone: (202) 457–1700.

Dated: September 1, 1999.

Charles E. Nelson,

Vice President for Management and Finance, United States Institute of Peace.

[FR Doc. 99–23142 Filed 9–1–99; 8:45 am]

BILLING CODE 6820–AR–M

Corrections

Federal Register

Vol. 64, No. 171

Friday, September 3, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 220, 225, and 226

Modification of the ''Vegetable Protein Products'' Requirements for the National School Lunch Program, School Breakfast Program, Summer Food Service Program and Child and Adult Care Food Program--Extension of Public Comment Period

Correction

In proposed rule document 99–22088 appearing on page 46319 in the issue of Wednesday, August 25, 1999, make the following corrections:

1. In the first column, in the heading, in the sixth line, ''Extention'' should read ''Extension'', as set forth above.

2. In the second column, under the heading **Background**, in the ninth line, ''July 30, 1999'' should read ''July 20, 1999''.

[FR Doc. C9–22088 Filed 9–2–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

48 CFR Part 235

[DFARS Case 98-D306]

Defense Federal Acquisition Regulation Supplement; Manufacturing Technology Program

Correction

In rule document 99–9561, beginning on page 18829, in the issue of Friday, April 16, 1999, make the following correction(s):

235.006 [Corrected]

1. On page 18830, in the second column, in section 235.006, in paragraph (b)(ii)(A), in the second line, after the word ''of'' add ''a''.

2. On the same page, in the second column, in the same section, in paragraph (b)(ii)(C), in the fourth line, ''class'' should read ''class,''.

235.006-70 [Corrected]

3. On page 18830, in the second column, in section 235.006-70, in the heading ''Manufacturing Technology Program'' should read ''Manufacturing Technology Program.''

4. On the same page, in the second column, in the same section, in paragraph (b), in the first line, ''contract'' should read ''contracts''.

[FR Doc. C9–9561 Filed 9–2–99; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6430–1]

Final NPDES Permit for Aquaculture Facilities and Associated, On-Site Fish Processing Facilities Operating in Idaho (ID–G13–0000)

Correction

In notice document 99–22324, beginning on page 46911, in the issue of Friday, August 27, 1999, make the following correction(s):

On page 46913, in the second column, under the heading **Effective Date**, in the second line, ''September 13'' should read ''September 10''; and in the fifth line, ''September 13, 2004'' should read ''September 10, 2004''.

[FR Doc. C9–22324 Filed 9–2–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AGL-45]

Proposed Modification of Class E Airspace; Maple Lake, MN

Correction

In proposed rule document 99–22061 beginning on page 46869 in the issue of Friday, August 27, 1999, make the following correction:

§ 71.1 [Corrected]

On page 46870, in the first column, in §71.1, under the heading ''**AGL MN E5 Maple Lake, MN [Revised]** '', ''Lat. 40°14'10''N., long. 93°59'08''W'' should read ''Lat. 45°14'10''N., long. 93°59'08''W''.

[FR Doc. C9–22061 Filed 9–2–99; 8:45 am]

BILLING CODE 1505–01–D

Friday
September 3, 1999

Part II

Office of Personnel Management

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions; Notice

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives a consolidated notice of all positions excepted under Schedules A, B, and C as of June 30, 1999, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the Office of Personnel Management (OPM) to publish notice of all exceptions granted under Schedules A, B, and C. Title 5, Code of Federal Regulations, § 213.103(c), further requires that a consolidated listing, current as of June 30 of each year, be published annually as a notice in the **Federal Register**. That notice follows. OPM maintains continuing information on the status of all Schedule A, B, and C excepted appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by contacting the Staffing Reinvention Office, Room 6500, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, or by calling (202) 606–0830.

The following exceptions were current on June 30, 1999:

Schedule A

Section 213.3102 Entire Executive Civil Service

(a) Positions of Chaplain and Chaplain's Assistant.

(b) (Reserved).

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment that was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any nontemporary position the duties of which are part-time or intermittent in which the appointee will receive compensation during his or her service year that aggregates not more than 40 percent of the annual salary rate for the first step of grade GS–3. This limited compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority may not be for temporary project employment.

(h) Positions in Federal mental institutions when filled by persons who have been patients of such institutions and have been discharged and are certified by an appropriate medical authority thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Temporary and less-than-full time positions for which examining is impracticable. These are:

(1) Positions in remote/isolated locations where examination is impracticable. A remote/isolated location is outside of the local commuting area of a population center from which an employee can reasonably be expected to travel on short notice under adverse weather and/or road conditions which are normal for the area. For this purpose, a population center is a town with housing, schools, health care, stores and other businesses in which the servicing examining office can schedule tests and/or reasonably expect to attract applicants. An individual appointed under this authority may not be employed in the same agency under a combination of this and any other appointment to positions involving related duties and requiring the same qualifications for more than 1,040 working hours in a service year. Temporary appointments under this authority may be extended in 1-year increments, with no limit on the number of such extensions, as an exception to the service limits in § 213.104.

(2) Positions for which a critical hiring needs exists. This includes both short-term positions and continuing positions that an agency must fill on an interim basis pending completion of competitive examining, clearances, or other procedures required for a longer appointment. Appointments under this authority may not exceed 30 days and may be extended up to an additional 30 days if continued employment is essential to the agency's operations. The appointments may not be used to extend the service limit of any other appointing authority. An agency may not employ the same individual under this authority for more than 60 days in any 12-month period.

(3) Other positions for which OPM determines that examining is impracticable.

(j) Positions filled by current or former Federal employees eligible for placement under special statutory provisions. Appointments under this authority are subject to the following conditions:

(1) *Eligible employees.* (i) Persons previously employed as National Guard Technicians under 32 U.S.C. 709(a) who are entitled to placement under § 353.110 of this chapter, or who are applying for or receiving an annuity under the provisions of 5 U.S.C. 8337(h) or 5 U.S.C. 8456 by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment;

(ii) Executive branch employees (other than employees of intelligence agencies) who are entitled to placement under § 353.110 but who are not eligible for reinstatement or noncompetitive appointment under the provisions of part 315 of this chapter.

(iii) Legislative and judicial branch employees and employees of the intelligence agencies defined in 5 U.S.C. 2302(a)(2)(C)(ii) who are entitled to placement assistance under § 353.110.

(2) *Employees excluded.* Employees who were last employed in Schedule C or under a statutory authority that specified the employee served at the discretion, will, or pleasure of the agency are not eligible for appointment under this authority.

(3) *Position to which appointed.* Employees who are entitled to placement under § 353.110 will be appointed to a position that OPM determines is equivalent in pay and grade to the one the individual left, unless the individual elects to be placed in a position of lower grade or pay. National Guard Technicians whose eligibility is based upon a disability may be appointed at the same grade, or equivalent, as their National Guard Technician position or at any lower grade for which they are available.

(4) *Conditions of appointment.* (i) Individuals whose placement eligibility is based on an appointment without time limit will receive appointments without time limit under this authority. These appointees may be reassigned, promoted, or demoted to any position within the same agency for which they qualify.

(ii) Individuals who are eligible for placement under § 353.110 based on a time-limited appointment will be given appointments for a time period equal to the unexpired portion of their previous appointment.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, and technical experts for consultation purposes.

(m) (Reserved).

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

(o) Positions of a scientific, professional or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employment under this provision shall not exceed 130 working days a year.

(p)–(q) (Reserved).

(r) Positions established in support of fellowship and similar programs that are filled from limited applicant pools and operate under specific criteria developed by the employing agency and/or a non-Federal organization. These programs may include: internship or fellowship programs that provide developmental or professional experiences to individuals who have completed their formal education; training and associateship programs designed to increase the pool of qualified candidates in a particular occupational specialty; professional/industry exchange programs that provide for a cross-fertilization between the agency and the private sector to foster mutual understanding, an exchange of ideas, or to bring experienced practitioners to the agency; residency programs through which participants gain experience in a Federal clinical environment; and programs that require a period of Government service in exchange for educational, financial or other assistance. Appointment under this authority may not exceed 4 years.

(s) Positions with compensation fixed under 5 U.S.C. 5351–5356 when filled by student-employees assigned or attached to Government hospitals, clinics or medical or dental laboratories. Employment under this authority may not exceed 4 years.

(t) Positions when filled by mentally retarded persons in accordance with the guidance in Federal Personnel Manual chapter 306. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(u) Positions when filled by severely physically handicapped persons who: (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(v)–(w) (Reserved).

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed 1 additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date of that person's release from custody.

(y) (Reserved).

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program, may not exceed 2 years, and are subject to satisfactory outcome of evaluation of the associate's research during the first year.

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of OPM except when the authority is specifically included in a delegated examining agreement with OPM.

(cc)–(ee) (Reserved).

(ff) Not to exceed 25 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Public Law 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he/she ceases to be in a qualifying program only as long as he/she remains in the same agency without a break in service.

(gg)–(hh) (Reserved).

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years, unless extended with OPM approval for up to 1 additional year. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive order 12364, in accordance with requirements published in the Federal Personnel Manual.

(jj–kk) (Reserved).

(ll) Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees, filled on a full time, part-time, or intermittent basis.

Section 213.3103 Executive Office of the President

(a) *Office of Administration.* (1) Not to exceed 75 positions to provide administrative services and support to the White House office.

(b) *Office of Management and Budget.* (1) Not to exceed 10 positions at grades GS–9/15.

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.

(d)–(f) (Reserved).

(g) *National Security Council.* (1) All positions on the staff of the Council.

(h) *Office of Science and Technology Policy.* (1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

(i) *Office of National Drug Control Policy.* (1) Not to exceed 15 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or

technical knowledge to aid in anti-drug abuse efforts.

Section 213.3104 Department of State

(a) *Office of the Secretary.* (1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.

(2) One position of Museum Curator (Arts), in the Office of the Under Secretary for Management, whose incumbent will serve as Director, Diplomatic Reception Rooms. No new appointments may be made after February 28, 1997.

(b) *American Embassy, Paris, France.* (1) Chief, Travel and Visitor Unit. No new appointments may be made under this authority after August 10, 1981.

(c)-(f) (Reserved).

(g) *Bureau of Population, Refugees, and Migration.* (1) Not to exceed 10 positions at grades GS–5 through 11 on the staff of the Bureau.

(h) *Bureau of Administration.* (1) One Presidential Travel Officer. No new appointments may be made under this authority after June 11, 1981.

(2) One position of the Director, Art in Embassies Program, GM–1001–15.

Section 213.3105 Department of the Treasury

(a) *Office of the Secretary.* (1) Not to exceed 20 positions at the equivalent of GS–13 through GS–17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of complex problems in the area of domestic economic and financial policy. Employment under this authority may not exceed 4 years.

(3) Not to exceed 20 positions in the Office of the Under Secretary (Enforcement). Employment under this authority may not exceed 4 years, and no new appointments may be made after July 31, 2001.

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as ''interpreter-translator'' and ''special employees,'' when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2)–(5) (Reserved).

(6) Three hundred positions of Criminal Investigator for special assignments and 10 positions for oversight policy and direction of sensitive law enforcement activities.

(7)–(8) (Reserved).

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(d) *Office of Thrift Supervision.* (1) All positions in the supervision policy and supervision operations functions of OTS. No new appointments may be made under this authority after December 31, 1993.

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(f) (Reserved).

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) One hundred positions of criminal investigator for special assignments.

Section 213.3106 Department of Defense

(a) *Office of the Secretary.* (1)–(5) (Reserved).

(6) One Executive Secretary, US–USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: *Provided*, that (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS–12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR Part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(d) *General.* (1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority

of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) *Uniformed Services University of the Health Sciences.*

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) *National Defense University.* (1) Not to exceed 16 positions of senior policy analyst, GS–15, at the Strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) *Defense Communications Agency.* (1) Not to exceed 10 positions at grades GS–10/15 to staff and support the Crisis Management Center at the White House.

(h) *Defense Systems Management College, Fort Belvoir, Va.* (1) The Provost and professors in grades GS–13 through 15.

(i) *George C. Marshall European Center for Security Studies, Garmisch, Germany.* (1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

(j) *Asia-Pacific Center for Security Studies, Honolulu, Hawaii.* (1) The Director, Deputy Director, Dean of Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed 3 years and may be extended for periods not to exceed 3 years.

Section 213.3107 Department of the Army

(a)-(c) (Reserved).

(d) *U.S. Military Academy, West Point, New York.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and librarian when filled by an officer of the Regular Army retired from active service, and the military secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)-(f) (Reserved).

(g) *Defense Language Institute.* (1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or a knowledge of foreign language teaching methods.

(h) *Army War College, Carlisle Barracks, PA.* (1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

(i) (Reserved).

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.* (1) Positions of Academic Director, Department Head, and Instructor.

(k) *U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.* (1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1, 2, 3, 4, or 5-year increments indefinitely thereafter.

Section 213.3108 Department of the Navy

(a) *General.* (1)–(14) (Reserved).

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and social counselors at the Naval Academy.

(c) *Chief of Naval Operations.* (1) One position at grade GS–12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e) *Pacific Missile Range Facility, Barking Sands, Hawaii.* (1) All positions. This authority applies only to positions that must be filled pending final decision on contracting of Facility operations. No new appointments may be made under this authority after July 29, 1988.

(f) (Reserved).

(g) *Office of Naval Research.* (1) Scientific and technical positions, GS/GM–13/15, in the Office of Naval Research Asian Office in Tokyo, Japan, which covers East Asia, New Zealand and Australia. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

Section 213.3109 Department of the Air Force

(a) *Office of the Secretary.* (1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) *General.* (1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Ninety-five positions engaged in interdepartmental defense projects involving scientific and technical evaluations.

(c) Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM–ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) *U.S. Air Force Academy, Colorado.* (1) (Reserved).

(2) Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved).

(f) *Air Force Office of Special Investigations.* (1) Not to exceed 350 positions of Criminal Investigators/Intelligence Research Specialists, GS–5 through GS–15.

(g) Not to exceed eight positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special

Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) *Air University, Maxwell Air Force Base, Alabama.* (1) Positions of Professor, Instructor, or Lecturer.

(i) *Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio.* (1) Civilian deans and professors.

(j) *Air Force Logistics Command.* (1) One Supervisory Logistics Management Specialist, GM–346–14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) One position of Supervisory Logistics Management Specialist, GS–346–15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

Section 213.3110 Department of Justice

(a) *General.* (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2)–(5) (Reserved).

(6) Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries. Initial appointments under this authority may not exceed 2 years, but may be extended for an additional period not to exceed 2 years.

(b) *Immigration and Naturalization Service.* (1) (Reserved).

(2) Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9.

(3) Not to exceed 25 positions, GS–15 and below, with proficiency in speaking, reading, and writing the Russian language and serving in the Soviet Refugee Processing Program with permanent duty location in Moscow, Russia.

(c) *Drug Enforcement Administration.* (1) (Reserved).

(2) Four hundred positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

(d) *National Drug Intelligence Center.* All positions.

Section 213.3112 Department of the Interior

(a) *General.* (1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided,* that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term ''Indian.''

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) (Reserved).

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) (Reserved).

(e) *Office of the Assistant Secretary, Territorial and International Affairs.* (1) (Reserved).

(2) Not to exceed four positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) (Reserved).

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

(f) *National Park Service.* (1) (Reserved).

(2) Positions established for the administration of Kalaupapa National Historic Park, Molokai, Hawaii, when filled by appointment of qualified patients and Native Hawaiians, as provided by Public Law 95–565.

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on

a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided,* that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

Section 213.3113 Department of Agriculture

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved).

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided,* that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of § 213.3102 or positions within the Forest Service.

(6) (Reserved).

(7) Not to exceed 34 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1985.

(b)–(c) (Reserved).

(d) *Farm Service Agency.* (1) (Reserved).

(2) Members of State Committees: *Provided,* that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) *Rural Development.* (1) (Reserved).

(2) County committeemen to consider, recommend, and advise with respect to the Rural Development program.

(3) Temporary positions whose principal duties involve the making and servicing of natural disaster emergency loans pursuant to current statutes authorizing natural disaster emergency loans. Appointments under this provision shall not exceed 1 year unless extended for one additional period not to exceed 1 year, but may, with prior approval of OPM be further extended for additional periods not to exceed 1 year each.

(4)–(5) (Reserved).

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) *Agricultural Marketing Service.* (1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, and processed fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators.

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved).

(l) *Food Safety and Inspection Service.* (1)–(2) (Reserved).

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Grain Inspection, Packers and Stockyards Administration.* (1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

(n) *Alternative Agricultural Research and Commercialization Corporation.* (1) Executive Director.

Section 213.3114 Department of Commerce

(a) *General.* (1)–(2) (Reserved).

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United

States for periods of orientation, training, analysis of data, and report writing.

(b)–(c) (Reserved).

(d) *Bureau of the Census.* (1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for time-limited employment to conduct a census.

(2) Current Program Interviewers employed in the field service.

(e)–(h) (Reserved).

(i) *Office of the Under Secretary for International Trade.*

(1) Fifteen positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) (Reserved).

(3) Not to exceed 15 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period of not to exceed 2 years and may, with prior approval of OPM, be extended for an additional period of 2 years.

(j) *National Oceanic and Atmospheric Administration.* (1)–(2) (Reserved).

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(k) (Reserved).

(l) *National Telecommunication and Information Administration.* (1) Seventeen professional positions in grades GS–13 through GS–15.

Section 213.3115 Department of Labor

(a) *Office of the Secretary.* (1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) (Reserved).

(d) *Employment and Training Administration.* (1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

Section 213.3116 Department of Health and Human Services

(a) *General.* (1) Intermittent positions, at GS–15 and below and WG–10 and below, on teams under the National Disaster Medical System including Disaster Medical Assistance Teams and specialty teams, to respond to disasters, emergencies, and incidents/events involving medical, mortuary and public health needs.

(b) *Public Health Service.* (1) (Reserved).

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved).

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5)–(6) (Reserved).

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term ''Indian.''

(9) (Reserved).

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11)–(14) (Reserved).

(15) Not to exceed 200 staff positions, GS–15 and below, in the Immigration Health Service, for an emergency staff to provide health related services to foreign entrants.

(c)-(e) (Reserved).

(f) *The President's Council on Physical Fitness.* (1) Four staff assistants.

Section 213.3117 Department of Education

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

Section 213.3121 Corporation for National and Community Service

(a) All positions on the staff of the Corporation for National Community Service. No new appointments may be made under this authority after September 30, 1995.

Section 213.3124 Board of Governors, Federal Reserve System

(a) All positions.

Section 213.3127 Department of Veterans Affairs

(a) *Construction Division.* (1) Temporary construction workers paid from ''purchase and hire'' funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) *Board of Veterans' Appeals.* (1) Positions, GS–15, when filled by a member of the Board. Except as provided by section 201(d) of Public Law 100–687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS–15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

Section 213.3128 U.S. Information Agency

(a) *Office of Congressional and Public Liaison.* (1) Two positions of Liaison Officer (Congressional), GS–14.

(b) Five positions of Supervisory International Exchange Officer

(Reception Center Director), GS–13 and GS–14, located in USIA's field offices of New Orleans, New York, Miami, San Francisco, and Honolulu. Initial appointments will not exceed December 31 of the calendar year in which appointment is made with extensions permitted up to a maximum period of 4 years.

Section 213.3132 Small Business Administration

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office approval. Appointments under this authority may not be used to extend the 2-year service limit contained in paragraph (b) below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

Section 213.3133 Federal Deposit Insurance Corporation

(a)-(b) (Reserved).

(c) Temporary positions located at closed banks or savings and loan institutions that are concerned with liquidating the assets of the institutions, liquidating loans to the institutions, or paying the depositors of closed insured institutions. New appointments may be made under this authority only during the 60 days immediately following the institution's closing date. Such appointments may not exceed 1 year, but may be extended for not to exceed 1 additional year.

Section 213.3136 U.S. Soldiers' and Airmen's Home

(a) (Reserved).

(b) Positions when filled by member-residents of the Home.

Section 213.3138 Federal Communications Commission

(a) Fifteen positions of Telecommunications Policy Analyst, GS–301–13/14/15. Initial appointment to these positions will be for a period of not to exceed 2 years with provision for two 1-year extensions. No new appointments may be made under this authority after May 31, 1998.

Section 213.3142 Export-Import Bank of the United States

(a) One Special Assistant to the Board of Directors, grade GS–14 and above.

Section 213.3146 Selective Service System

(a) State Directors.

Section 213.3148 National Aeronautics and Space Administration

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

Section 213.3155 Social Security Administration

(a) Six positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(b) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

Section 213.3162 The President's Crime Prevention Council

(a) Up to 7 positions established in the President's Crime Prevention Council office created by the Violent Crime Control and Law Enforcement Act of 1994. No new appointments may be made under this authority after March 31, 1998.

Section 213.3165 Chemical Safety and Hazard Investigation Board

(a) Up to 30 positions established to create the Chemical Safety and Hazard Investigation Board. No new appointments may be made under this authority after December 31, 1999.

Section 213.3174 Smithsonian Institution

(a) (Reserved).

(b) All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) Positions at GS–15 and below in the National Museum of the American Indian requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

Section 213.3175 Woodrow Wilson International Center for Scholars

(a) One East Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, one West European Program Administrator, and one Social Science Program Administrator.

Section 213.3178 Community Development Financial Institutions Fund

(a) All positions in the Fund and positions created for the purpose of establishing the Fund's operations in accordance with the Community Development Banking and Financial Institutions Act of 1994, except for any positions required by the Act to be filled by competitive appointment. No new appointments may be made under this authority after September 23, 1998.

Section 213.3180 Utah Reclamation and Conservation Commission

(a) Executive Director.

Section 213.3182 National Foundation on the Arts and the Humanities

(a) *National Endowment for the Arts.* (1) Artistic and related positions at grades GS–13 through GS–15 engaged in the review, evaluation and administration of applications and grants supporting the arts, related research and assessment, policy and

program development, arts education, access programs and advocacy or evaluation of critical arts projects and outreach programs. Duties require artistic stature, in-depth knowledge of arts disciplines and/or artistic-related leadership qualities.

Section 213.3191 Office of Personnel Management

(a)-(c) (Reserved).

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

Section 213.3194 Department of Transportation

(a) *U.S. Coast Guard.* (1) (Reserved).

(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut.

(b)-(d) (Reserved).

(e) *Maritime Administration.* (1)–(2) (Reserved).

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) (Reserved).

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

Section 213.3195 Federal Emergency Management Agency

(a) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort.

(b) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.

(c) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

Section 213.3199 Temporary Organizations

(a) Positions on the staffs of temporary boards and commissions which are established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. A temporary board or commission originally established for less than 4 years and subsequently extended may continue to fill its staff positions under this authority as long as its total life, including extension(s), does not exceed 4 years. No board or commission may use this authority for more than 4 years to make appointments and position changes unless prior approval of the Office is obtained.

(b) Positions on the staffs of temporary organizations established within continuing agencies when all of the following conditions are met: (1) The temporary organization is established by an authority outside the agency, usually by law or Executive order; (2) the temporary organization is established for an initial period of 4 years or less and, if subsequently extended, its total life including extension(s) will not exceed 4 years; (3) the work to be performed by the temporary organization is outside the agency's continuing responsibilities; and (4) the positions filled under this authority are those for which other staffing resources or authorities are not available within the agency. An agency may use this authority to fill positions in organizations which do not meet all of the above conditions or to make appointments and position changes in a single organization during a period longer than 4 years only with prior approval of the Office.

Schedule B

Section 213.3202 Entire Executive Civil Service

(a) *Student Educational Employment Program—Student Temporary Employment Program.* (1) Students may be appointed to the Student Temporary Employment Program if they are pursuing any of the following educational programs:

(i) High School Diploma or General Equivalency Diploma (GED);

(ii) Vocational/Technical certificate;

(iii) Associate degree;

(iv) Baccalaureate degree;

(v) Graduate degree; or

(vi) Professional degree

* * * * *

[The remaining text of provisions pertaining to the Student Temporary Employment Program can be found in 5 CFR 213.3202(a).]

(b) Student Educational Employment Program—Student Career Experience Program. (1)(i) Students may be appointed to the Student Career Experience Program if they are pursuing any of the following educational programs:

(A) High school diploma or General Equivalency Diploma (GED);

(B) Vocational/Technical certificate;

(C) Associate degree;

(D) Baccalaureate degree;

(E) Graduate degree; or

(F) Professional degree.

(ii) Student participants in the Harry S. Truman Foundation Scholarship Program under the provision of Public Law 93–842 are eligible for appointments under the Student Career Experience Program.

[The remaining text of provisions pertaining to the Student Career Experience Program can be found in 5 CFR 213.3202(b).]

* * * * *

(c)–(i) (Reserved).

(j) Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM. A Federal agency may make new appointments under this authority for any period of employment not exceeding 3 years for one individual.

(k) Positions at grades GS–15 and below when filled by individuals who (1) are placed at a severe disadvantage

in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

(l) (Reserved).

(m) Positions when filled under any of the following conditions: (1) Appointment at grades GS–15 and above, or equivalent, in the same or a different agency without a break in service from a career appointment in the Senior Executive Service (SES) of an individual who:

(i) Has completed the SES probationary period;

(ii) Has been removed from the SES because of less than fully successful executive performance or a reduction in force; and

(iii) Is entitled to be placed in another civil service position under 5 U.S.C. 3594(b).

(2) Appointment in a different agency without a break in service of an individual originally appointed under paragraph (m)(1).

(3) Reassignment, promotion, or demotion within the same agency of an individual appointed under this authority.

(n) Positions when filled by preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of continuous active service and who, in accordance with 5 U.S.C. 3304(f) (Pub. L. 105–339), applied for these positions under merit promotion procedures when applications were being accepted by the agency from individuals outside its own workforce. These veterans may be promoted, demoted, or reassigned, as appropriate, to other positions within the agency but would remain employed under this excepted authority as long as there is no break in service.

Section 213.3203 Executive Office of the President

(a) (Reserved).

(b) *Office of the Special Representative for Trade Negotiations.* (1) Seventeen positions of economist at grades GS–12 through GS–15.

Section 213.3204 Department of State

(a)-(c) (Reserved).

(d) Fourteen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) (Reserved).

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

Section 213.3205 Department of the Treasury

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b)-(c) (Reserved).

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed (1) a total of 4 years; or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever comes first.

Section 213.3206 Department of Defense

(a) *Office of the Secretary.* (1) (Reserved).

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) (Reserved).

(5) Four Net Assessment Analysts.

(b) *Interdepartmental activities.* (1) Five positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS–15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) *National Defense University.* (1) Sixty-one positions of Professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) *General.* (1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(2) Acquisition positions at grades GS–5 through GS–11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(e) *Office of the Inspector General.* (1) Positions of Criminal Investigator, GS–1811–5/15.

(f) *Department of Defense Polygraph Institute, Fort McClellan, Alabama.* (1) One Director, GM–15.

(g) *Defense Security Assistance Agency.* All faculty members with instructor and research duties at the Defense Institute of Security Assistance Management, Wright Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

Section 213.3207 Department of the Army

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

Section 213.3208 Department of the Navy

(a) *Naval Underwater Systems Center, New London, Connecticut.* (1) One position of Oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) One Director and four Research Psychologists at the professor or GS–15 level in the Defense Personnel Security Research and Education Center.

(d) All civilian professor positions at the Marine Corps Command and Staff College.

(e) One position of Staff Assistant, GS–301–15, whose incumbent will

manage the Navy's Executive Dining facilities at the Pentagon.

(f) One position of Housing Management Specialist, GM–1173–14, involved with the Bachelor Quarters Management Study. No new appointments may be made under this authority after February 29, 1992.

Section 213.3209 Department of the Air Force

(a) Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1, 2, or 3 years indefinitely thereafter.

(b)—(c) (Reserved).

(d) Positions of Instructor or professional academic staff at the Air University, associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

(e) One position of Director of Development and Alumni Programs, GS–301–13, with the U.S. Air Force Academy, Colorado.

Section 213.3210 Department of Justice

(a) Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) (Reserved).

(c) Not to exceed 400 positions at grades GS–5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved).

(e) Positions, other than secretarial, GS–6 through GS–15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

Section 213.3213 Department of Agriculture

(a) *Foreign Agricultural Service.* (1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) *General.* (1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Personnel Officer, Agricultural Research Service, or the Personnel Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM–301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

Section 213.3214 Department of Commerce

(a) *Bureau of the Census.* (1) (Reserved).

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through GS–12.

(3) Not to exceed 300 Community Awareness Specialist positions at the equivalent of GS–7 through GS–12. Employment under this authority may not exceed December 31, 1992.

(b)—(c) (Reserved).

(d) *National Telecommunications and Information Administration.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

Section 213.3215 Department of Labor

(a) Chairman, two Members, and one Alternate Member, Administrative Review Board.

(b) (Reserved).

(c) *Bureau of International Labor Affairs.* (1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

Section 213.3217 Department of Education

(a) Seventy-five positions, not in excess of GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

Section 213.3221 Corporation for National and Community Service

(a) Not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15 in the Department of the Executive Director.

(b) Three positions of Program Specialist at grades GS–7 through GS–15 in the Department of the Executive Director.

Section 213.3227 Department of Veterans Affairs

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS–1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

Section 213.3228 U.S. Information Agency

(a) *Voice of America.* (1) Not to exceed 200 positions at grades GS–15 and below in the Cuba Service. Appointments may not be made under

this authority to administrative, clerical, and technical support positions.

Section 213.3236 U.S. Soldiers' and Airmen's Home

(a) (Reserved).

(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

Section 213.3240 National Archives and Records Administration

(a) Executive Director, National Historical Publications and Records Commission.

Section 213.3248 National Aeronautics and Space Administration

(a) Not to exceed 40 positions of Command Pilot, Pilot, and Mission Specialist candidates at grades GS–7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

Section 213.3264 U.S. Arms Control and Disarmament Agency

(a) Twenty-five scientific, professional, and technical positions at grades GS–12 through GS–15 when filled by persons having special qualifications in the fields of foreign policy, foreign affairs, arms control, and related fields. Total employment under this authority may not exceed 4 years.

Section 213.3274 Smithsonian Institution

(a) (Reserved).

(b) *Freer Gallery of Art.* (1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS–9 through GS–15.

Section 213.3276 Appalachian Regional Commission

(a) Two Program Coordinators.

Section 213.3278 Armed Forces Retirement Home

(a) *Naval Home, Gulfport, Mississippi.* (1) One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

Section 213.3282 National Foundation on the Arts and the Humanities

(a) (Reserved).

(b) *National Endowment for the Humanities.* (1) Professional positions at grades GS–11 through GS–15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require indepth knowledge of a discipline of the humanities.

Section 213.3285 Pennsylvania Avenue Development Corporation

(a) One position of Civil Engineer (Construction Manager).

Section 213.3291 Office of Personnel Management

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Twelve positions of faculty members at grades GS–13 through 15, at the Federal Executive Institute. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1-, 2-, or 3-year increments indefinitely thereafter.

Schedule C (Grades 5 through 15)

Section 213.3303 Executive Office of the President

Council of Economic Advisers

CEA 1 Confidential Assistant to the Chairman
CEA 4 Confidential Assistant to the Chairman
CEA 5 Administrative Operations Assistant to a Member
CEA 6 Administrative Operations Assistant to a Member

Council on Environmental Quality

CEQ 10 Special Assistant to the Chair, Council on Environmental Quality
CEQ 11 Associate Director for Communications to the Chair, Council on Environmental Quality
CEQ 13 Special Assistant to the Chair, Council on Environmental Quality

Office of Management and Budget

OMB 37 Legislative Analyst to the Associate Director for Legislative Affairs
OMB 80 Executive Assistant to the Deputy Director, Office of Management and Budget
OMB 92 Confidential Assistant to the Associate Director for Legislative Reference and Administration
OMB 97 Confidential Assistant to the Administrator, Office of Information and Regulatory Affairs
OMB 102 Special Assistant to the Director, Office of Management and Budget
OMB 107 Senior Public Affairs Specialist to the Director, Office of Management and Budget
OMB 110 Confidential Assistant to the Executive Associate Director
OMB 115 Confidential Assistant to the Associate Director for General Government and Finance
OMB 117 Confidential Assistant to the Associate Director, Health/Personnel
OMB 118 Special Assistant to the Controller
OMB 120 Confidential Assistant to the Associate Director, for Natural Resources, Energy and Science
OMB 122 Senior Public Affairs Officer to the Associate Director for Communications
OMB 123 Legislative Analyst to the Associate Director for Legislative Affairs
OMB 125 Legislative Assistant to the Associate Director, Legislative Affairs
OMB 126 Confidential Assistant to the Associate Director for National Security and International Affairs
OMB 128 Confidential Assistant to the Executive Associate Director
OMB 129 Staff Assistant to the Associate Director, Legislative Affairs
OMB 130 Confidential Assistant to the Associate Director, Education, Income Maintenance, and Labor

Office of National Drug Control Policy

ONDCP 83 Chief, Press Relations to the Director, Office of National Drug Control Policy
ONDCP 86 Confidential Assistant to the Director
ONDCP 87 Confidential Secretary to the Deputy Director, Office of National Drug Control Policy
ONDCP 88 Strategic Analyst (Speech writer) to the Chief of Staff
ONDCP 95 Executive Assistant to the Deputy Director, Office of National Drug Control Policy
ONDCP 96 Deputy Events Manager to the Director, Strategic Affairs
ONDCP 97 Assistant Director, Strategic Planning to the Director, Strategic Planning
ONDCP 98 Staff Assistant to the Chief of Staff
ONDCP 100 Press Relations Assistant (Typing) to the Chief of Press Relations, Office of Public Affairs
ONDCP 102 Staff Assistant to the Chief of Staff
ONDCP 103 Staff Assistant to the Director, Office of the National Drug Control Policy
ONDCP 104 Staff Assistant to the Director, Office of the National Drug Control Policy

Office of Science and Technology Policy

OSTP 18 Special Assistant to the Director, Office of Science and Technology Policy

OSTP 21 Confidential Assistant to the Associate Director Technology Division
OSTP 22 Confidential Assistant to the Associate Director for Environment
OSTP 23 Confidential Assistant to the Associate Director for National Security and International Affairs
OSTP 27 Confidential Assistant to the Associate Director for Science
OSTP 28 Public Affairs Specialist to the Chief of Staff, Office of the Director

Office of the United States Trade Representative

USTR 56 Confidential Assistant to the Deputy U.S. Trade Representative
USTR 66 Congressional Affairs Specialist to the Assistant U.S. Trade Representative for Congressional Affairs
USTR 67 Confidential Assistant to the Chief of Staff
USTR 68 Confidential Assistant to the Deputy U.S. Trade Representative
USTR 69 Special Assistant to the Chief of Staff
USTR 70 Deputy Assistant U.S. Trade Representative for Congressional Relations to the Deputy U.S. Trade Representative

Official Residence of the Vice President

ORVP 1 Special Assistant, Official Residence of the Vice President to the Chief of Staff, Office of Mrs. Gore

President's Commission on White House Fellowships

PCWHF 7 Education Director to the Director, President's Commission on White House Fellowships
PCWHF 10 Special Assistant to the Director, President's Commission on White House Fellowships

Section 213.3304 Department of State

ST 101 Secretary (Steno O/A) to the Deputy Director
ST 102 Secretary (O/A) to the Under Secretary
ST 103 Confidential Assistant to the Assistant Director
ST 104 Special Assistant to the Under Secretary
ST 105 Congressional Affairs Specialist to the Director of Congressional Affairs
ST 220 Special Assistant to the Assistant Secretary, Bureau of Public Affairs
ST 329 Staff Assistant to the Deputy Secretary of State
ST 359 Legislative Officer to the Assistant Secretary, Bureau of Legislative Affairs
ST 399 Confidential Assistant to the Secretary of State
ST 400 Deputy Assistant Secretary to the Assistant Secretary, Economic and Business Affairs
ST 405 Supervisory Protocol Officer (Visits) to the Foreign Affairs Officer (Visits)
ST 406 Secretary (Typing) to the Assistant Secretary, Bureau of Economic And Business Affairs
ST 411 Protocol Officer (Visits) to the Chief, Visits Division
ST 416 Protocol Officer (Visits) to the Supervisory Protocol Officer for Visits
ST 426 Secretary (Steno) to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs
ST 429 Special Assistant to the Director, Foreign Service Institute
ST 433 Correspondence Officer to the Assistant Secretary, Bureau of Legislative Affairs
ST 451 Special Assistant to the Ambassador-at-Large
ST 460 Staff Assistant to the Chief of Staff
ST 461 Senior Advisor to the Director, Policy Planning Staff
ST 465 Special Assistant to the Secretary of State
ST 467 Foreign Affairs Officer (Visits) to the Chief of Protocol
ST 468 Protocol Officer (Ceremonials) to the Foreign Affairs Officer (Assistant Chief of Protocol for Ceremonials)
ST 471 Special Assistant to the Legal Advisor, Office of the Legal Advisor
ST 478 Special Coordinator to the Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor
ST 483 Foreign Affairs Officer to the Deputy Director, Office of Policy Planning
ST 484 Legislative Management Officer to the Assistant Secretary
ST 485 Member Policy Planning Staff to the Director
ST 491 Policy Advisor to the Assistant Secretary, Bureau of European and Canadian Affairs
ST 492 Senior Advisor to the Assistant Secretary, Bureau of South Asian Affairs
ST 493 Resources, Plans and Policy Advisor to the Director, Office of Resources, Plans and Policy
ST 495 Senior Coordinator for Democracy Coordination to the Assistant Secretary, Bureau of Democracy, Human Rights and Labor
ST 497 Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs
ST 498 Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs
ST 500 Staff Assistant to the Special Coordinator for Cyprus
ST 502 Senior Advisor to the Deputy Assistant Secretary, Bureau for International Narcotics and Law Enforcement Affairs
ST 508 Deputy Assistant Secretary to the Assistant Secretary, Bureau of International Organizations Affairs
ST 510 Special Assistant to the Ambassador-at-Large
ST 511 Special Assistant to the Legal Advisor
ST 512 Special Assistant to the Deputy Director
ST 514 Protocol Officer (Visits) to the Foreign Affairs Officer
ST 517 Special Assistant to the Under Secretary for Economics, Business and Agricultural Affairs
ST 519 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
ST 521 Staff Assistant to the Assistant Secretary, Bureau of Public Affairs
ST 522 Special Assistant to the Assistant Secretary, Bureau of African Affairs
ST 523 Public Affairs Specialist to the Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor
ST 524 Special Assistant to the Assistant Secretary, Bureau of African Affairs
ST 525 Staff Assistant to the Deputy Assistant Secretary for Public Affairs
ST 527 Staff Assistant to the Deputy Assistant Secretary, Bureau of Administration
ST 528 Foreign Affairs Officer (Ceremonials) to the Deputy Chief of Protocol
ST 529 Deputy Assistant Secretary to the Assistant Secretary, Bureau of Democracy, Human Rights and Labor
ST 530 Special Assistant to the Assistant Secretary, Bureau of Asian and Pacific Affairs
ST 531 Staff Assistant to the Senior Advisor to the Secretary and White House Liaison
ST 533 Staff Assistant to the Ambassador-at-Large for War Crimes Initiatives
ST 534 Special Advisor to the Under Secretary for Economic, Business and Agricultural Affairs
ST 535 Special Assistant to the Women's Coordinator
ST 536 Coordinator, Office of Business Affairs to the Under Secretary for Economic, Business and Agricultural Affairs
ST 538 Staff Assistant to the Deputy Chief of Staff

ST 539 Foreign Affairs Officer to the Under Secretary for Global Affairs
ST 540 Staff Assistant to the Under Secretary for Management
ST 542 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
ST 543 Special Assistant to the Assistant Secretary, Bureau of Population, Refugees and Migration
ST 544 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
ST 545 Deputy Assistant Secretary to the Assistant Secretary, Bureau of Intelligence and Research
ST 546 Special Assistant to the Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs
ST 547 Special Assistant to the Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs
ST 548 Member to the Director, Policy and Planning Staff
ST 549 Special Advisor to the Deputy Assistant Secretary
ST 550 Special Assistant to the Chief of Protocol
ST 551 Foreign Affairs Officer to the Deputy Secretary of State
ST 552 Special Assistant to the Senior Advisor
ST 553 Special Assistant to the Assistant Secretary for International Organization Affairs
ST 554 Legislative Management Officer to the Assistant Secretary, Bureau of Legislative Affairs
ST 555 Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs
ST 556 Legislative Management Officer to the Deputy Assistant Secretary
ST 557 Legislative Management Officer to the Assistant Secretary, Bureau of Legislative Affairs
ST 558 Staff Assistant to the Assistant Secretary, Bureau of Legislative Affairs
ST 559 Staff Assistant to the Deputy Assistant Secretary, Bureau of Legislative Affairs
ST 560 Special Advisor to the Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement
ST 561 Foreign Affairs Officer to the Under Secretary for Global Affairs
ST 562 Legislative Management Officer to the Assistant Secretary, Bureau of Legislative Affairs
ST 563 Foreign Affairs Officer to the Deputy Director, Office of Policy Planning
ST 564 Public Affairs Specialist to the Deputy Assistant Secretary
ST 565 Public Affairs Specialist to the Deputy Assistant Secretary
ST 566 Public Affairs Specialist to the Deputy Assistant Secretary, Department Spokesman, Bureau of Public Affairs
ST 567 Public Affairs Specialist to the Deputy Assistant Secretary
ST 568 Public Affairs Specialist to the Deputy Assistant Secretary, Bureau of Public Affairs
ST 569 Public Affairs Specialist to the Deputy Assistant Secretary
ST 570 Senior Policy Advisor to the Assistant Secretary, Bureau of Legislative Affairs

United States Section, International Boundary and Water Commission, United States and Mexico

IBWC 1 Confidential Assistant (OA) to the Commissioner, United States Section, International Boundary and Water Commission, United States and Mexico

Section 213.3305 Department of the Treasury

TREA 139 Director, Strategic Planning, Scheduling and Advance to the Chief of Staff
TREA 213 Special Assistant to the Assistant Secretary for Legislative Affairs and Public Liaison
TREA 230 Public Affairs Specialist to the Director, Office of Public Affairs
TREA 250 Director, Office of Public Affairs to the Deputy Assistant Secretary (Public Affairs)
TREA 254 Deputy Executive Secretary for Policy Analysis to the Executive Secretary
TREA 277 Public Affairs Specialist to the Assistant Secretary for Public Affairs
TREA 316 Public Affairs Specialist and Advisor to the Director, Office of Public Affairs
TREA 317 Public Affairs Specialist to the Director of Public Affairs
TREA 318 Legislative Analyst to the Director, Office of Legislative Affairs
TREA 336 Director, Administrative Operations Division to the Deputy Assistant Secretary (Administration)
TREA 342 Deputy Treasurer of the United States to the Treasurer of the United States
TREA 345 Policy Advisor to the Assistant Secretary (Enforcement)
TREA 351 Public Affairs Specialist to the Director, Office of Public Affairs
TREA 357 Director, Office of Public Correspondence to the Executive Secretary
TREA 368 Special Assistant to the Deputy Secretary of the Treasury
TREA 372 Special Assistant to the Assistant Secretary (Financial Markets)
TREA 373 Senior Advisor for Electronic Commerce to the Under Secretary of International Affairs
TREA 375 Senior Advisor, Public Affairs to the Director of the U.S. Mint
TREA 378 Chief of Staff to the Under Secretary for Enforcement
TREA 379 Senior Advisor to the Chief of Staff
TREA 380 Senior Advisor to the Assistant Secretary (Legislative Affairs and Public Liaison)
TREA 381 Legislative Analyst to the Assistant Secretary for Legislative Affairs
TREA 384 Special Assistant and Associate White House Liaison to the Chief of Staff
TREA 387 Enforcement Policy Advisor to the Director, Office of Policy Development (Senior Advisor to the Assistant Secretary (Enforcement)
TREA 391 Associate Director of Scheduling and Advance to the Director, Strategic Planning, Scheduling and Advance
TREA 392 Senior Advisor to the Assistant Secretary for Public Affairs and Director of Public Affairs Planning
TREA 393 Attorney-Advisor to the General Counsel
TREA 394 Executive Secretary to the Chief of Staff
TREA 395 Deputy Executive Secretary for Policy Coordination to the Executive Secretary
TREA 396 Director, Public and Business Liaison to the Deputy Assistant Secretary for Public Liaison
TREA 397 Senior Deputy to the Assistant Secretary, Legislative Affairs and Public Liaison
TREA 398 Senior Advisor to the Assistant Secretary Financial Markets
TREA 400 Special Assistant to the Assistant Secretary for Management and Chief Financial Officer
TREA 401 Special Assistant for Scheduling to the Director, Scheduling and Advance
TREA 402 Deputy Chief of Staff to the Chief of Staff
TREA 403 Special Assistant to the Assistant Secretary for Economic Policy
TREA 404 Special Assistant to the Assistant Secretary for Financial Institutions
TREA 405 Special Assistant to the Assistant Secretary, Legislative Affairs and Public Liaison
TREA 406 Director, Public and Business Liaison to the Deputy

Assistant Secretary Public Liaison, Office of Legislative Affairs and Public Liaison
TREA 407 Senior Advisor to the Assistant Secretary (Financial Markets)
TREA 408 Senior Policy Advisor to the Deputy Assistant Secretary for Policy Enforcement
TREA 409 Deputy to the Assistant to the Assistant Secretary Legislative Affairs and Public Liaison

Section 213.3306 Department of Defense

DOD 24 Chauffeur to the Secretary of Defense
DOD 33 Personal Secretary to the Deputy Secretary of Defense
DOD 75 Chauffeur to the Deputy Secretary of Defense
DOD 271 Private Secretary to the Assistant Secretary of Defense (Reserve Affairs)
DOD 279 Personal and Confidential Assistant to the Director, Operational Test and Evaluation
DOD 295 Personal and Confidential Assistant to the Under Secretary of Defense for Personnel and Readiness
DOD 300 Confidential Assistant to the Under Secretary (Acquisition and Technology)
DOD 319 Confidential Assistant to the Secretary of Defense
DOD 321 Executive Assistant to the Assistant to the Vice President for National Security Affairs
DOD 332 Personal and Confidential Assistant to the Assistant Secretary of Defense (Regional Security)
DOD 355 Special Assistant for Strategic Modernization to the Assistant Secretary of Defense (Legislative Affairs)
DOD 368 Personal and Confidential Assistant to the Assistant Secretary of Defense for Legislative Affairs
DOD 380 Director of Protocol to the Chief of Staff
DOD 439 Staff Specialist to the Under Secretary (Acquisition and Technology)
DOD 440 Personal and Confidential Assistant to the Deputy Under Secretary of Defense for Acquisition Reform
DOD 449 Staff Specialist to the Assistant to the Secretary of Defense for Public Affairs
DOD 456 Special Assistant for Family Advocacy and External Affairs to the Deputy Assistant Secretary of Defense, (Prisoner of War/Missing in Action Affairs)
DOD 459 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
DOD 464 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DOD 468 Staff Specialist (International) to the Director, Defense Information Systems Agency
DOD 471 Defense Fellow to the Special Assistant for White House Liaison
DOD 474 Program Analyst to the Deputy Under Secretary (Environmental Security)
DOD 480 Executive Assistant to the Assistant Secretary of Defense (Strategy Requirements and Resources)
DOD 488 Personal and Confidential Assistant to the Under Secretary of Defense (Comptroller)
DOD 500 Staff Specialist to the Special Assistant for White House Liaison
DOD 501 Special Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
DOD 504 Assistant for Antiterrorism Policy and Programs to the Deputy Assistant Secretary of Defense (Policy and Missions)
DOD 508 Defense Fellow to the Special Assistant for White House Liaison
DOD 516 Staff Specialist to the Deputy Under Secretary of Defense for Environmental Security
DOD 519 Private Secretary to the Assistant Secretary of Defense (Regional Security Affairs)
DOD 534 Confidential Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense
DOD 535 Special Assistant to the Deputy to the Under Secretary of Defense for Policy Support
DOD 545 Public Affairs Specialist to the Assistant to the Secretary of Defense (Public Affairs)
DOD 552 Special Assistant to the Assistant Secretary of Defense for Special Operations/Low Intensity Conflict
DOD 555 Confidential Assistant to the General Counsel, Department of Defense
DOD 559 Confidential Assistant to the Assistant Secretary of Defense, Force Management Policy
DOD 562 Defense Fellow to the Special Assistant Secretary for White House Liaison
DOD 564 Program Analyst to the Deputy Under Secretary (Environmental Secretary)
DOD 566 Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense for Policy
DOD 571 Secretary (OA) to the Inspector General, Department of Defense
DOD 577 Special Assistant to the Assistant Secretary (Legislative Affairs)
DOD 578 Personal and Confidential Assistant to the Under Secretary of Defense (Policy)
DOD 580 Defense Fellow to the Special Assistant for White House Liaison
DOD 581 Staff Specialist to the Special Assistant for White House Liaison
DOD 582 Defense Fellow to the Special Assistant for White House Liaison
DOD 583 Speech writer to the Assistant Secretary of Defense for Public Affairs
DOD 588 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
DOD 595 Confidential Assistant to the Assistant Secretary for Public Affairs
DOD 601 Staff Assistant to the Special Assistant for White House Liaison
DOD 604 Special Assistant for Outreach to the Deputy Under Secretary of Defense (Environmental Security)
DOD 605 Defense Fellow to the Special Assistant for White House Liaison
DOD 606 Defense Fellow to the Special Assistant for White House Liaison
DOD 607 Staff Specialist to the Assistant to the President/Director, White House Office for Women's Initiative and Outreach, Office of the Secretary
DOD 609 Private Secretary to the Deputy Secretary of Defense
DOD 610 Special Assistant to the Assistant Secretary for Health Affairs
DOD 611 Personal and Confidential Assistant to the Secretary of Defense
DOD 613 Staff Assistant to the Secretary of Defense
DOD 614 Staff Specialist to the Chief of Staff to the President
DOD 615 Special Assistant to the Deputy Under Secretary of Defense (Industrial Affairs and Installation)
DOD 617 Staff Specialist to the Director, NATO Policy
DOD 619 Defense Fellow to the Special Assistant for White House Liaison
DOD 620 Defense Fellow to the Special Assistant for White House Liaison
DOD 621 Defense Fellow to the Special Assistant for White House Liaison
DOD 623 Defense Fellow to the Special Assistant for White House Liaison

DOD 624 Defense Fellow to the Special Assistant for White House Liaison
DOD 628 Defense Fellow to the Special Assistant for White House Liaison
DOD 629 Special Assistant to the Assistant Secretary Defense, Strategy and Threat Reduction
DOD 630 Confidential Assistant to the Deputy Secretary of Defense
DOD 631 Staff Specialist to the Director, NATO Policy
DOD 632 Director for Communications Strategy to the Assistant Secretary of Defense for Public Affairs
DOD 634 Special Assistant to the Assistant Secretary of Defense for Legislative Affairs
DOD 635 Director of Public Services to the Assistant Secretary of Defense (Reserve Affairs)
DOD 636 Civilian Executive Assistant to the Chairman, Joint Chiefs of Staff
DOD 638 Speech writer to the Assistant Secretary for Public Affairs
DOD 639 Staff Specialist to the Deputy Assistant Secretary of Defense, (European and NATO Affairs)
DOD 640 Staff Specialist to the Assistant Secretary (Russia/ Ukraine/Eurasia)
DOD 641 Foreign Affairs Specialist to the Deputy Assistant Secretary (Asian and Pacific Affairs)
DOD 642 Special Assistant to the Director, National Partnership for Reinventing Government
DOD 643 Staff Specialist to the Under Secretary for Acquisition and Technology
DOD 644 Special Assistant for Health Care Policy to the Assistant Secretary of Defense for Legislative Affairs
DOD 646 Defense Fellow to the Special Assistant for White House Liaison
DOD 647 Special Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense
DOD 648 Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense for Acquisition and Technology
DOD 649 Confidential Assistant to the Assistant Secretary of Defense for Health Affairs
DOD 650 Speech writer to the Assistant Secretary for Public Affairs
DOD 651 Defense Fellow to the Special Assistant for White House Liaison
DOD 652 Special Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense
DOD 654 Staff Specialist to the Director, Legislative Affairs
DOD 655 Staff Specialist to the Special Assistant to the President/Senior Director for Intelligence Programs
DOD 657 Director, Cooperative Threat Reduction to the Assistant Secretary for Strategy and Threat Reduction
DOD 658 Speech writer to the Assistant Secretary, Public Affairs
DOD 659 Assistant for Anti-Terrorism Policy to the Deputy Assistant Secretary (Policy and Missions)
DOD 660 Staff Specialist to the Special Assistant to the Secretary and Deputy Secretary of Defense
DOD 661 Defense Fellow to the Special Assistant for White House Liaison
DOD 662 Protocol Specialist to the Director of Protocol
DOD 663 Public Affairs Specialist to the Deputy Assistant Secretary for Communications
DOD 664 International Counterdrug Specialist to the Deputy Assistant Secretary, Drug Enforcement, Policy and Support

Section 213.3307 Department of the Army (DOD)

ARMY 1 Executive Assistant to the Secretary of the Army
ARMY 2 Personal and Confidential Assistant to the Under Secretary of the Army
ARMY 5 Secretary (Office Automation) to the Assistant Secretary of the Army (Installations, Logistics and Environment)
ARMY 17 Secretary (Office Automation) to the Assistant Secretary of the Army (Civil Works)
ARMY 21 Secretary (Office Automation) to the General Counsel of the Army
ARMY 55 Secretary (Office Automation) to the Assistant Secretary of the Army (Financial Management)
ARMY 73 Special Assistant to the Secretary of the Army
ARMY 75 Special Assistant (Civilian Aide Program) to the Executive Staff Assistant, Office of the Secretary of the Army
ARMY 76 Special Assistant to the Assistant Secretary, Research Development and Acquisition
ARMY 77 Secretary (Office Automation) to the Assistant Secretary of the Army for Research and Development and Acquisition
ARMY 78 Personal and Confidential Assistant to the Under Secretary of the Army

Section 213.3308 Department of the Navy (DOD)

NAV 56 Staff Assistant to the Assistant Secretary of the Navy (Financial Management)
NAV 61 Special Assistant to the Principal Deputy Secretary of the Navy (Manpower and Reserve Affairs)
NAV 62 Attorney Advisor to the Principal Deputy General Counsel
NAV 64 Staff Assistant to the Under Secretary of the Navy
NAV 66 Staff Assistant to the Secretary of the Navy
NAV 67 Staff Assistant to the Assistant Secretary of the Navy (Manpower and Reserve Affairs)
NAV 68 Special Assistant to the Residence Manager/Social Secretary
NAV 70 Staff Assistant to the Assistant Secretary of the Navy for Research, Development and Acquisition

Section 213.3309 Department of the Air Force (DOD)

AF 2 Confidential Assistant to the Under Secretary of the Air Force
AF 5 Secretary (Steno) to the Assistant Secretary Acquisition
AF 6 Secretary (Steno) to the Assistant Secretary (Manpower and Reserve Affairs, Installation and Environment)
AF 8 Secretary (Steno/OA) to the General Counsel of the Air Force
AF 22 Secretary (Stenography/OA) to the Assistant to the Vice President for National Security Affairs
AF 31 Staff Assistant to the Assistant to the Vice President for National Security Affairs
AF 39 Secretary (OA) to the Assistant Secretary of the Air Force (Financial Management and Comptroller)
AF 42 Staff Assistant to the Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations and Environment)
AF 43 Special Advisor for International Affairs to the Assistant to the Vice President for National Security Affairs

Section 213.3310 Department of Justice

JUS 25 Confidential Assistant to the Assistant Attorney General, Criminal Division
JUS 38 Secretary (OA) to the United States Attorney, Northern District of Illinois
JUS 40 Secretary (OA) to the United States Attorney, Eastern District of Michigan
JUS 75 Secretary (OA) to the United States Attorney, Northern District of Texas

JUS 83 Staff Assistant to the Assistant to the Attorney General (Chief Scheduler)
JUS 97 Assistant to the Attorney General
JUS 104 Special Assistant to the Assistant Attorney General
JUS 114 Staff Assistant to the Attorney General
JUS 128 Secretary (OA) to the United States Attorney, District of Arizona
JUS 133 Staff Assistant to the Assistant to the Attorney General
JUS 140 Attorney Advisor to the Assistant Attorney General
JUS 144 Special Assistant to the Solicitor General
JUS 148 Special Assistant to the Chairman, United States Postal Commission
JUS 150 Special Assistant to the Assistant Attorney General, Environment and Natural Resources Division
JUS 166 Counsel to the Attorney General
JUS 169 Secretary (OA) to the United States Attorney, Middle District of Florida
JUS 173 Secretary (OA) to the United States Attorney, Western District of Louisiana
JUS 184 Special Assistant to the Deputy Attorney General
JUS 198 Special Assistant to the Assistant Attorney General, Criminal Division
JUS 207 Staff Assistant to the Director, Office of Public Affairs
JUS 208 Staff Assistant to the Director, Office of Public Affairs
JUS 209 Confidential Assistant to the Assistant Attorney General for Civil Rights Division
JUS 233 Special Assistant to the Assistant Attorney General, Civil Rights Division
JUS 235 Public Affairs Specialist to the Director of Public Affairs
JUS 264 Confidential Assistant to the Assistant Attorney General
JUS 267 Counsel to the Assistant Attorney General
JUS 270 Special Assistant to the Assistant Attorney General, Civil Rights Division
JUS 273 Program Manager, Office of Violence Against Women to the Director, Office of Violence Against Women
JUS 282 Director, Volunteers for Tribal Youth to the Assistant Attorney General, Office of Policy Development
JUS 293 Special Assistant to the Deputy Attorney General
JUS 299 Public Affairs Assistant to the Director, Office of Public Affairs
JUS 312 Senior Counsel to the Assistant Attorney General
JUS 330 Attorney to the Deputy Director, Office of Intergovernmental Affairs
JUS 332 Special Assistant to the Assistant Attorney General for Civil Rights
JUS 344 Counsel to the Attorney General
JUS 357 Confidential Assistant to the Deputy Attorney General
JUS 360 Deputy Assistant Attorney General to the Assistant Attorney General, Office of Policy Development
JUS 361 Special Assistant to the Director Bureau of Justice Statistics
JUS 383 Staff Assistant to the Attorney General
JUS 385 Staff Assistant to the Attorney General
JUS 387 Deputy Director, Office of Public Affairs to the Director, Office of Public Affairs
JUS 404 Assistant to the Attorney General
JUS 412 Deputy Director, Office of Public Affairs to the Director, Office of Public Affairs
JUS 418 Secretary (OA) to the United States Attorney, District of Nebraska
JUS 419 Public Affairs Specialist to the United States Attorney, Northern District of Florida
JUS 420 Confidential Assistant to the United States Attorney, Eastern District of Pennsylvania
JUS 422 Secretary (OA) to the United States Attorney, Eastern District of Wisconsin
JUS 423 Secretary to the United States Attorney, District of New Mexico
JUS 425 Secretary (OA) to the United States Attorney, Middle District of Pennsylvania
JUS 427 Secretary (OA) to the United States Attorney, District of New Hampshire
JUS 431 Secretary (OA) to the United States Attorney, District of Oregon, Portland, OR
JUS 433 Secretary (OA) to the United States Attorney, Middle District of Louisiana
JUS 436 Secretary (OA) to the United States Attorney, Middle District of Alabama
JUS 445 Special Assistant to the Director, Community Relations Service
JUS 446 Senior Advisor to the Director, Community Oriented Policing Services
JUS 447 Special Assistant to the Director, Violence Against Women Program Officer

Section 213.3312 Department of the Interior

INT 171 Special Assistant to the Director of Communication
INT 172 Special Assistant to the Commissioner of Reclamation
INT 375 Special Assistant to the Chief of Staff
INT 442 Special Assistant to the Director, National Parks Service
INT 450 Special Assistant to the Director, United States Fish & Wildlife Service
INT 451 Deputy Director, Office of Insular Affairs to the Director, Office of Insular Affairs
INT 463 Special Assistant to the Director of the National Park Service
INT 467 Special Assistant to the Deputy Chief of Staff
INT 468 Special Assistant to the Chief of Staff
INT 474 Special Assistant for Outreach and Communications to the Commissioner, Bureau of Reclamation
INT 479 Special Assistant to the Associate Director for Policy and Management Improvement
INT 490 Special Assistant (Advance) to the Deputy Chief of Staff
INT 493 Special Assistant to the Deputy Chief of Staff
INT 502 Special Assistant to the Assistant Secretary for Policy, Management and Budget
INT 503 Special Assistant to the Director, Fish and Wildlife Service
INT 505 Special Assistant to the Director, National Park Service
INT 508 Special Assistant to the Deputy Secretary
INT 509 Special Assistant to the Director, National Park Service
INT 511 Special Assistant to the Deputy Chief of Staff
INT 512 Deputy Director, Office of Intergovernmental Affairs to the Deputy Chief of Staff
INT 513 Special Assistant to the Director, Office of Surface Mining, Office of the Director
INT 514 Special Assistant to the Director, Bureau of Land Management
INT 515 Special Assistant to the Chief of Staff
INT 516 Special Assistant to the Chief Biologist
INT 518 Special Assistant to the Deputy Director, Bureau Land Management
INT 519 Special Assistant to the Assistant Director for External Affairs, U.S. Fish and Wildlife Service
INT 520 Director of Scheduling and Advance to the Chief of Staff, Office of the Secretary
INT 521 Special Assistant and Counselor to the Assistant Secretary for Indian Affairs

INT 522 Special Assistant to the Assistant Secretary for Land and Minerals Management
INT 523 Chief of Staff to the Deputy Secretary
INT 524 Special Assistant to the Director, Bureau of Land Management
INT 525 Communications Director to the Assistant Secretary for Indian Affairs
INT 526 Deputy Director to the Director, Office of Communications
INT 527 Special Assistant (Speech Writer) to the Director, Office of Communications
INT 528 Special Assistant for Scheduling to the Deputy Director for External Affairs
INT 529 Special Assistant to the Director, Minerals Management Service
INT 531 Attorney Advisor (General) to the Solicitor
INT 532 Special Assistant to the Deputy Chief of Staff
INT 533 Deputy Scheduler (Outreach) to the Deputy Chief of Staff
INT 534 Special Assistant to the Director, Office of Surface Mining
INT 535 Special Assistant to the Director, Minerals Management Service
INT 536 Special Assistant to the Commissioner, Bureau of Reclamation
INT 537 Special Assistant to the Director, Office of Congressional and Legislative Affairs
INT 538 Special Assistant to the Chief of Staff
INT 539 Special Assistant to the White House Liaison

Section 213.3313 Department of Agriculture

AGR 3 Confidential Assistant to the Executive Assistant to the Secretary
AGR 5 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 32 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service
AGR 33 Confidential Assistant to the Administrator, Consolidated Farm Service Agency
AGR 34 Special Assistant to the Administrator, Agricultural Stabilization and Conservation Service
AGR 35 Staff Assistant to the Administrator, Federal Service Agency
AGR 48 Special Assistant to the Administrator, Food and Consumer Service
AGR 56 Private Secretary to the Assistant Secretary for Congressional Relations
AGR 64 Confidential Assistant to the Director, Office of Communications, Rural Development
AGR 77 Director, Intergovernmental Affairs to the Assistant Secretary for Congressional Relations
AGR 79 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 100 Special Assistant for Nutrition Education to the Administrator, Food and Consumer Service
AGR 114 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 118 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 131 Private Secretary to the Under Secretary for Natural Resources and Environment
AGR 157 Director, Legislative Affairs Staff to the Administrator, Foreign Agricultural Service
AGR 159 Special Assistant to the Administrator, Foreign Agricultural Service
AGR 160 Confidential Assistant to the Associate Administrator, Foreign Agricultural Service
AGR 161 Special Assistant to the Director, Office of Public Affairs
AGR 162 Confidential Assistant to the Administrator, Agricultural Marketing Service
AGR 187 Special Assistant to the Administrator for Food and Consumer Service
AGR 188 Northeast Area Director to the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service
AGR 192 Area Director, South West Area to the Administrator, Farm Service Agency
AGR 205 Confidential Assistant to the Director, Office of Consumer Affairs
AGR 224 Chief of Staff to the Administrator, Risk Management Agency
AGR 231 Director, Office of Communications to the Deputy Under Secretary for Rural Development
AGR 258 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 263 Special Assistant to the Chief, Natural Resources Conservation Service
AGR 267 Special Assistant to the Director, Office of Communications
AGR 268 Confidential Assistant to the Administrator, Rural Utilities Service
AGR 270 Director, Office of the Executive Secretariat to the Secretary of Agriculture
AGR 281 Confidential Assistant to the Administrator, Farm Service Agency
AGR 282 Special Assistant to the Administrator, Foreign Agricultural Service
AGR 285 Confidential Assistant to the Executive Assistant to the Secretary
AGR 286 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 293 Special Assistant to the Administrator, Foreign Agricultural Service
AGR 294 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
AGR 295 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 300 Confidential Assistant to the Administrator, Farm Service Agency
AGR 301 Confidential Assistant to the Administrator, Food, Nutrition and Consumer Service
AGR 303 Staff Assistant to the Chief, Natural Resources Conservation Service
AGR 311 Confidential Assistant to the Administrator, Agricultural Research Service
AGR 313 Special Assistant to the Administrator, Rural Housing Service
AGR 318 Staff Assistant to the Administrator, Foreign Agricultural Service
AGR 324 Confidential Assistant to the Under Secretary for Rural Development
AGR 332 Confidential Assistant to the Administrator, Rural Business Service
AGR 336 Confidential Assistant to the Secretary of Agriculture
AGR 341 Confidential Assistant to the Manager
AGR 346 Confidential Assistant to the Administrator, Farmers Home Administration
AGR 348 Director for Public Outreach to the Director, Office of Communications
AGR 352 Confidential Assistant to the Administrator, Food and Nutrition Service
AGR 355 Speech Writer to the Director, Office of Communications
AGR 366 Deputy Administrator, Food Stamp Program to the Administrator, Food and Nutrition Service
AGR 368 Confidential Assistant to the Manager, Federal Crop Insurance Corporation

AGR 369 Confidential Assistant to the Director, Office of Communications
AGR 371 Confidential Assistant to the Deputy Under Secretary for Policy and Planning
AGR 377 Confidential Assistant to the Deputy Administrator, Rural Business Service
AGR 378 Deputy Press Secretary to the Director, Office of Communications
AGR 384 Confidential Assistant to the Secretary of Agriculture
AGR 386 Special Assistant to the Director, Empowerment Zone/ Enterprise Community
AGR 393 Special Assistant to the Administrator, Rural Business-Cooperative Service
AGR 402 Confidential Assistant to the Director, Office of Communications
AGR 404 Confidential Assistant to the Director of Personnel
AGR 413 Special Assistant to the Chief of Natural Resources Conservation Service
AGR 415 Confidential Assistant to the Administrator, Rural Utilities Service
AGR 417 Confidential Assistant to the Administrator, Agricultural Marketing Service
AGR 418 Confidential Assistant to the Chief, Natural Resources Conservation Service
AGR 422 Special Assistant to the Administrator, Farm Service Agency
AGR 426 Deputy Director, Special Projects to the Director, Office of Communications
AGR 427 Confidential Assistant to the Deputy Secretary
AGR 428 Confidential Assistant to the Administrator, Rural Business and Cooperative Development Service
AGR 435 Confidential Assistant to the Administrator, Grain Inspection, Packers and Stockyards Administration
AGR 436 Confidential Assistant to the Administrator, Rural Utilities Service
AGR 438 Confidential Assistant to the Chief, Natural Resources Conservation Service
AGR 440 Confidential Assistant to the Administrator, Rural Utilities Service
AGR 448 Confidential Assistant to the Deputy Administrator for Community Development, Rural Business Service
AGR 450 Confidential Assistant to the Administrator, Agricultural Research Service
AGR 452 Confidential Assistant to the Director, Office of Communications
AGR 455 Director, Community Outreach Division to the Deputy Administrator, Community Development
AGR 456 Special Assistant to the Administrator, Rural Development/ Rural Housing Service
AGR 458 Confidential Assistant to the Deputy Administrator for Community Development, Rural Business Service
AGR 459 Confidential Assistant to the Administrator, Farm Agency Service
AGR 461 Special Assistant to the Chief, Forest Service
AGR 462 Special Assistant to the Director, Empowerment Zone/ Enterprise Community
AGR 465 Confidential Assistant to the Administrator, Rural Utilities Service
AGR 471 Confidential Assistant to the Administrator, Agricultural Marketing Service
AGR 473 Confidential Assistant to the Administrator, Farm Service Agency
AGR 474 Confidential Assistant to the Deputy Administrator for Special Nutrition Programs, Food Consumer Service
AGR 475 Confidential Assistant to the Administrator, Animal and Plant Inspection Service
AGR 477 Special Assistant to the Associate Administrator, Rural Business Service
AGR 478 Confidential Assistant to the Director, Tobacco and Peanuts Division, Farm Service Agency
AGR 479 Special Assistant to the Administrator, Risk Management Agency
AGR 482 Confidential Assistant to the Administrator, Rural Utilities Service
AGR 483 Confidential Assistant to the Administrator, Rural Business Service
AGR 485 Special Assistant to the Administrator, Food and Inspection Service
AGR 486 Deputy Press Secretary to the Director, Office of Communications
AGR 487 Confidential Assistant to the Administrator, Farm Service Agency
AGR 488 Confidential Assistant to the Administrator, Economic Research Service
AGR 489 Confidential Assistant to the Chief Financial Officer
AGR 490 Confidential Assistant to the Administrator, Foreign Agricultural Service
AGR 491 Special Assistant to the Administrator, Agricultural Marketing Service
AGR 492 Confidential Assistant to the Administrator, Risk Management Agency
AGR 493 Special Assistant to the Administrator, Grain Inspection, Packers and Stockyards Administration
AGR 495 Staff Assistant to the Administrator, Risk Management Agency
AGR 496 Confidential Assistant to the Chief, Natural Resources Conservation Service
AGR 497 Executive Assistant to the Administrator, Rural Housing Service
AGR 498 Confidential Assistant to the Chief Information Officer, Policy Analysis and Coordination Center
AGR 499 Confidential Assistant to the Special Assistant to the Secretary
AGR 500 Confidential Assistant to the Director, Intergovernmental Affairs
AGR 501 Confidential Assistant to the Director, Office of Civil Rights
AGR 502 Deputy Press Secretary to the Director, Office of Communications
AGR 503 Staff Assistant to the Executive Director
AGR 504 Confidential Assistant to the Administrator, Food and Nutrition Service
AGR 506 Confidential Assistant to the Deputy Administrator for Farm Programs
AGR 507 Confidential Assistant to the Administrator, Farm Service Agency
AGR 508 Staff Assistant to the Confidential Assistant, Office of the Secretary
AGR 509 Regional Director, Outreach to the Associate Chief, Natural Resources Conservation Service
AGR 510 Speech Writer to the Director, Office of Communications
AGR 512 Deputy Chief of Staff to the Chief of Staff
AGR 513 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 515 Confidential Assistant to the Deputy Administrator, Office of Community Development
AGR 516 Staff Assistant to the Chief, Natural Resources Conservation Service
AGR 517 Confidential Assistant to the Administrator, Risk Management Agency
AGR 518 Regional Director, Davis, California to the Administrator, Farm Service Agency
AGR 519 Staff Assistant to the Administrator, Farm Service Agency
AGR 520 Staff Assistant to the Confidential Assistant to the Secretary of Agriculture
AGR 521 Staff Assistant to the Deputy Chief of Staff
AGR 522 Special Assistant to the Director, Office of Civil Rights

AGR 523 Confidential Assistant to the Administrator, Agricultural Research Center
AGR 524 Confidential Assistant to the Administrator, Rural Utilities Service
AGR 525 Confidential Assistant to the Administrator, Farm Services Agency
AGR 527 Special Assistant to the Administrator, Foreign Agricultural Service
AGR 528 Confidential Assistant to the Administrator, Farm Service Agency

Section 213.3314 Department of Commerce

COM 3 Senior Advisor to the Chief of Staff
COM 12 Special Assistant to the Deputy Secretary
COM 16 Special Assistant to the General Counsel
COM 17 Special Assistant to the General Counsel
COM 70 Director, Office of Communications and Congressional Liaison to the Assistant Secretary for Economic Development, Economic Development Administration
COM 162 Special Assistant to the Assistant Secretary for International Economic Policy, International Trade Administration
COM 163 Confidential Assistant to the Deputy Assistant Secretary
COM 165 Director, Office of Business Liaison to the Secretary of Commerce
COM 190 Director, Office of Congressional Affairs to the Assistant Secretary for Communication and Information
COM 200 Senior Advisor to the Deputy Assistant Secretary for Intergovernmental Affairs
COM 202 Legislative Affairs Specialist to the Deputy Assistant Secretary for Legislative and Intergovernmental Affairs
COM 204 Special Assistant to the Chief Scientist, National Oceanic and Atmospheric Administration
COM 217 Assistant Director, Office of Public Affairs to the Director, Office of Public Affairs and Press Secretary
COM 224 Senior Advisor to the Under Secretary for International Trade
COM 259 Director of Congressional Affairs to the Under Secretary for International Trade, International Trade Administration
COM 275 Confidential Assistant to the Director, Office of Business Liaison
COM 277 Assistant Director for Communications to the Director of Public Affairs and Press Secretary
COM 289 Legislative Affairs Specialist to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 291 Special Assistant to the Director, Office of Public Affairs
COM 298 Special Assistant to the Assistant Secretary for Communications and Information, National Telecommunications and Information Administration
COM 308 Special Assistant to the Assistant Secretary for Trade Development
COM 312 Special Assistant to the Director General of the U.S. and Foreign Commercial Service
COM 326 Confidential Assistant to the Assistant Secretary and Director General, U.S. and Foreign Commercial Service
COM 327 Special Assistant to the Deputy Secretary of Commerce
COM 335 Senior Advisor to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 342 Senior Advisor to the Director, White House Liaison
COM 345 Senior Advisor to the Counselor to the Department, International Trade
COM 347 Assistant Director for Public Affairs to the Director of Public Affairs and Press Secretary
COM 350 Deputy Director, Office of Business Liaison to the Director, Office of Business Liaison
COM 361 Congressional Affairs Officer to the Associate Director for Communications
COM 365 Senior Advisor to the Director, Minority Business Development Agency
COM 379 Special Assistant to the General Counsel
COM 390 Special Assistant to the Under Secretary for Economic Affairs/Administrator, Economics and Statistics Administration
COM 393 Legislative Affairs Specialist to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 394 Deputy Director, Office of Public Affairs to the Director, Office of Public Affairs
COM 412 Senior Advisor to the Assistant Secretary for Trade Development, International Trade Administration
COM 416 Director, Office of Consumer Affairs to the Secretary of Commerce
COM 420 Special Assistant to the Director General of the United States and Foreign Commercial Service, International Trade Administration
COM 425 Director of Public Affairs to the Under Secretary for International Trade Administration
COM 437 Senior Advisor to the Director, Office of Business Liaison
COM 438 Senior Advisor to the Director, Business Liaison
COM 447 Confidential Assistant to the Chief of Staff
COM 462 Director of Congressional Affairs to the Assistant Secretary and Commissioner of Patent and Trademarks
COM 467 Confidential Assistant to the Deputy Chief of Staff for External Affairs
COM 468 Special Assistant to the Under Secretary for Export Administration, Bureau of Export Administration
COM 486 Speech writer to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 502 Deputy Director of Advance to the Director of Advance, Office of External Affairs
COM 527 Executive Assistant to the Secretary of Commerce
COM 530 Senior Advisor to the Under Secretary for Technology, Technology Administration
COM 538 Special Assistant to the Deputy Chief of Staff
COM 543 Confidential Assistant to the Director, Office of Public Affairs, International Trade Administration
COM 549 Special Assistant to the Deputy Under Secretary Economic Affairs
COM 551 Special Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 560 Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 561 Special Assistant to the Assistant Secretary and Commissioner, Patent and Trademark Office
COM 563 Deputy Director of Scheduling to the Deputy Director of External Affairs and Director of Scheduling
COM 570 Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 579 Director of Legislative, Intergovernmental and Public Affairs to the Under Secretary, Bureau of Export Administration
COM 583 Special Assistant to the Chief of Staff
COM 585 Chief, Intergovernmental Affairs to the Director, Office of Sustainable Development and Intergovernmental Affairs

COM 592 Special Assistant to the Assistant Secretary, Trade Administration
COM 601 Director, Office of Public Affairs to the Under Secretary for Oceans and Atmosphere, National Oceanic and Atmospheric Administration
COM 604 Assistant Director for Communications to the Director, Bureau of the Census
COM 607 Intergovernmental Affairs Specialist to the Chief Intergovernmental Affairs, Office of Sustainable Development and Intergovernmental Affairs (NCAA)
COM 613 Executive Assistant to the Deputy Secretary of Commerce
COM 618 Confidential Assistant to the Director, Executive Secretariat Staff
COM 622 Special Assistant to the Assistant Secretary for Economic Development Administration
COM 625 Special Assistant to the Deputy Assistant Secretary for Technology Policy
COM 631 Special Advisor to the Director, Oceanic and Atmospheric Administrator
COM 644 Special Assistant to the Director, Office of Sustainable Development and Intergovernmental Affairs
COM 645 Senior Advisor for Communications to the Under Secretary for Export Administration, Bureau of Export Administration
COM 655 Special Assistant to the Assistant Secretary and Director General of the U.S. and Foreign Commercial Service, International Trade Administration
COM 659 Director, Office of White House Liaison to the Deputy Chief of Staff
COM 664 Special Assistant to the Deputy Assistant Secretary for U.S. and Foreign Commercial Service
COM 666 Confidential Assistant to the Director, Office of Legislative Affairs
COM 668 Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods to the Assistant Secretary for Trade Development
COM 672 Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 674 Special Assistant to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 680 Deputy Press Secretary-Agency Coordination to the Director for Communications and Press Secretary
COM 681 Senior Advisor to the Assistant Secretary for Market Access and Compliance
COM 682 Associate Under Secretary for Economic Affairs to the Under Secretary for Economic Affairs
COM 685 Deputy Assistant Secretary for Policy and Planning to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 686 Director of Advance to the Deputy Chief of Staff for External Affairs
COM 687 Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 688 Confidential Assistant to the Deputy Chief of Staff for External Affairs
COM 689 Confidential Assistant to the Director of Planning and Scheduling
COM 691 Director of Planning and Scheduling to the Deputy Chief of Staff for External Affairs
COM 692 Director, Secretariat for Electronic Commerce to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
COM 693 Senior Advisor to the Director, Office of Sustainable Development and Intergovernmental Affairs
COM 694 Senior Advisor to the Under Secretary for Economic Affairs
COM 695 Senior Advisor and Counsel to the Director, Office of Policy and Strategic Planning
COM 696 Senior Advisor to the Assistant Secretary of Commerce and Director General of United States and Foreign Commercial Service
COM 697 Ombudsman to the Under Secretary for Oceans and Atmosphere

Section 213.3315 Department of Labor

LAB 17 Director of Intergovernmental Affairs to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 35 Special Assistant to the Director, Women's Bureau
LAB 41 Chief of Staff to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 43 Special Assistant to the Assistant Secretary for Occupational Safety and Health
LAB 66 Executive Assistant to the Deputy Assistant Secretary, Office of Federal Contracts Compliance Programs, Employment Standards Administration
LAB 76 Special Assistant to the Assistant Secretary for Office of Congressional and Intergovernmental Affairs
LAB 83 Special Assistant to the Assistant Secretary, Pension and Welfare Benefits Administration
LAB 93 Special Assistant to the Secretary of Labor
LAB 101 Special Assistant to the Administrator, Wage and Hour Division, Employment Standards Administration
LAB 103 Secretary's Representative, Boston, MA to the Office of the Associate Director
LAB 104 Secretary's Representative to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs
LAB 106 Secretary's Representative, Atlanta, GA to the Director, Office of Intergovernmental Affairs
LAB 107 Secretary's Representative, Chicago, Ill to the Associate Director, Congressional and Intergovernmental Affairs
LAB 110 Secretary's Representative to the Associate Director, Congressional and Intergovernmental Affairs
LAB 111 Secretary's Representative to the Associate Director, Office of Congressional and Intergovernmental Affairs
LAB 112 Secretary's Representative, Seattle, WA to the Director, Office of Intergovernmental Affairs
LAB 129 Special Assistant to the Assistant Secretary for Occupational Safety and Health
LAB 130 Special Assistant to the Executive Secretary
LAB 132 Associate Director for Congressional Affairs to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 137 Press Secretary to the Assistant Secretary for Public Affairs
LAB 139 Special Assistant to the Wage Hour Administrator
LAB 143 Special Assistant to the Administrator, Employment and Training Administration
LAB 145 Intergovernmental Officer to the Associate Director Intergovernmental Affairs
LAB 147 Attorney-Advisor (Labor) (Counsel to the Solicitor) to the Solicitor of Labor
LAB 150 Staff Assistant to the Director of Public Liaison
LAB 153 Director of Policy to the Assistant Secretary for Occupational Safety and Health
LAB 159 Special Assistant to the Deputy Under Secretary for International Affairs, Bureau of International Labor Affairs

LAB 160 Director of Scheduling and Advance to the Chief of Staff
LAB 161 Special Assistant to the Secretary (Scheduling) to the Director of Scheduling and Advance
LAB 164 Director of Communications and Public Information to the Assistant Secretary for Employment and Training
LAB 170 Special Assistant to the Deputy Secretary of Labor
LAB 171 Special Assistant to the Secretary of Labor
LAB 175 Special Assistant to the White House Liaison
LAB 177 Special Assistant to the Secretary of Labor
LAB 179 Special Assistant to the Assistant Secretary, Employment Standards Administration
LAB 180 Director, Intergovernmental Affairs to the Assistant Secretary, Congressional and Intergovernmental Affairs
LAB 182 Counselor to the Deputy Secretary of Labor
LAB 191 Special Assistant to the Assistant Secretary for Policy
LAB 192 Special Assistant to the Assistant Secretary, Pension Benefits and Welfare Administration
LAB 196 Executive Assistant to the Assistant Secretary, Veterans Employment and Training
LAB 204 Special Assistant to the Assistant Secretary for Veterans' Employment and Training
LAB 211 Special Assistant to the Director of Scheduling and Advance
LAB 212 Special Assistant to the Assistant Secretary for Policy
LAB 213 Special Assistant to the Assistant Secretary for Labor
LAB 215 Special Assistant to the Director, Women's Bureau
LAB 217 Associate Director to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 220 Special Assistant to the Assistant Secretary for Public Affairs
LAB 225 Special Assistant to the Assistant Secretary for Pension and Welfare Benefits Administration
LAB 230 Special Assistant to the Assistant Secretary for Public Affairs
LAB 235 Associate Director for Congressional Affairs to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 237 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 244 Special Assistant to the Secretary of Labor
LAB 248 Special Assistant to the Chief of Staff
LAB 252 Speech Writer to the Assistant Secretary for Public Affairs
LAB 254 Intergovernmental Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 260 Special Assistant to the Chief of Staff
LAB 262 Special Assistant to the Deputy Assistant Secretary, Office of Federal Contract Compliance Programs
LAB 263 Special Assistant to the Administrator, Wage and Hour Division
LAB 264 Staff Assistant to the Administrator, Wage and Hour Division
LAB 266 Special Assistant to the Deputy Under Secretary for International Labor Affairs
LAB 267 Special Assistant to the Executive Secretary
LAB 278 Special Assistant to the Assistant Secretary for Administration and Management
LAB 280 Special Assistant to the Assistant Secretary for Occupational Safety and Health
LAB 281 Senior Public Affairs Advisor to the Assistant Secretary for Public Affairs
LAB 283 Advisor to the Assistant Secretary for Mine Safety and Health
LAB 285 Chief of Staff to the Assistant Secretary for Employment and Training
LAB 287 Director of Communications and Public Information to the Assistant Secretary of Labor

Section 213.3316 Department of Health and Human Services

HHS 2 Special Assistant to the Chief of Staff
HHS 14 Special Assistant to the Executive Secretary
HHS 17 Director of Scheduling to the Chief of Staff, Office of the Secretary
HHS 31 Special Assistant to the Secretary of Health and Human Services
HHS 120 Special Assistant to the General Counsel
HHS 293 Special Assistant to the Commissioner, Administration for Children, Youth and Families
HHS 320 Special Assistant to the Assistant Secretary for Planning and Evaluation
HHS 331 Special Assistant to the Administrator, Health Care Financing Administration
HHS 336 Special Assistant to the Deputy Assistant Secretary for Legislation (Human Services)
HHS 340 Executive Assistant to the Assistant Secretary for Legislation
HHS 346 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison)
HHS 359 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison)
HHS 361 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison)
HHS 368 Senior Press Officer to the Health Care Financing Administration
HHS 373 Confidential Assistant to the Executive Secretary
HHS 395 Special Assistant to the Director, Office of Community Services, Administration for Children and Families.
HHS 399 Special Assistant to the Assistant Secretary for Children and Families
HHS 419 Special Assistant to the Secretary of Health and Human Services
HHS 427 Executive Director, President's Committee on Mental Retardation to the Assistant Secretary for Children and Families, Administration for Children and Families
HHS 436 Associate Commissioner for Family and Youth Services to the Commissioner, Administration for Children and Youth Families
HHS 487 Confidential Assistant to the Administrator, Health Care Financing Administration
HHS 489 Special Assistant to the Assistant Secretary for Children and Families
HHS 513 Confidential Assistant to the Administrator, Health Care Financing Administration
HHS 526 Confidential Assistant to the Executive Associate Administrator, Health Care Financing Administration
HHS 527 Confidential Assistant (Scheduling) to the Director of Scheduling
HHS 529 Confidential Assistant (Scheduling) to the Director of Scheduling and Advance
HHS 549 Speech Writer to the Director of Speech Writing, Office of the Deputy Assistant Secretary for Public Affairs (Media)
HHS 553 Director of Communications to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)

HHS 556 Director of Speech Writing to the Deputy Assistant Secretary for Public Affairs (Media)
HHS 558 Confidential Assistant to the Assistant Secretary for Public Affairs
HHS 585 Special Assistant (Speech Writer) to the Director of Speech writing
HHS 588 Director, Office of Intergovernmental Affairs to the Deputy Assistant Secretary for Policy and External Affairs
HHS 589 Speech Writer to the Director of Speech Writing
HHS 590 Confidential Assistant (Advance) to the Director of Scheduling and Advance
HHS 615 Special Assistant to the Director of Communications
HHS 625 Special Assistant to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
HHS 632 Special Outreach Coordinator to the Assistant Secretary for Public Affairs
HHS 634 Special Assistant to the Deputy Director, Office of Child Support Enforcement
HHS 639 Special Assistant to the Deputy Assistant Secretary for Policy and External Affairs
HHS 643 Executive Assistant for Legislative Projects to the Assistant Secretary for Health
HHS 644 White House Liaison to the Chief of Staff
HHS 645 Strategic Planning and Policy Coordinator to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
HHS 646 Deputy Chief of Staff to the Chief of Staff
HHS 657 Executive Director, Presidential Advisory Council on HIV/AIDS to the Assistant Secretary for Public Health and Science
HHS 659 Special Assistant to the Deputy Secretary
HHS 660 Confidential Assistant to the Executive Secretary
HHS 661 Special Assistant to the Deputy Secretary of Health and Human Services
HHS 665 Deputy Director for Policy to the Director of Intergovernmental Affairs
HHS 666 Deputy Director for Operations to the Director of Intergovernmental Affairs
HHS 667 Confidential Assistant to the Executive Secretary to the Department of Health and Human Services
HHS 668 Special Assistant Community Outreach and Liaison to the Administrator, Substance Abuse and Mental Health Services Administration
HHS 670 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation
HHS 672 Deputy Director of Scheduling to the Director of Scheduling
HHS 673 Senior Advisor to the Assistant Secretary for Health
HHS 674 Special Assistant to the Deputy Director, Office of Child Support Enforcement
HHS 675 Special Assistant to Principal Deputy Assistant for Aging
HHS 676 Special Assistant to the Administrator, Substance Abuse and Mental Health Service Administration
HHS 677 Special Assistant to the Assistant Secretary, Administration for Aging
HHS 678 Confidential Assistant to the Deputy Assistant Secretary for Health
HHS 679 Confidential Assistant to the Strategic Planning and Policy Coordinator

Section 213.3317 Department of Education

EDU 1 Special Assistant to the Secretary's Regional Representative, Region IX
EDU 2 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 3 Confidential Assistant to the Deputy Secretary
EDU 4 Deputy Secretary's Regional Representative, Region IV (Atlanta, GA) to the Secretary's Regional Representative
EDU 5 Confidential Assistant to the Special Advisor to the Secretary
EDU 6 Confidential Assistant to the Director, Office of Public Affairs
EDU 7 Special Assistant to the Assistant Secretary, Special Education and Rehabilitative Services
EDU 8 Special Assistant to the Assistant Secretary for Postsecondary Education
EDU 9 Special Assistant to the Counselor to the Secretary
EDU 10 Confidential Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 11 Confidential Assistant to the Assistant Secretary of Intergovernmental and Interagency Affairs
EDU 12 Press Secretary to the Director, Office of Public Affairs
EDU 13 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
EDU 14 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 15 Special Assistant to the Director, White House Initiative on Hispanic Education
EDU 17 Confidential Assistant to the Director, Executive Secretariat
EDU 18 Special Assistant to the Deputy Assistant Secretary for Regional and Community Services
EDU 19 Director, Intergovernmental and Interagency Affairs Coordination to the Deputy Assistant Secretary, Intergovernmental and Interagency Affairs Coordination
EDU 20 Steward to the Chief of Staff
EDU 21 Confidential Assistant to the Chief Financial and Information Officer
EDU 22 Confidential Assistant to the Special Advisor to the Secretary
EDU 23 Special Assistant to the Assistant Secretary, Office of Post Secondary Education
EDU 24 Confidential Assistant to the Deputy Assistant Secretary for Regional and Community Services
EDU 25 Confidential Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 27 Confidential Assistant to the Deputy Assistant Secretary, Regional and Community Services, Office of Intergovernmental and Interagency Affairs
EDU 28 Confidential Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs
EDU 29 Special Assistant to the Assistant Secretary, Special Education and Rehabilitative Services
EDU 30 Director, Scheduling and Briefing Staff to the Chief of Staff, Office of the Secretary
EDU 31 Director, Congressional Affairs to the Assistant Secretary, Office of Legislation and Congressional Affairs
EDU 32 Confidential Assistant to the Chief of Staff
EDU 33 Special Assistant to the Deputy Secretary
EDU 34 Special Assistant to the Commissioner, Rehabilitation Service Administration
EDU 35 Special Assistant to the Deputy Assistant Secretary for Office of Intergovernmental and Interagency Affairs
EDU 37 Special Assistant to the Assistant Secretary, Office for Civil Rights
EDU 39 Special Assistant to the Assistant Secretary,
EDU 40 Confidential Assistant to the Assistant Secretary, Office of Elementary and Secondary Education

EDU 42 Special Assistant to the Assistant Secretary for Elementary and Secondary Education
EDU 43 Confidential Assistant to the Deputy Secretary
EDU 44 Deputy Assistant Secretary for Intergovernmental and Constituent Relations to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 46 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
EDU 47 Confidential Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 48 Special Assistant/Chief of Staff to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 49 Confidential Assistant to the Director Scheduling and Briefing Staff
EDU 50 Special Assistant to the Director, Office of Public Affairs
EDU 51 Director, White House Initiatives on Tribal Colleges and Universities to the Assistant Secretary, Office of Vocational and Adult Education
EDU 52 Special Assistant to the Chief of Staff
EDU 53 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
EDU 54 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs
EDU 55 Special Assistant (Special Advisor, HBCU) to the Director, Historically Black Colleges and Universities Staff
EDU 56 Special Assistant to the Secretary's Regional Representative, Region VII
EDU 58 Confidential Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 59 Special Assistant to the Assistant Secretary for Postsecondary Education
EDU 60 Confidential Assistant to the Chief of Staff, Office of the Deputy Secretary
EDU 65 Special Assistant to the Director, Scheduling and Briefing
EDU 66 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services
EDU 67 Special Assistant to the Secretary of Education
EDU 70 Special Assistant to the Deputy Assistant Secretary, Regional and Community Service
EDU 71 Executive Assistant to the Deputy Secretary of Education
EDU 72 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 73 Confidential Assistant to the Director, Intergovernmental and Interagency Coordination
EDU 74 Special Assistant to the Deputy Secretary
EDU 76 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 78 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 81 Special Assistant to the Secretary of Education
EDU 82 Deputy Director to the Director, Office of Bilingual Education and Minority Language Affairs
EDU 84 Special Assistant to the Director Scheduling and Briefing Staff
EDU 85 Special Assistant to the Deputy Secretary
EDU 86 Deputy Assistant Secretary for Regional and Community Services and Secretary's Regional Representative, Region III to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 87 Special Assistant to the Director, Office of Special Education Programs
EDU 89 Special Assistant to the Counselor to the Secretary
EDU 90 Special Assistant to the Counselor to the Secretary
EDU 91 Special Assistant to the Director, Public Affairs
EDU 92 Deputy Assistant Secretary for Management and Planning to the Assistant Secretary for Elementary and Secondary Education
EDU 93 Confidential Assistant to the Director, White House Liaison,
EDU 94 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
EDU 96 Special Assistant to the Director, Scheduling and Briefing, Office of the Secretary
EDU 97 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 98 Special Assistant to the Special Advisor to the Secretary
EDU 101 Deputy Secretary's Regional Representative to the Secretary's Regional Representative, Region I, Boston, MA
EDU 102 Special Assistant to the Deputy Secretary
EDU 103 Secretary's Regional Representative, Region VIII, Denver, CO, to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 104 Special Assistant to the Counselor to the Secretary
EDU 105 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
EDU 106 Special Assistant to the Senior Advisor to the Secretary (Director, America Reads Challenge)
EDU 107 Secretary's Regional Representative, Region V, Chicago, IL, to the Director, State, Local and Regional Services Staff
EDU 109 Secretary's Regional Representative, Region VII, Kansas City, MO, to the Director, of the State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 110 Secretary's Regional Representative, Region II, New York, NY, to the Deputy Assistant Secretary for Regional Services
EDU 114 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 117 Director, Historically Black Colleges to the Assistant Secretary, Postsecondary Education
EDU 120 Special Assistant to the Deputy Secretary, Office of the Deputy Secretary
EDU 122 Deputy Secretary's Regional Representative Region VI, Dallas, TX, to the Secretary's Regional Representative
EDU 123 Secretary's Regional Representatives Region VI, Dallas, TX, to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 127 Secretary's Regional Representative, Region I, Boston, MA, to the Director, Regional Services Team
EDU 128 Confidential Assistant to the Secretary's Regional Representative, San Francisco
EDU 130 Confidential Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 131 Secretary's Regional Representative, Region IX, San Francisco, CA, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 132 Special Assistant to the Director, Office of Educational Technology, Office of the Deputy Secretary
EDU 136 Confidential Assistant to the Assistant Secretary, Office of Legislation and Congressional Affairs
EDU 139 Special Assistant to the General Counsel
EDU 140 Liaison for Community and Junior Colleges to the Assistant Secretary for Vocational and Adult Education

EDU 145 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 146 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 149 Director, White house Initiative on Hispanic Education to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 150 Special Assistant to the Deputy Assistant Secretary, Intergovernmental and Interagency Affairs
EDU 157 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
EDU 161 Confidential Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 164 Special Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
EDU 166 Special Assistant to the Deputy Assistant Secretary for Regional and Community Services
EDU 170 Special Assistant to the Deputy Assistant Secretary for Regional and Community Services
EDU 173 Special Assistant to the Counselor to the Secretary
EDU 174 Special Assistant to the Director, Office of Educational Technology
EDU 176 Confidential Assistant to the Senior Advisor to Secretary on Education Reform
EDU 177 Special Assistant to the Deputy Assistant Secretary, for Regional and Community Services, Office of Intergovernmental and Interagency Affairs
EDU 190 Special Assistant to the Senior Advisor to the Secretary (Director, America Reads Challenge)
EDU 191 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 197 Confidential Assistant to the Deputy Assistant Secretary for Regional and Community Services
EDU 198 Special Assistant to the Assistant Secretary, Office of Post Secondary Education
EDU 203 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
EDU 208 Confidential Assistant to the Assistant Secretary, Office of Legislation and Congressional Affairs
EDU 219 Congressional Assistant to the Special Advisor to the Secretary (Director, America Challenge)
EDU 220 Special Assistant to the Director, Office of Public Affairs
EDU 223 Special Assistant to the Deputy Secretary
EDU 225 Special Assistant to the Special Assistant to the Secretary
EDU 255 Confidential Assistant to the Deputy Secretary
EDU 256 Special Assistant to the Chief of Staff
EDU 299 Special Assistant to the Director, White House Liaison
EDU 332 Confidential Assistant to the Special Assistant to the Secretary
EDU 340 Deputy Secretary's Regional Representative, Region II, New York, NY, to the Secretary's Regional Representative
EDU 347 Secretary's Regional Representative, Region X, Seattle, WA, to the Director of the State, Local and Regional Services Staff
EDU 356 Deputy Director, Office of Public Affairs to the Director Office of Public Affairs
EDU 374 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 404 Secretary's Regional Representative, Region IV, Atlanta, GA, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
EDU 440 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services

Section 213.3318 Environmental Protection Agency

EPA 171 Congressional Liaison Specialist to the Director, Congressional Liaison Division
EPA 175 Director, Office of the Executive Secretariat to the Chief of Staff, Office of the Administrator
EPA 182 Legal Advisor to the Assistant Administrator for Prevention, Pesticides and Toxic Substances
EPA 184 Chief, Policy Counsel to the Assistant Administrator, Office of Water
EPA 187 Counsel to the Assistant Administrator for Air and Radiation
EPA 188 Legislative Coordinator to the Assistant Administrator, Office of Solid Waste and Emergency Response
EPA 203 Special Assistant to the Associate Administrator, Office of Regional Operations and State/Locale Relations
EPA 205 Senior Advisor to the Assistant Administrator for the Office of Policy Planning and Evaluation
EPA 212 Staff Assistant to the Deputy Associate Administrator for Communications, Education and Public Affairs
EPA 216 Special Assistant to the Chief of Staff
EPA 218 Special Assistant to the Associate Administrator, Congressional and Intergovernmental Relations
EPA 220 Special Assistant to the Associate Administrator for Communications, Education and Media Relations
EPA 221 Director, Executive Secretariat to the Chief of Staff
EPA 225 White House Liaison to the Chief of Staff
EPA 226 Special Assistant to the Regional Administrator
EPA 228 Senior Policy Advisor to the Regional Administrator
EPA 229 Senior Policy Advisor to the Regional Administrator
EPA 230 Congressional Liaison Specialist to the Assistant Administrator for the Office of Congressional and Intergovernmental Relations
EPA 231 Deputy Chief of Staff (Scheduling) to the Chief of Staff
EPA 232 Press Secretary to the Administrator to the Associate Administrator, Office of Communications, Education and Media Relations
EPA 233 Senior Advisor to the Assistant Administrator, Office of Resources and Management
EPA 234 Special Assistant to the Regional Administrator
EPA 235 Deputy Director, Office of Communications and Governmental Relations to the Deputy Regional Administrator, Region Nine
EPA 236 Special Assistant to the Deputy Administrator
EPA 237 Congressional Liaison Specialist to the Associate Administrator, Office of Congressional and Intergovernmental Affairs

Section 213.3323 Federal Communications Commission

FCC 20 Associate Chief, Office of Public Affairs to the Chief, Office of Public Affairs
FCC 23 Special Assistant for Legislative Affairs to the Chairman
FCC 24 Special Assistant to the Chief, International Bureau, International Bureau
FCC 26 Special Assistant (Public Affairs) to the Chief, Cable Services Bureau
FCC 27 Special Advisor to the Chief, Cable Services Bureau
FCC 28 Special Assistant for Policy and Communication to the Chief, Office of Public Affairs

Section 213.3323 Overseas Private Investment Corporation

OPIC 18 Confidential Assistant to the President and Chief Executive Officer
OPIC 20 Director, Protocol and Special Initiatives to the Vice President, Investment Development Department
OPIC 21 Special Assistant to the President and Chief Executive Officer
OPIC 22 Special Assistant to the Managing Director for Congressional and Intergovernmental Affairs

Section 213.3325 United States Tax Court

TCOUS 41 Secretary and Confidential Assistant to a Judge
TCOUS 42 Secretary and Confidential Assistant to a Judge
TCOUS 43 Secretary and Confidential Assistant to a Judge
TCOUS 44 Secretary and Confidential Assistant to a Judge
TCOUS 45 Secretary and Confidential Assistant to a Judge
TCOUS 46 Secretary and Confidential Assistant to a Judge
TCOUS 47 Secretary and Confidential Assistant to a Judge
TCOUS 48 Secretary and Confidential Assistant to a Judge
TCOUS 49 Secretary and Confidential Assistant to a Judge
TCOUS 50 Secretary and Confidential Assistant to a Judge
TCOUS 51 Secretary and Confidential Assistant to a Judge
TCOUS 52 Secretary and Confidential Assistant to a Judge
TCOUS 53 Secretary and Confidential Assistant to a Judge
TCOUS 56 Secretary and Confidential Assistant to a Judge
TCOUS 57 Secretary and Confidential Assistant to a Judge
TCOUS 58 Secretary and Confidential Assistant to a Judge
TCOUS 59 Secretary and Confidential Assistant to a Judge
TCOUS 60 Secretary and Confidential Assistant to a Judge
TCOUS 61 Secretary and Confidential Assistant to a Judge
TCOUS 62 Secretary and Confidential Assistant to a Judge
TCOUS 63 Secretary and Confidential Assistant to a Judge
TCOUS 64 Secretary and Confidential Assistant to a Judge
TCOUS 65 Secretary and Confidential Assistant to a Judge
TCOUS 66 Trial Clerk to a Judge
TCOUS 67 Trial Clerk to a Judge
TCOUS 68 Trial Clerk to a Judge
TCOUS 70 Trial Clerk to a Judge
TCOUS 73 Trial Clerk to a Judge
TCOUS 75 Trial Clerk to a Judge
TCOUS 78 Trial Clerk to a Judge
TCOUS 79 Trial Clerk to a Judge
TCOUS 80 Secretary and Confidential Assistant to a Judge
TCOUS 82 Secretary and Confidential Assistant to a Judge

Section 213.3327 Department of Veterans Affairs

VA 72 Special Assistant to the Principal Deputy Assistant Secretary for Congressional Affairs
VA 74 Special Assistant to the Secretary of Veterans Affairs
VA 78 Special Assistant to the Assistant Secretary for Finance and Information Resources Management
VA 79 Special Assistant to the Assistant Secretary for Human Resources and Administration
VA 84 Special Assistant to the Assistant Secretary for Congressional Affairs
VA 87 Special Assistant to the Secretary of Veterans Affairs
VA 90 Executive Assistant to the Deputy Secretary of Veterans Affairs
VA 92 Special Assistant to the Deputy Secretary of Veterans Affairs
VA 94 Executive Assistant/Deputy Chief of Staff to the Secretary of Veterans Affairs
VA 95 Special Assistant to the Secretary of Veterans Affairs
VA 96 Special Assistant to the Assistant Secretary for Public and Intergovernmental Affairs
VA 97 Special Assistant to the Assistant Secretary for Policy and Planning
VA 98 Executive Assistant to the Secretary of Veterans Affairs
VA 99 Special Assistant to the Assistant Secretary for Public and Intergovernmental Affairs

Section 213.3328 United States Information Agency

USIA 12 Special Assistant to the Director, Office of Congressional and Intergovernmental Affairs
USIA 14 Program Officer to the Associate Director, Bureau of Information
USIA 33 Media Relations Advisor to the Director, Office of Public Liaison
USIA 43 Director, Office of Citizen Exchanges to the Associate Director, Bureau of Educational and Cultural Affairs
USIA 54 Special Assistant to the Director, Office of Citizen Exchanges
USIA 67 Chief, Voluntary Visitors Division to the Director, Office of International Visitors, Bureau of Educational and Cultural Affairs
USIA 89 Staff Director, Advisory Board for Cuba Broadcasting to the Chairman of the Advisory Board
USIA 93 Program Officer to the Deputy Director, Office of European and NIS Affairs
USIA 99 White House Liaison to the Chief of Staff, Office of the Director
USIA 101 Senior Program Officer to the Director, New York Foreign Press Center, New York, NY
USIA 124 Special Assistant to the Associate Director for Programs, Bureau of Information
USIA 126 Special Assistant to the Director, Office of Congressional and Intergovernmental Affairs
USIA 127 Writer to the Director, Office of Policy
USIA 135 Special Advisor to the Associate Director, Bureau of Information
USIA 137 Deputy Director to the Director, Office of Arts America
USIA 138 Special Assistant for Public Diplomacy to the Associate Director, Bureau of Information
USIA 141 Director, Office of Support Services to the Associate Director of the Bureau of Information
USIA 145 Confidential Assistant to the Director, Office of Cuba Broadcasting
USIA 149 Special Assistant to the Director, Office of International Visitors
USIA 152 Director, Office of Congressional and External Affairs to the Director, International Broadcasting Bureau
USIA 153 Senior Advisor to the Director, Citizen Exchanges
USIA 154 Confidential Assistant to the Director, Office of Cuba Broadcasting
USIA 156 Public Affairs Officer to the Director, Voice of America
USIA 157 Senior Advisor to the Director, United States Information Agency

Section 213.3330 Securities and Exchange Commission

SEC 2 Confidential Assistant to a Commissioner
SEC 3 Confidential Assistant to a Commissioner
SEC 4 Confidential Assistant to the Chief of Staff
SEC 5 Confidential Assistant to a Commissioner
SEC 6 Confidential Assistant to a Commissioner
SEC 8 Secretary (OA) to the Chief Accountant
SEC 9 Secretary to the General Counsel

SEC 11 Confidential Assistant to the Chairman
SEC 12 Director of Public Affairs to the Chairman
SEC 14 Secretary to the Director
SEC 15 Secretary (OA) to the Director, Market Regulation
SEC 16 Secretary to the Director
SEC 18 Secretary to the Director, Investment Management
SEC 19 Secretary to the Director, Corporate Finance
SEC 24 Secretary to the Chief Economist
SEC 28 Confidential Assistant to the Chairman
SEC 29 Secretary to the Deputy Director of Market Regulation
SEC 31 Special Assistant to the Director, Office of Investor Education and Assistance
SEC 32 Public Affairs Specialist to the Director, Office of Public Affairs, Policy Evaluation and Research
SEC 33 Confidential Assistant to the Director of Public Affairs
SEC 37 Writer-Editor to the Chairman
SEC 39 Director of Legislative Affairs to the Chairman
SEC 40 Special Advisor to the Chairman
SEC 41 Legislative Affairs Specialist to the Director, Legislative Affairs

Section 213.3331 Department of Energy

DOE 439 Special Assistant to the Director, Public Affairs
DOE 587 Staff Assistant to the Assistant Secretary for Environmental Safety and Health
DOE 591 Staff Assistant to the Deputy Assistant Secretary for Building Technologies
DOE 602 Senior Staff Advisor to the Director, Office of Energy Research
DOE 603 Special Assistant to the Director, Office of Strategic Planning and Analysis
DOE 610 Staff Assistant to the Director, Office of Energy Research
DOE 622 Legislative Affairs Specialist to the Deputy Assistant Secretary for Senate Liaison, Office of Congressional and Intergovernmental Affairs
DOE 625 Staff Assistant to the Associate Deputy Secretary for Field Management
DOE 626 Staff Assistant to the Deputy Assistant Secretary for Transportation Technologies
DOE 631 Special Assistant to the Press Secretary, Press Services Division, Office of Public and Consumer Affairs
DOE 644 Staff Assistant to the Assistant Secretary for Efficiency and Renewable Energy
DOE 654 Confidential Staff Assistant to the Deputy Director for Small and Disadvantaged Business Utilization
DOE 655 Special Assistant for Regulatory Compliance to the Deputy Assistant Secretary for Compliance and Program Coordination
DOE 657 Special Assistant to the Director, Office of Economic Impact and Diversity
DOE 658 Director, Office of Natural Gas Policy to the Principal Deputy Assistant Secretary for Policy
DOE 663 Assistant Director for Energy Research (Communications and Development) to the Director, Office of Energy Research
DOE 665 Special Liaison (Federal Power Marketing Administration) to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 666 Special Assistant to the Director, Press Services Division
DOE 667 Special Assistant to the Assistant Secretary for Energy and Renewable Energy
DOE 672 Staff Assistant to the Assistant Secretary for Policy and International Affairs
DOE 676 Confidential Assistant to the Assistant Secretary for Environmental Management
DOE 679 Special Assistant to the Assistant Secretary for Policy and International Affairs
DOE 680 Staff Assistant to the Chief Financial Officer
DOE 681 Special Assistant to the Director, Office of Worker and Community Transition
DOE 682 Senior Advisor to the Assistant Secretary for Congressional and Intergovernmental Affairs
DOE 684 Program Specialist to the Director, International Policy and Analysis Division
DOE 686 Associate Director to the Director, Office of Nuclear Energy, Science and Technology
DOE 694 Staff Assistant to the Director, Office of Budget Planning and Customer Service
DOE 695 Legislative Affairs Liaison Officer to the Deputy Assistant Secretary for House Liaison
DOE 699 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 701 Special Assistant to the Assistant Secretary for Defense Programs
DOE 702 Special Assistant to the Director, Office for Worker and Community Transition
DOE 708 Special Projects Liaison Specialist to the Director, Public Affairs
DOE 709 Senior Advisor to the Assistant Secretary for Environment, Safety and Health
DOE 712 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 713 Staff Assistant (Legal) to the Assistant Secretary for Environmental Management
DOE 714 Special Assistant for Energy Security and International Issues to the Assistant Secretary for Fossil Energy
DOE 716 Briefing Book Coordinator to the Director, Scheduling and Logistics
DOE 717 Special Assistant to the Director, Scheduling and Advance
DOE 718 Intergovernmental Specialist to the Deputy Assistant Secretary, Office of Planning, Budget and Policy
DOE 720 Director of Communications to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 722 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
DOE 723 Special Assistant to the Deputy Assistant Secretary for Building Technology, State and Community Programs
DOE 724 Special Assistant to the Assistant Secretary for Human Resources and Administration
DOE 726 Staff Assistant to the Special Assistant and Acting Assistant Secretary of Policy and International Affairs
DOE 729 Staff Assistant to the Director, Office of Scheduling and Advance
DOE 730 Confidential Assistant to the Director, Office of Economic Impact and Diversity
DOE 733 Special Assistant for Management Reform to the Secretary of Energy
DOE 734 Senior Program Advisor to the Associate Deputy Secretary for Field Management
DOE 735 Confidential Assistant to the Director of Energy Research
DOE 736 Special Assistant to the Director, Office of Energy Research
DOE 738 Special Assistant to the Associate Deputy Secretary for Field Management
DOE 739 Special Assistant to the Assistant Secretary for Human Resources and Administration
DOE 740 Special Assistant to the Director, Office of Civilian Radioactive Management
DOE 741 Special Assistant to the Deputy Assistant Secretary for Natural Gas and Petroleum Technology

DOE 742 Deputy Director, Scheduling and Advance to the Director, Scheduling and Advance
DOE 743 Special Assistant to the Assistant Secretary for Policy and International Affairs
DOE 745 Special Projects Officer to the Director, Office of Public Affairs
DOE 747 Deputy Assistant Secretary for Senate Liaison to the Assistant Secretary for Congressional and Intergovernmental Affairs
DOE 749 Special Assistant to the Director, Office of Nonproliferation and National Security
DOE 751 Director, Office of Scheduling and Advance to the Director Office of Management and Administration
DOE 752 Deputy Director to the Director, Office of Public Affairs
DOE 753 Senior Program Analyst to the Director, Office of Intelligence
DOE 755 Special Assistant to the Director, Office of Human Resources
DOE 756 Senior Policy Advisor to the Secretary of Energy
DOE 757 Special Assistant to the Director, Office of Advance and Special Projects
DOE 758 Special Assistant to the Secretary of Energy
DOE 759 Executive Assistant to the Secretary of Energy
DOE 760 Special Assistant to the Director, Office of Worker and Community Transition
DOE 761 Special Assistant to the Secretary of Energy
DOE 762 Special Assistant to the Secretary of Energy
DOE 763 Special Assistant to the Director, Office of Field Management
DOE 764 Special Executive Advisor to the Assistant Secretary for Fossil Energy
DOE 765 Senior Advisor for Community and Intergovernmental Involvement to the Assistant Secretary for Environmental Management
DOE 766 Special Assistant for Community Outreach to the Assistant Secretary for Environment, Safety and Health
DOE 767 Special Assistant to the Director, Management and Administration
DOE 768 Executive Assistant to the Secretary of Energy
DOE 769 Special Assistant to the Director, Management and Administration
DOE 770 Deputy Assistant Secretary for House Liaison to the Assistant Secretary for Congressional and Intergovernmental Affairs
DOE 771 Special Projects Officer to the Director, Office of Public Affairs
DOE 772 Special Projects Officer to the Director, Office of Public Affairs
DOE 773 Special Assistant to the Principal Deputy Assistant Secretary for Environmental Management
DOE 774 Special Assistant to the Director of Field Management
DOE 778 Special Assistant to the Director of Scheduling and Advance
DOE 779 Special Assistant to the Assistant Secretary for Policy and International Affairs
DOE 780 Associate Chief Financial Officer for Budget, Planning and Financial Management to the Chief Financial Management
DOE 781 Staff Assistant to the Assistant Secretary for Policy and International Affairs

Federal Energy Regulatory Commission

FERC 1 Special Assistant to the Director, External Affairs
FERC 2 Confidential Assistant to a Member
FERC 3 Confidential Assistant to a Member
FERC 13 Technical Advisor to a Member
FERC 14 Ombudsman to the Director, Office of External Affairs
FERC 15 Special Assistant to the Chief Information Officer

Section 213.3332 Small Business Administration

SBA 4 Special Assistant to the Deputy Administrator
SBA 20 Senior Advisor to the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development
SBA 30 National Director for Native American Outreach to the Associate Deputy Administrator for Entrepreneurial Development
SBA 35 Senior Advisor to the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development
SBA 55 Special Assistant to the Associate Deputy Administrator for Management
SBA 100 Special Assistant to the Regional Administrator, Dallas Regional Office
SBA 116 Senior Advisor to the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development.
SBA 128 Assistant Administrator for Women's Business Ownership to the Associate Deputy Administrator
SBA 143 Senior Advisor to the Deputy Administrator
SBA 169 Regional Administrator, Region I, Boston, MA, to the Administrator, Small Business Administration
SBA 170 Regional Administrator to the Associate Administrator for Field Administrations
SBA 172 Regional Administrator, Region VII, Kansas City, MO, to the Administrator, Small Business Administration
SBA 173 Regional Administrator, Region VI, Dallas, TX, to the Project Director for Field Operations
SBA 174 Regional Administrator, Region V, Chicago, IL, to the Administrator, Small Business Administration
SBA 175 Regional Administrator, Region IV, Atlanta, GA, to the Administrator, Small Business Administrator
SBA 176 Regional Administrator, Region II, New York, NY, to the Administrator, Small Business Administration
SBA 178 Regional Administrator, Region III, Philadelphia, PA, to the Administrator, Small Business Administration
SBA 182 Assistant Administrator for Marketing and Outreach to the Associate Administrator for Communications and Public Liaison
SBA 188 Regional Administrator, Region IX, San Francisco, CA, to the Administrator, Small Business Administration
SBA 189 Regional Administrator, Region X, Seattle, WA, to the Administrator, Small Business Administration
SBA 190 Deputy Chief of Staff to the Chief of Staff
SBA 199 Senior Advisor (Director, Welfare to Work Initiative) to the Associate Deputy Administrator, Office of Entrepreneurial Development
SBA 200 Senior Advisor to the Associate Administrator for Communications and Public Liaison
SBA 201 Deputy Director to the Senior Advisor (Director, Welfare to Work Initiative)
SBA 202 Special Assistant to the Chief of Staff
SBA 205 Deputy Scheduler to the Chief of Staff
SBA 206 National Director for Community Outreach to the Administrator, Small Business Administration
SBA 208 Special Assistant to the Senior Advisor to the Associate Deputy Administrator of Entrepreneurial Development

SBA 209 Director of Community Empowerment and One Stop Capital Shops to the Associate Deputy Administrator for Entrepreneurial Development
SBA 210 Special Assistant to the Senior Advisor to the Administrator
SBA 211 Speech Writer to the Associate Administrator for Communications and Public Liaison
SBA 212 Assistant General Counsel to the General Counsel
SBA 213 Senior Advisor to the Associate Deputy Administrator for GS/MED
SBA 214 Assistant Administrator for International Trade to the Associate Deputy Administrator for Capital Access

Section 213.3333 Federal Deposit Insurance Corporation

FDIC 15 Secretary to the Chairman
FDOC 16 Confidential Assistant to the Deputy to the Chairman

Section 213.3334 Federal Trade Commission

FTC 2 Director of Public Affairs (Supervisory Public Affairs Specialist) to the Chairman
FTC 14 Congressional Liaison Specialist to the Director of Congressional Relations
FTC 22 Secretary (Office Automation) to the Director, Bureau of Competition
FTC 23 Special Assistant to the Commissioner
FTC 24 Special Assistant to the Commissioner

Section 213.3337 General Services Administration

GSA 24 Special Assistant to the Commissioner, Public Buildings Service
GSA 51 Special Assistant to the Administrator
GSA 69 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs
GSA 90 Deputy Associate Administrator to the Associate Administrator for Congressional and Intergovernmental Affairs
GSA 94 Senior Policy Advisor to the Associate Administrator, Office of Congressional and Intergovernmental Affairs
GSA 95 Deputy Chief of Staff to the Chief of Staff
GSA 102 Special Assistant to the Regional Administrator, National Capital Region
GSA 113 Special Assistant to the Regional Administrator (Boston, MA)
GSA 114 Special Assistant to the Regional Administrator
GSA 118 Special Assistant to the Regional Administrator, Great Lakes Region
GSA 130 Special Assistant to the Regional Administrator, Region 7
GSA 131 Supervisory External Affairs Specialist to the Commissioner, Public Buildings Service
GSA 132 Deputy Regional Administrator, Rocky Mountain Region (Denver, CO) to the Regional Administrator

Section 213.3339 U.S. International Trade Commission

ITC 3 Staff Assistant (Legal) to the Commissioner
ITC 5 Executive Assistant to the Commissioner
ITC 6 Staff Assistant (Economics) to the Commissioner
ITC 12 Confidential Assistant to the Commissioner
ITC 15 Confidential Assistant to the Commissioner
ITC 17 Attorney-Advisor (General) to the Chairman
ITC 19 Staff Economist to the Commissioner
ITC 25 Staff Assistant (Economist) to the Commissioner
ITC 30 Confidential Assistant to the Commissioner
ITC 31 Executive Assistant to the Commissioner
ITC 33 Special Assistant (Economics) to the Commissioner
ITC 36 Confidential Assistant to the Commissioner

Section 213.3340 National Archives and Records Administration

NARA 3 Presidential Diarist to the Archivist of the United States

Section 213.3341 National Labor Relations Board

NLRB 1 Confidential Assistant to the Chairman

Section 213.3342 Export-Import Bank of the United States

EXIM 3 Administrative Assistant to the President and Chairman
EXIM 30 Administrative Assistant to the Director
EXIM 45 Administrative Assistant to the Director, a Member of the Bank Board of Directors
EXIM 46 Special Assistant to the First Vice President and Vice Chair
EXIM 48 Administrative Assistant to the Director, Member of the Board
EXIM 49 Deputy Chief of Staff to the Chief of Staff and Vice President Congressional and External Affairs
EXIM 50 Personal and Confidential Assistant to the Chairman
EXIM 51 Assistant to the President and Chairman, Export Import Bank of the United States

Section 213.3343 Farm Credit Administration

FCA 1 Special Assistant to the Chairman
FCA 8 Secretary of the Board to the Chairman and Chief Executive Officer
FCA 11 Special Assistant to the Member, Farm Credit Administration Board
FCA 12 Public and Congressional Affairs Specialist to the Director, Office of Congressional and Public Affairs
FCA 13 Special Assistant to the Member
FCA 15 Congressional and Public Affairs Specialist to the Director of Congressional and Public Affairs

Section 213.3344 Occupational Safety and Health Review Commission

OSHRC 3 Confidential Assistant to the Member (Commissioner), Occupational Safety and Health Review Commission
OSHRC 11 Counsel to the Member (Commissioner)

Section 213.3346 Selective Service System

SSS 16 Special Assistant to the Director of Selective Service
SSS 17 Executive Director to the Director of Selective Service

Section 213.3347 Federal Mediation and Conciliation Service

FMCS 8 Public Affairs Director to the Director, Federal Mediation and Conciliation Service

Section 213.3348 National Aeronautics and Space Administration

NASA 31 Special Assistant to the NASA Administrator
NASA 34 Manager, Multimedia Relations to the Associate Administrator for Public Affairs
NASA 38 Writer-Editor to the Associate Administrator for Public Affairs
NASA 39 Public Affairs Specialist to the Associate Administrator for Public Affairs
NASA 41 State Local Intergovernmental Affairs Specialist to the Associate Administrator for Policy and Plans
NASA 43 Radio Production Specialist to the Associate Administrator, Public Affairs

NASA 44 Program Specialist to the Special Assistant to the Administrator
NASA 45 Legislative Affairs Specialist to the Associate Administrator for Legislative Affairs
NASA 47 Program Analyst to the Deputy Associate Administrator for External Relations
NASA 48 Legislative Affairs Specialist to the Associate Administrator for Legislative Affairs
NASA 49 Staff Assistant to the Associate Administrator for Legislative Affairs
NASA 50 White House Liaison Officer to the NASA Administrator

Section 213.3351 Federal Mine Safety and Health Review Commission

FM 8 Attorney Advisor to the Commissioner
FM 17 Confidential Assistant to the Chairman
FM 26 Attorney-Advisor (General) to the Chairman
FM 28 Confidential Assistant to the Commissioner
FM 29 Attorney-Advisor to the Commissioner
FM 30 Confidential Assistant to the Commissioner

Section 213.3352 Government Printing Office

GPO 21 Staff Assistant to the Public Printer

Section 213.3355 Social Security Administration

SSA 4 Special Assistant to the Chief of Staff
SSA 6 Press Officer to the Deputy Commissioner for Communications
SSA 8 Confidential Assistant to the Commissioner of Social Security
SSA 9 Public Affairs Specialist (Speechwriter) to the Deputy Commissioner for Communications

Section 213.3356 Commission on Civil Rights

CCR 1 Special Assistant to the Staff Director
CCR 10 Special Assistant to the Staff Director
CCR 12 Special Assistant to the Commissioner
CCR 14 Deputy General Counsel to the General Counsel,
CCR 23 Special Assistant to the Commissioner
CCR 28 Special Assistant to the Commissioner
CCR 30 Special Assistant to the Commissioner

Section 213.3357 National Credit Union Administration

NCUA 9 Staff Assistant to the Chairman of the Board, National Credit Union Administration
NCUA 12 Executive Assistant to a Board Member
NCUA 20 Executive Assistant to a Board Member
NCUA 21 Communications and Administrative Specialist to a Board Member
NCUA 23 Special Assistant to the Executive Director
NCUA 24 Writer-Editor to the Chairman

Section 213.3360 Consumer Product Safety Commission

CPSC 49 Office of a Commissioner
CPSC 50 Staff Assistant to a Commissioner
CPSC 52 Director, Office of Information and Public Affairs to the Chairman
CPSC 53 Special Assistant to the Chairman
CPSC 55 Executive Assistant to the Chairman
CPSC 56 Director, Office of Congressional Relations to the Chairman
CPSC 60 Special Assistant to the Chairman
CPSC 61 Staff Assistant to a Commissioner
CPSC 62 Special Assistant to a Commissioner
CPSC 63 Special Assistant to a Commissioner
CPSC 64 Special Assistant (Legal) to a Commissioner

Section 213.3367 Federal Maritime Commission

FMC 5 Counsel to a Commissioner
FMC 10 Special Assistant to a Commissioner
FMC 26 Executive Assistant to the Chairman
FMC 30 Special Assistant to a Commissioner
FMC 35 Counsel to a Commissioner
FMC 41 Special Advisor to a Commissioner

Section 213.3368 Agency for International Development

AID 125 Executive Assistant to the Chief of Staff
AID 127 Supervisory Public Affairs Specialist to the Director, Office of External Affairs
AID 149 Public Affairs Specialist to the Chief, Legislative and Public Affairs, Public Liaison Division
AID 151 Congressional Liaison Officer to the Chief of Legislative and Public Affairs, Congressional Liaison Division
AID 152 Special Assistant to the Assistant Administrator, Bureau for Latin America and the Caribbean

Section 213.3371 Office of Government Ethics

OGE 2 Executive Secretary to the Director, Office of Government Ethics

Section 213.3373 United States Trade and Development Agency

TDA 1 Special Assistant for Public Affairs and Marketing to the Director of the U.S. Trade and Development Agency
TDA 2 Congressional Liaison Officer to the Director, U.S. Trade and Development Agency
TDA 3 Special Assistant for Public Affairs and Marketing to the Director, U.S. Trade and Development Agency

Section 213.3376 Appalachian Regional Commission

ARC 12 Senior Policy Advisor to the Federal Co-Chairman
ARC 13 Policy Advisor to the Federal Co-Chairman

Section 213.3377 Equal Employment Opportunity Commission

EEOC 2 Special Assistant to the Chairwoman
EEOC 9 Attorney-Advisor (Civil Rights) to the Chairwoman
EEOC 13 Confidential Assistant to the Director, Legal Counsel
EEOC 15 Media Contact Specialist to the Director, Office of Communications and Legislative Affairs
EEOC 31 Attorney-Advisor (Civil Rights) to the Chairwoman
EEOC 32 Senior Advisor to a Commissioner
EEOC 36 Attorney Advisor to the General Counsel

Section 213.3379 Commodity Futures Trading Commission

CFTC 3 Administrative Assistant to a Commissioner
CFTC 4 Administrative Assistant to a Commissioner
CFTC 5 Administrative Assistant to a Commissioner
CFTC 30 General Attorney (Special Counsel) to the General Counsel
CFTC 31 Special Assistant to a Commissioner
CFTC 32 Special Assistant to a Commissioner

Section 213.3382 National Endowment for the Arts

NEA 72 Director of Policy, Planning and Research to the Chairman

NEA 76 Executive Secretary to the Chairman
NEA 77 Director of Public Affairs to the Chairman
NEA 78 Special Assistant to the Chairman
NEA 79 Staff Assistant to the Chairman

National Endowment for the Humanities

NEH 70 Assistant Director of Government Affairs to the Director of Governmental Affairs
NEH 71 Director of Governmental Affairs to the Chief of Staff
NEH 72 Enterprise/Development Officer to the Chief of Staff
NEH 73 Director, Office of Public Affairs to the Chief of Staff

Section 213.3384 Department of Housing and Urban Development

HUD 143 Special Assistant to the Director, Executive Scheduling
HUD 187 Special Assistant to the Assistant Secretary for Housing, Federal Housing Commission
HUD 188 Special Assistant to the Assistant Secretary for Administration
HUD 193 Deputy General Counsel for Programs and Regulations to the General Counsel
HUD 198 Special Assistant to the Senior Advisor to the Secretary
HUD 211 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
HUD 216 Special Assistant to the Assistant Secretary for Administration
HUD 231 Deputy Assistant Secretary for Strategic Planning to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 272 Deputy Assistant Secretary for Grant Programs to the Assistant Secretary for Community Planning and Development
HUD 281 Special Administrator to Regional Administrator
HUD 292 Special Assistant to the Deputy Assistant Secretary for Economic Development
HUD 339 Special Assistant to the Secretary's Representative
HUD 354 Special Assistant to the Assistant Secretary for Public and Indian Housing
HUD 363 Special Assistant to the Assistant Secretary for Policy Development and Research
HUD 373 Special Assistant to the Deputy Assistant Secretary for Public Affairs
HUD 385 Special Assistant to the Deputy Assistant Secretary for Public Affairs
HUD 390 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 412 Executive Assistant to the Secretary
HUD 421 Assistant Director to the Director, Executive Secretariat, Office of Administration
HUD 423 Secretary's Representative, Rocky Mountain to the Deputy Secretary
HUD 431 Secretary's Representative (Great Plains) to the Deputy Secretary
HUD 436 Advance Coordinator to the Director of Scheduling
HUD 446 Senior Intergovernmental Relations Officer to the Deputy Assistant Secretary for Intergovernmental Relations
HUD 469 Special Assistant to the Deputy Assistant Secretary for Community Empowerment
HUD 478 Special Projects Officer to the Senior Advisor to the Secretary
HUD 482 Special Projects Officer to the Director, Special Actions Office
HUD 483 Special Assistant (Advance/Security) to the Director, Executive Scheduling
HUD 485 Special Assistant (Advance) to the Director of Executive Services
HUD 487 Advance/Security Coordinator to the Deputy Chief of Staff for Operations
HUD 492 Special Assistant to the General Deputy Assistant Secretary for Community Planning and Development
HUD 494 Intergovernmental Relations Specialist to the Deputy Assistant Secretary for Intergovernmental Relations
HUD 506 Deputy Assistant Secretary for Community Empowerment to the Assistant Secretary for Community Planning and Development
HUD 508 Deputy Chief of Staff for Operations to the Chief of Staff
HUD 512 Deputy Assistant for Legislation to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 513 Deputy Assistant Secretary for Long Range Planning to the Assistant Secretary for Public Affairs
HUD 520 Special Assistant to the Chief Financial Officer
HUD 521 Deputy Assistant Secretary for Public Housing Investments to the Assistant Secretary, Public and Indian Housing
HUD 526 Intergovernmental Relations Specialist to the Deputy Assistant Secretary for Intergovernmental Relations
HUD 528 Director, Intergovernmental Relations to the Assistant Secretary for Congressional and Intergovernmental Relations
HUD 529 Intergovernmental Relations Assistant to the Deputy Assistant Secretary for Congressional and Intergovernmental Relations
HUD 534 Special Assistant for Inter-Faith Community Outreach to the Director, Office of Special Actions
HUD 541 Director, Corporate and Constituent Outreach to the Assistant Secretary for Administration
HUD 542 Senior Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
HUD 546 Special Assistant to the Deputy Assistant Secretary for Community Empowerment
HUD 548 General Deputy Assistant Secretary to the Assistant Secretary for Public and Indian Housing
HUD 551 Scheduling Assistant to the Director of Executive Scheduling
HUD 552 Deputy Assistant Secretary for Research to the Deputy Assistant Secretary for Policy Development
HUD 553 General Deputy Assistant Secretary for Public Affairs to the Deputy Assistant Secretary for Public Affairs
HUD 555 Staff Assistant to the Director, Office of Special Programs
HUD 557 Special Assistant to the Deputy Secretary
HUD 558 Special Assistant to the Director, Intergovernmental Relations
HUD 559 Special Assistant to the Secretary's Representative
HUD 560 Secretary's Representative-Midwest to the Deputy Secretary, Office of the Secretary's Representative
HUD 561 Deputy Assistant Secretary for Public Affairs to the Assistant Secretary for Public Affairs
HUD 563 Special Assistant to the Secretary's Representative, California State Office
HUD 564 Senior Press Officer to the Assistant Secretary for Public Affairs
HUD 565 Special Advisor to the Deputy Assistant Secretary for Policy Development
HUD 568 Briefing Coordinator to the Director of Executive Scheduling
HUD 569 Assistant Deputy Secretary for Field Policy and Management to the Deputy Secretary
HUD 570 Deputy Assistant Secretary for Strategic Planning to the Assistant Secretary for Public Affairs
HUD 571 Deputy Assistant Secretary for International Affairs to the

Assistant Secretary for Policy Development and Research
HUD 572 Special Assistant (Advance) to the Director, Executive Services
HUD 573 Special Counsel to the General Counsel
HUD 574 Deputy Assistant Secretary for Policy, Program and Legislative Initiatives to the Assistant Secretary for Public and Indian Housing
HUD 575 Special Assistant to the Secretary's Representative, Southeast/Carribean
HUD 576 Senior Advisor to the Assistant Secretary for Community Planning and Development
HUD 577 Advisor for Management Reform and Operations to the Assistant Secretary for Administration
HUD 578 Special Assistant to the Secretary's Representative, New England
HUD 579 Special Assistant to the Assistant Secretary for Policy Development and Research

Section 213.3389 National Mediation Board

NMB 53 Confidential Assistant to a Board Member
NMB 54 Confidential Assistant to a Board Member

Section 213.3391 Office of Personnel Management

OPM 65 Special Assistant to the Director, Office of Congressional Relations
OPM 80 Deputy Director to the Director of Communications
OPM 83 Special Assistant to the Director, Office of Congressional Relations
OPM 86 Deputy Chief of Staff to the Chief of Staff
OPM 87 Confidential Assistant to the Director of Communications
OPM 88 Special Assistant to the Chief of Staff
OPM 89 Director of Media Relations/ Press Secretary to the Director of Communications
OPM 91 Speech Writer to the Director of Communications
OPM 92 Special Assistant to the Deputy Director
OPM 93 Special Assistant to the Director of Congressional Relations
OPM 94 Special Assistant to the Director of Communications

Section 213.3392 Federal Labor Relations Authority

FLRA 19 Staff Assistant to the Chair
FLRA 22 Director of External Affairs/ Special Projects to the Chair, Federal Labor Relations Authority

Section 213.3393 Pension Benefit Guaranty Corporation

PBGC 7 Assistant Executive Director for Legislative Affairs to the Executive Director
PBGC 11 Special Assistant to the Deputy Executive Director and Chief Financial Officer
PBGC 14 Special Assistant to the Deputy Executive Director and Chief Financial Officer

Section 213.3394 Department of Transportation

DOT 38 Special Assistant to the Deputy Administrator, National Highway Traffic Safety Administration
DOT 69 Director, Office of Public Affairs to the Federal Railroad Administrator
DOT 70 Special Assistant to the Assistant Secretary for Governmental Affairs
DOT 100 Chief, Consumer Information Division to the Director, Office of Public and Consumer Affairs
DOT 105 Staff Assistant to the Director of External Affairs
DOT 112 Policy Advisor to the Assistant Secretary for Transportation Policy
DOT 117 Special Assistant to the Secretary of Transportation
DOT 121 Deputy Director, Office of Congressional Affairs to the Director, Office of Congressional Affairs
DOT 127 Special Assistant and Chief, Administrative Operations Staff to the Assistant Secretary for Budget and Programs
DOT 129 Special Counsel to the General Counsel
DOT 147 Special Assistant to the Assistant to the Secretary and Director of Public Affairs
DOT 148 Associate Director of Media Relations and Special Projects to the Assistant to the Secretary and Director of Public Affairs
DOT 150 Special Assistant to the Administrator, National Highway Traffic Safety Administration
DOT 151 Special Assistant to the Secretary of Transportation
DOT 159 Special Assistant to the Administrator, Federal Highway Administration
DOT 173 Senior Advisor to the Administrator, Federal Railroad Administration
DOT 226 Director, Office of Congressional and Public Affairs to the Administrator, Maritime Administration
DOT 235 Director for Scheduling and Advance to the Chief of Staff
DOT 242 Deputy Director, Executive Secretariat to the Director, Executive Secretariat
DOT 265 Special Assistant to the Director, Office of External Communications
DOT 274 Special Assistant to the Associate Director for Media Relations and Special Projects
DOT 279 Associate Director for Speechwriting and Research to the Assistant to the Secretary and Director of Public Affairs
DOT 287 Scheduling/Advance Assistant to the Director for Scheduling and Advance, Office of the Secretary
DOT 293 Associate Director, Office of Intergovernmental and Consumer Affairs to the Director, Office of Intergovernmental Affairs
DOT 294 Special Assistant to the Associate Deputy Secretary
DOT 296 Special Assistant to the Deputy Administrator, Maritime Administration
DOT 301 Director, Office of Intergovernmental Affairs to the Assistant Secretary for Governmental Affairs
DOT 315 Director of Intergovernmental and Congressional Affairs to the Administrator, National Highway Traffic Safety Administration
DOT 320 Special Assistant to the Secretary of Transportation
DOT 321 Special Projects Director to the Administrator, Research and Special Programs Administration
DOT 324 Special Assistant for Scheduling and Advance to the Director for Scheduling and Advance
DOT 338 Special Assistant to the Federal Highway Administrator, Federal Highway Administration
DOT 342 Special Assistant for Scheduling and Advance to the Director for Scheduling and Advance
DOT 351 Special Assistant to the Deputy Secretary
DOT 355 Director for Drug Enforcement and Program Compliance to the Chief of Staff
DOT 356 Senior Congressional Liaison Officer to the Director, Office of Congressional Affairs
DOT 357 Special Assistant for Scheduling and Advance to the Director for Scheduling and Advance
DOT 358 Scheduling/Advance Assistant to the Director of Scheduling and Advance
DOT 359 Senior Policy Advisor to the Deputy Secretary
DOT 360 Deputy Assistant Secretary for Budget and Programs to the

Assistant Secretary for Budget and Programs
DOT 361 Senior Congressional Liaison Officer to the Director, Office of Congressional Affairs

Section 213.3395 Federal Emergency Management Agency

FEMA 53 Deputy Chief of Staff to the Director, Federal Emergency Management Agency
FEMA 55 Assistant to the Director for Special Events to the Director, Federal Emergency Management Agency
FEMA 56 Director of Corporate Affairs to the Director, Federal Emergency Management Agency
FEMA 57 Special Assistant for Northridge Transition to the Deputy Chief of Staff, Office of the Director
FEMA 58 Director, Office of Public Affairs to the Director, Federal Emergency Management Agency
FEMA 59 Policy Advisor for Congressional and Legislative Affairs to the Director, Office of Congressional and Legislative Affairs
FEMA 61 Advisor for Intergovernmental Affairs to the Director, Office of Intergovernmental Affairs

Section 213.3396 National Transportation Safety Board

NTSB 1 Special Assistant to the Chairman
NTSB 4 Special Counsel to the Managing Director
NTSB 30 Confidential Assistant to the Chairman
NTSB 31 Family and Government Affairs Specialist to the Director, Office of Government, Public, and Family Affairs
NTSB 92 Special Assistant to the Managing Director
NTSB 102 Special Assistant to a Member
NTSB 105 Confidential Assistant to the Chairman
NTSB 106 Director, Office of Governmental Affairs to the Director, Office of Government, Public and Family Affairs
NTSB 107 Special Assistant to the Director, Office of Government, Public, and Family Affairs

Section 213.3397 Federal Housing Finance Board

FHFB 5 Special Assistant to the Chairman
FHFB 6 Counselor to the Chairman

Senior Level Schedule C Positions (Above GS–15)

Section 213.3397 African Development Foundation

Vice President to the President

Section 213.3342 Export-Import Bank

Senior Advisor to the President and Chairman and Board of Directors
Vice President for Communications to the President and Chairman
General Counsel to the President and Chairman
Special Counsel to the President and Chairman
Vice President and Counselor to the President and Chairman
Vice President for Congressional and External Affairs to the President and Chairman

Section 213.3382 National Endowment for the Arts

Executive Director, President's Commission on the Arts and Humanities

Section 213.3343 Farm Credit Administration

Executive Assistant to a Board Member
Executive Assistant to a Board Member
Director, Congressional and Public Affairs, to the Chairman
Executive Assistant to a Board Member

Section 213.3393 Pension Benefit Guaranty Corporation

Executive Director to the President
Deputy Executive Director and Chief Negotiator to the Executive Director
Deputy Executive Director and Chief Financial Officer to the Executive Director
Senior Advisor to the President

Section 213.3333 Federal Deposit Insurance Corporation

General Counsel to the Chairman
Deputy to the Chairman

Section 213.3305 Department of the Treasury

Special Assistant to the Commissioner, Internal Revenue Service

Office of Thrift Supervision

Executive Director, External Affairs to the Director

Section 213.3357 National Credit Union Administration

Executive Assistant to a Board Member
Executive Assistant to a Board Member
Executive Assistant to the Chairman
Director of Community Development Credit Unions to the Board
Executive Director to the Board

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–22916 Filed 9–2–99; 8:45 am]

BILLING CODE 6325–01–P

Friday
September 3, 1999

Part III

Nuclear Regulatory Commission

10 CFR Part 51

Changes to Requirements for Environmental Review for Renewal of Nuclear Power Plant Operating Licenses; Final Rules

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

RIN 3150–AG05

Changes to Requirements for Environmental Review for Renewal of Nuclear Power Plant Operating Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations on the environmental information required in applications to renew the operating licenses of nuclear power plants. This amendment expands the generic findings about the environmental impacts due to transportation of fuel and waste to and from a single nuclear power plant. Specifically, this amendment adds to findings concerning the cumulative environmental impacts of convergence of spent fuel shipments on a single destination, rather than multiple destinations, and the environmental impact of transportation of higher enriched and higher burnup spent fuel during the renewal term. The effect of this amendment is to permit the NRC to make a generic finding regarding the impacts so that an analysis of these impacts will not have to be repeated for each individual license renewal application. This action reduces the regulatory burden on applicants for license renewal by replacing individual plant operating license renewal reviews with a generic review of these topics. Also, this amendment incorporates rule language to be consistent with the findings in NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants'' (May 1996), which addresses local traffic impacts attributable to continued operation of the nuclear power plant during the license renewal term.

In analyzing the environmental impact of transporting spent fuel and waste in the vicinity of a single repository, the NRC evaluated the impact in the vicinity of Yucca Mountain and specifically the impacts in the vicinity of Las Vegas, NV. The NRC elected to evaluate the impacts in the vicinity of Yucca Mountain because Yucca Mountain is the only location currently being evaluated for a repository under the Nuclear Waste Policy Act. The NRC's analysis of the impacts in the vicinity of Yucca Mountain in this instance does not prejudge the eventual licensing of Yucca Mountain as a repository. Rather, it reflects NRC's existing license renewal process by reflecting current repository activities and policies. If an application is filed by the Department of Energy (DOE), the licensing process for a repository in the vicinity of Yucca Mountain will constitute an entirely separate regulatory action from the proposed final rule. Furthermore, if, based on technical or national policy considerations, some site other than Yucca Mountain is selected in the future for study as a repository, the NRC will evaluate the applicability of the generic environmental impact statement for the license renewal process to other proposed repository sites.

EFFECTIVE DATE: October 4, 1999.

FOR FURTHER INFORMATION CONTACT: Donald P. Cleary, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3903; e-mail: DPC@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1996 (61 FR 28467), the Commission published in the **Federal Register** a final rule amending its environmental protection regulations in 10 CFR part 51 to improve the efficiency of the process of environmental review for applicants seeking to renew a nuclear power plant operating license for up to an additional 20 years. The rulemaking was based on the analyses reported in the final report of NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants'' (GEIS) (May 1996). The rulemaking drew on the considerable experience of operating nuclear power plants in order to generically assess many of the environmental impacts, so that repetitive reviews of issues whose impacts are well understood could be minimized. In the statement of considerations accompanying the final rule, the Commission stated that before the final rule became effective, the Commission was seeking comments on the treatment of low-level waste (LLW) storage and disposal impacts, the cumulative radiological effects from the uranium fuel cycle, and the effects from the disposal of high-level waste (HLW) and spent fuel. In response to the June 5, 1996, final rule, a number of commentors stated that the requirements for the review of transportation of HLW in the rule were unclear with respect to (1) the use and legal status of 10 CFR 51.52, ''Table S–4— Environmental Impact of Transportation of Fuel and Waste To and From One Light-Water-Cooled Nuclear Power Reactor,'' in plant-specific license renewal reviews; (2) the conditions that must be met before an applicant may adopt Table S–4; and (3) the extent to which the generic effects of transporting spent fuel to a HLW repository should be considered in a plant-specific license renewal review.

After considering the comments received on the rule, the Commission republished the rule in the **Federal Register** on December 18, 1996 (61 FR 66537). The rule at 10 CFR 51.53(c)(3)(ii)(M) continued to require, ''The environmental effects of transportation of fuel and waste shall be reviewed in accordance with 10 CFR 51.52.'' However, in response to comments received, the following requirement was added:

> The review of impacts shall also discuss the generic and cumulative impacts associated with transportation operation in the vicinity of a high-level waste repository site. The candidate site at Yucca Mountain should be used as a representative site for the purpose of impact analysis as long as that site is under consideration for licensing.

Also in response to the comments, the Commission stated that:

> As part of its effort to develop regulatory guidance for this rule, the Commission will consider whether further changes to the rule are desirable to generically address: (1) the issue of cumulative transportation impacts and (2) the implications that the use of higher burnup fuel have for the conclusions in Table S–4. After consideration of these issues, the Commission will determine whether the issue of transportation impacts should be changed to Category 1.[1]

In SECY–97–279, titled ''Generic and Cumulative Environmental Impacts of Transportation of High-Level Waste (HLW) in the Vicinity of a HLW Repository,'' dated December 3, 1997, the NRC staff informed the Commission that it was the staff's preliminary view that its supplemental analyses of the generic and cumulative impacts of the transportation of HLW and of the implications of higher burnup fuel for transportation impacts support a reasonable technical and legal determination that transportation of HLW is a Category 1 issue and may be generically adopted in a license renewal application. In a Staff Requirements Memorandum (SRM) dated January 13,

[1] In NUREG–1437 and in the rule, Category 1 issues are those environmental issues for which the analysis and findings have been determined to be applicable to all nuclear power plants or to plants with specific types of cooling systems or other common plant or site characteristics. Absent new information that significantly changes the finding, these generic findings may be adopted in plant license renewal reviews. Category 2 issues are those that analysis has shown that one or more of the criteria of Category 1 cannot be met and, therefore, additional plant-specific review is required.

1998, the Commission directed the NRC staff to proceed with rulemaking to amend 10 CFR 51.53(c)(3)(ii)(M) to categorize the impacts of transportation of HLW as a Category 1 issue. In a memorandum dated July 1, 1998, the NRC staff informed the Commission of its plans for amending 10 CFR part 51.

In that memorandum the NRC staff also proposed, as an administrative amendment, to address local traffic impacts attributable to continued operation of the plant during the license renewal term. This issue was identified as a Category 2 issue in NUREG–1437, Section 4.7.3.2 and the overall issue of transportation was designated as Category 2 in the rule (see 10 CFR Part 51, Subpart A, Appendix B, Table B–1, ''Public Services, Transportation''). However, the specific issue of local transportation impacts during the renewal term was inadvertently omitted from 10 CFR 51.53(c)(3)(ii)(J) and its inclusion in Table B–1 is not explicitly stated. The basic transportation concern identified in NUREG–1437 is the potential adverse contribution of a larger plant work force to traffic flow in the vicinity of the power plant.

To address the above issues, the Commission issued proposed amendments to 10 CFR part 51 on February 26, 1999 (64 FR 9884), and provided a public comment period of 60 days. The supplemental analysis, which supports this rule, is reported in NUREG–1437, Vol. 1, Addendum 1, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Main Report Section 6.3—'Transportation,' Table 9.1 'Summary of findings on NEPA issues for license renewal of nuclear power plants,' Final Report.'' The draft for comment was published in February 1999 and the final report is expected to be published in August 1999.

The public comment period closed on April 27, 1999. Extensive public comments were received, including concerns by some commentors about the length of the comment period. Although the NRC did not extend the public comment period, the NRC staff did consider comments dated as late as June 25, 1999, and received as late as early July 1999. The NRC staff's responses to the comments are provided below. As explained in more detail below, the comments have led to both the use of more conservative assumptions in the analysis reported in Addendum 1 and a fuller explanation of the analysis. The regulatory text has been edited for clarification but there is no material change from the proposed rule.

Discussion

Relationship of This Rulemaking to Repository Licensing

The NRC is promulgating this rule in order to meet its National Environmental Policy Act (NEPA) responsibilities to consider the environmental impact of its license renewal decisions. In 1996 (61 FR 28467 and 61 FR 66537), the NRC published a rule that codified conclusions regarding the environmental impacts of license renewal (see 10 CFR part 51, Appendix B to subpart A). The amendment issued in the present Notice constitutes a relatively small addition to those previously published conclusions. In particular, as discussed above, this amendment ensures among other things that the NRC has considered the likely impacts of transporting spent fuel generated during the license renewal period over a single transportation corridor in the vicinity of a waste repository.

Because the Yucca Mountain site in Nevada currently represents the most likely candidate for a repository, the NRC has used that site as a representative site for its analysis in lieu of considering transportation to an unspecified, hypothetical site. The decision to use Yucca Mountain for the purposes of the current analysis, however, in no way increases or decreases the likelihood that Yucca Mountain will in fact be licensed as a repository for the nation's high level waste. Instead, it simply provides the NRC with the information it needs to gauge the potential impacts from licensing nuclear power plants for an additional 20 year period. If an application is filed by the Department of Energy (DOE), the licensing process for a repository in the vicinity of Yucca Mountain will constitute an entirely separate regulatory action from this final rule. Any NRC decision on a repository license will be accompanied by separate safety and environmental analyses that will include a thorough examination of the environmental impacts stemming from the construction and operation of the repository. If the analyses prepared for the repository licensing decision yield results that are inconsistent with those reached in the present notice, it is likely that the NRC will have to amend the conclusions in Table B–1 of Part 51 to conform with the new findings.

Amendments to the Rule

The current regulations require each applicant for license renewal to review the environmental effects of transportation of fuel and waste in accordance with 10 CFR 51.52, and to discuss the generic and cumulative impacts associated with transportation in the vicinity of the candidate HLW repository site at Yucca Mountain (see 10 CFR 51.53(c)(3)(ii)(M)). The NRC staff has performed a generic assessment of these cumulative impacts, which is reported in NUREG–1437, Vol. 1, Addendum 1. The analysis focused on Clark County, Nevada because it represents the area with the largest population in the vicinity of the potential repository. The final rule codifies the conclusions of this analysis in 10 CFR Part 51. In addition, the NRC staff has generically considered the potential impacts of transporting higher enriched and higher burnup fuel than is currently covered in 10 CFR 51.52 and is codifying these findings with this final rule. That assessment concludes that the impacts of transporting fuel and waste generated during the license renewal period are small and are consistent with the impacts of the values in Table S–4 of the Commission's regulations (§ 51.52). Under the Commission's regulations for the environmental review of license renewal decisions (see 10 CFR part 51, subpart A, appendix B), the Commission may reach a conclusion of ''small'' impact for a particular issue if the:

> * * * environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource. For the purposes of assessing radiological impacts, the Commission has concluded that those impacts that do not exceed permissible levels in the Commission's regulations are considered small as the term is used in this table.

The final rule amends the issue of transportation of fuel and waste from Category 2 to Category 1. In order to reach this Category 1 conclusion on an issue and thus not require site specific analysis of the issue pursuant to § 51.53(c)(3)(i), the Commission has made the following findings in accordance with the definitions set out in 10 CFR Part 51, Subpart A, Appendix B:

(1) The environmental impacts associated with the issue have been determined to apply either to all plants or, for some issues, to plants having a specific type of cooling system or other specified plant or site characteristic;

(2) A single significance level, in this case ''small'' has been assigned to the impacts (except for collective off site radiological impacts from the fuel cycle

and from high level waste and spent fuel disposal [2]); and

(3) Mitigation of adverse impacts associated with the issue has been considered in the analysis, and it has been determined that additional plant-specific mitigation measures are likely not to be sufficiently beneficial to warrant implementation.

As a result of this Category 1 finding, neither applicants nor the NRC staff will need to prepare a separate analysis of the issue for individual license renewal applications as long as no new and significant information exists. The analysis in NUREG–1437, Vol. 1, Addendum 1 which forms the technical basis for the rulemaking, relies on a series of conservative assumptions. As such, the results of the analysis overestimate the environmental impacts of spent fuel shipments converging on one location, such as Yucca Mountain. Although the NRC staff has assessed these impacts as if Yucca Mountain would be the only HLW repository, the NRC staff believes that the impacts calculated for Yucca Mountain bound the impacts that would be experienced for a site other than Yucca Mountain. It is unlikely that any other repository site would have an exposed population greater than that assumed for Las Vegas and it is unlikely that spent-fuel shipments from all points of origin converge on and are transported through one metropolitan area. If an alternative to a high level waste repository at Yucca Mountain is considered in the future, the NRC may need to determine whether such an alternative includes new and significant information that may change the regulatory outcome.

In addition to considering the cumulative impacts of transportation in the vicinity of a repository, the NRC also considered whether use of higher burnup or higher enriched fuel that is shipped to a repository results in impacts consistent with the NRC regulations (§ 51.52,'Table S–4—Environmental Impact of Transportation of Fuel and Waste To and From One Light-Water-Cooled Nuclear Power Reactor'). The environmental consequences of incremental increases in the burnup of fuel and the associated use of higher enrichment fuel are discussed in Section 6.2.3 of NUREG–1437. Section 6.2.3 addresses the sensitivity of the data presented in Table S–3 and Table S–4 to the growing use of higher enriched fuel and higher fuel burnup. Table S–3 summarizes natural resource use and effluents to the environment for the uranium fuel cycle, from mining to ultimate disposal of spent fuel. The discussion of the implications for the environmental impact data reported in Table S–4 was not repeated or referenced in Section 6.3, which addresses the incremental impacts of license renewal on the transportation of fuel and waste to and from nuclear power plants. Addendum 1 and this final rule clarify the NRC findings on the sensitivity of values in Table S–4 to the use of higher enrichment fuel and higher burnup fuel presently in use. The analysis concludes that shipment of higher enriched or higher burnup fuel results in impacts consistent with the impacts in Table S–4, 10 CFR 51.52. It should be noted that cask designs used to transport or store higher enriched fuel and higher burnup fuel require specific NRC review and approval.

In the course of preparing the final rule, several non-substantive changes to the wording and organization of the regulatory text were made in order to maintain the rule's internal consistency. First, the content of the proposed language in § 51.53(c)(3)(ii)(J) regarding local transportation impacts in the vicinity of the licensed plant was also placed into Table B–1 under ''Public Services, Transportation'' under the Socioeconomics section of the Table. Similarly, the proposed language in § 51.53(c)(3)(ii)(M) has not been included in the final rule because the matters covered by § 51.53(c)(3)(ii) only apply to Category 2 issues and, as such, the inclusion of matters related to a Category 1 issue in that section would not have been appropriate. Instead, the content of the language that had been proposed for § 51.53(c)(3)(ii)(M) is adequately covered by the amended entry in Table B–1 itself under the issue of ''Transportation'' in the Uranium Fuel Cycle and Waste Management section.

Response to Comments

Thirty-one comment letters were received on the proposed rule from power reactor licensees, State and local Government agencies, the nuclear power industry and its legal affiliations, a public interest group, and an individual. Most of the comments were from the State of Nevada, Clark and Nye Counties, Nevada, and local government entities in Nevada. These comments focused on the NRC not involving Nevada in scoping and designing the study in Addendum 1 and on perceived deficiencies in the scope and thoroughness of the analysis in the Addendum. The State of Utah also submitted extensive comments that focused on concerns with the scope and thoroughness of the supporting analysis in Addendum 1, including the lack of consideration of the proposed Private Fuel Storage Facility at Skull Valley, Utah. Industry comments focused on clarifications in the rule language.

The written comments have been summarized and grouped into issue categories. As a result of the NRC staff's review of all written comments, some modifications and clarifications have been incorporated into Addendum 1—notably, the use of more conservative assumptions in the analyses and a fuller explanation of those analyses. In addition, the rule language has been edited for clarification. The NRC staff has also prepared responses, given below, to the issues raised by the commentors.

Issue 1—Public Notice

Comment: The titles of the notices published in the **Federal Register** were inaccurate and misleading because they do not clearly indicate the subject matter of the proposed rule and Addendum 1 that addresses transportation of spent nuclear fuel.

Response: The NRC believes that the titles properly reflect the regulatory action being taken. As required by NRC regulations,[3] a notice of the proposed rule and a Notice of Availability of Addendum 1 were published in the **Federal Register** (64 FR 9884 and 64 FR 9889, February 26, 1999). While the notice's title did not include the specific term ''transportation,'' the titles define the subject matter of the regulation to be affected; the title of the proposed rule is ''Changes to Requirements for Environmental Review for Renewal of Nuclear Power Plant Operating Licenses.'' The title of the Notice of Availability is ''Changes to Requirements for Environmental Review for Renewal of Nuclear Power Plant Operating Licenses, Availability of Supplemental Environmental Impact Statement.'' Addendum 1 supplements specific sections of NUREG–1437, Generic Environmental Impact Statement for License Renewal of Nuclear Plants (May 1996). This limited function is indicated by the title of Addendum 1, Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Main Report Section 6.3—''Transportation,'' Table 9.1 ''Summary of findings on NEPA issues

[2] This exception only applies to the two entries in Table B–1 labeled ''Offsite radiological impacts (collective effects)'' and ''Offsite radiological impacts (spent fuel and high level waste disposal).

[3] 10 CFR 2.804, ''Notice of proposed rulemaking'' and 10 CFR 51.117, ''Draft environmental impact statement'notice of availability.''

for license renewal of nuclear power plants,'' Draft Report for Comment.

The rule change and the supporting Addendum 1 affect only the plant-specific environmental analysis required to be submitted in the Environmental Report of an applicant for the renewal of a nuclear power plant operating license and the plant-specific supplemental environmental impact statement prepared by the NRC. Even though the analysis in Addendum 1 focuses on spent-fuel shipments converging on the proposed repository at Yucca Mountain, Nevada, that analysis and the resulting rule affect only the review requirements for renewal of an individual nuclear power plant operating license. It is not intended that Addendum 1 or the revised rule support any other regulatory decision by the NRC.

Issue 2—Communications

Comment: NRC failed to consult with Nevada State agencies, Nevada local governments, and with Nevada Indian Tribes.

Response: As discussed above, a variety of organizations and government agencies submitted substantive comments in response to the proposed rule. The NRC has considered these comments and, in many cases, altered its analysis as a result of this input. Prior to issuance of the proposed rule for comment, however, the NRC did not seek any pre-publication input from Nevada state agencies, Nevada local Governments, and Nevada Indian Tribes for the following reasons. First, the rule involves a narrow aspect of the environmental review of individual nuclear power plant license renewal decisions, which is a regulatory decision completely separate from the regulatory requirements that will guide the NRC licensing review of a HLW repository and from the decision process leading to a DOE site recommendation on Yucca Mountain, Nevada, the site DOE currently has under study. This rule amends the December 18, 1996, rule with respect to two questions not adequately answered:

1. Are the current environmental impact values in Table S–4, based on several destinations, still reasonable to incorporate in a license renewal review that assumes a single destination for spent fuel at Yucca Mountain, Nevada?

2. Are the current environmental impact values in Table S–4 (which are based on fuel enriched to no greater than 4 percent, the average level of irradiation of spent fuel not exceeding 33,000 MWd/MTU, and shipment no less than 90 days after discharge from the reactor) still reasonable to incorporate in a license renewal review of plants that may use fuel enriched up to 5 percent and potentially ship spent fuel with a burnup of up to 62,000 MWd/MTU?

The amendment has no direct regulatory impact on any entity within Nevada. The selection of Yucca Mountain for the generic evaluation of transportation impacts was made because that site is currently the only one under consideration for a high-level-waste (HLW) repository. Before HLW is actually transported to Yucca Mountain, Nevada, the State, local Governments, Indian Tribes, and the public have the opportunity to provide input on site-specific transportation impacts by commenting on DOE's draft EIS for the proposed repository at the Yucca Mountain site, which was made available for a 180-day comment period beginning on August 13, 1999 (http://www.ynp.gov).

Also, the need for and scope of the current rule amendment were identified within the context of a preceding rulemaking that specified the plant-specific content of the environmental review of applications for the renewal of individual nuclear power plant operating licenses. The previous final rule was published in the **Federal Register** first on June 5, 1996 (61 FR 28467), and again with minor modifications on December 18, 1996 (61 FR 66537). The Commission stated in the December **Federal Register** notice, ''as part of its efforts to develop regulatory guidance for this rule, the Commission will consider whether further changes to the rule are desirable to generically address: (1) The issue of cumulative transportation impacts and (2) the implications that the use of higher burn-up fuel have for the conclusions in Table S–4. After consideration of these issues, the Commission will determine whether the issue of transportation impacts should be changed to Category 1.''

Issue 3—Transportation Analysis

Comment: NRC failed to consult relevant Yucca Mountain transportation risk and impact studies.

Response: The publications cited by commentors have been reviewed for information that may be of direct use within the limited focus and purpose of the current rule. Most of the information in these documents was found to be potentially more relevant to a detailed site-specific review of Yucca Mountain than to the generic analysis for this rule. That information has been brought to the attention of those organizational units within the NRC responsible for activities relating to DOE's study on the Yucca Mountain site so they can appropriately consider the information in any future prelicensing activities involving Yucca Mountain. Specific to the current rule, the demographic data used as inputs to the RADTRAN computer code, which was used to generate the impact analysis in Addendum 1 were more current than data used in many of the studies cited by the commentors.

Comment: NRC failed to consult the full spectrum of transportation mode and route scenarios.

Response: The purpose of this rule and associated analysis is to reach conclusions regarding the likely environmental impact of license renewal. As noted above, this amendment is an addition to generic assessments of license renewal environmental impacts already codified in the Commission's regulations at 10 CFR part 51, subpart A, appendix B. It is not an environmental impact statement for a repository at Yucca Mountain for which DOE is responsible and, as such, does not delve into the expansive range of different transportation modes and route scenarios that would be considered in the context of a decision on Yucca Mountain as the possible site for the facility itself. Instead, the NRC has sought to determine a conservative estimate of the likely impacts from transporting fuel and waste generated, during the license renewal term, in the vicinity of a potential repository. In doing so, the NRC considered only those transportation modes and route scenarios that would likely result in the greatest impacts. For the proposed rule, the NRC staff—in consultation with the DOE staff—determined that truck shipments through densely populated areas of Clark County, Nevada, would have the highest potential impacts among the alternative transportation scenarios and modes that would receive serious consideration in decisions relating to the suitability of the site undergoing study for a repository at Yucca Mountain. The NRC continues to believe that using these route scenarios and modes to generate conservative estimates is reasonable for the purpose of this rulemaking.

Comment: There was insufficient consideration of routine transportation radiological risks due to use of an average dose rate lower than the regulatory limit.

Response: The RADTRAN analysis reported in the final Addendum 1 has been modified to use the most conservative assumption that the radiation levels for all shipments are at the regulatory limit of 0.1 mSv/hour [10

mrem/hour] at 2 m [6.6 ft] from the shipment vehicle surface. As noted in Section 2.2.3 of Addendum 1, this assumption is sufficiently conservative to bound the analysis of routine transportation radiological risk and allow a reasonable assessment of that risk. Actual average radiation levels and associated doses would be much lower because shipments must be designed so that the regulatory limits are not exceeded. The use of the regulatory limits in the revised analysis results in higher dose estimates for incident-free transportation. However, these revised estimates are still small as defined in 10 CFR Part 51, Subpart A, Appendix B. Consequently, the conclusion regarding the radiological risks of routine transportation remains valid.

Comment: There was insufficient consideration of routine transportation radiological risks to members of the public residing, working, or institutionally confined at locations near shipping routes.

Response: The analysis encompasses members of the public residing, working, or institutionally confined at locations near shipping routes by assuming that the resident population along the transportation routes is exposed to every shipment. The text of Sect. 2.3 of Addendum 1, has been revised to state this assumption and its effects on the revised analysis more clearly. In addition, more conservative assumptions of truck speed have been used in the revised RADTRAN analysis thus extending the exposure time to individuals along the transportation route. These assumptions further ensure that members of the public cited by the commentors would be encompassed by the dose and risk assessments. As expected, the use of these more conservative assumptions leads to higher estimates of radiation dose to the public. However, these revised dose estimates remain well below regulatory limits for members of the public and small compared to natural background and other sources of radiation exposure.

Several commentors indicated that Addendum 1 should focus on unique and location-specific circumstances of the transportation routes and population centers. However, the analysis in Addendum 1 is generic and was designed to support only the limited scope of the decision regarding this rule change. The NRC believes that the routes chosen represent a conservative analysis due to the higher number of people who live along these routes. Because the purpose of this rule is to provide a generic analysis for the limited purpose of determining the likely impact of transportation during the license renewal term, the large analytical effort required for the identification of specific population locations and traffic circumstances is not warranted within the context of the current rule. Although the comments raise valid issues, those concerns should be resolved within the context of studying, and making decisions concerning, the suitability of the candidate repository site at Yucca Mountain and regulatory requirements governing transportation of spent fuel.

Comment: There was insufficient consideration of radiological risks resulting from traffic gridlock incidents.

Response: Traffic gridlock incidents are not specifically analyzed in NUREG–1437 because of the limited scope and generic nature of the analysis (see response to comment on consideration of risks to members of the public, above). However, the revised RADTRAN analysis conservatively includes approximately two hours of stationary time in Clark County (during a 100 to 140 mile trip depending upon the route) for each truck shipment; and traffic gridlock could be one of the reasons for the truck being stationary.

To a limited extent, the incorporation of more conservative assumptions of truck speed into the revised RADTRAN analysis compensates for an analysis of traffic gridlock by allowing for increased exposure time at any given point during transport. As noted earlier, these revised assumptions lead to higher but still small dose estimates. In addition, the routes used in the analysis in Addendum 1 were deliberately chosen to maximize estimated dose. Actual routes would be less likely to have significant areas where traffic gridlock occurs. The selection of the actual routes, for example, would comply with the U.S. Department of Transportation's Federal Highway Administration regulations (49 CFR Part 397, Subpart D) that require minimizing the time in transit (i.e., avoiding periods of great traffic congestion) for routing radioactive shipments.

Comment: There was insufficient consideration of routine transportation radiological risks to vehicle inspectors and escorts.

Response: The RADTRAN analysis in the revised Addendum 1 uses the regulatory dose rate limit of .02 mSv/hour (2 mrem/hour) for the vehicle crew. In addition, a discussion of potential doses to escorts has been included in Addendum 1, Section 2.2.3. In the analysis, both the escorts and drivers are assumed to be exposed to the regulatory limit, although the dose to the escorts would realistically be less than that to the drivers. Even with these more conservative assumptions, the estimated dose and risk to the crew are small and below regulatory limits.

The risk to vehicle inspectors would be encompassed by the addition of stationary time for the transport truck in Clark County (see response to comment about traffic gridlock, above). Again, the estimated dose and risk are increased by the use of more conservative assumptions; but they remain small and below regulatory limits.

Comment: There was insufficient consideration of severe transportation accident risks.

Response: The Commission has evaluated the potential radiological hazards of severe transportation accidents involving truck and rail spent nuclear fuel (SNF) shipments (NUREG/CR–4829, ''Shipping Container Response to Severe Highway and Railway Accident Conditions'' February 1987, commonly referred to as the modal study). The modal study evaluated SNF shipping casks certified to NRC standards against thermal and mechanical forces generated in actual truck and rail accidents. This evaluation included an assessment of cask performance for a number of severe transportation accidents, including the Caldecott Tunnel fire. The modal study concluded that there would be no release in 994 of 1,000 real accidents, and that a substantially lower fraction of accidents could result in any significant release. These results when combined with the probability of a severe accident involving a shipment of SNF, demonstrate that the overall risk associated with severe accidents of SNF shipping casks is very low. The results of the modal study were factored into the analysis for this rulemaking, as an input to the RADTRAN computer code. Additional analyses were performed to address the possible impacts of accidents involving higher burnup fuel.

The consequences associated with an individual SNF shipment have an upper bound, based on the amount of material in the package, the availability of mechanisms to disperse the radioactive contents, the locations and number of receptors, and post-event intervention than would occur. Further, this upper bound in transit might reasonably be expected to be less than that at the origin or destination points (where more SNF would be stored), and some events themselves might be expected to have greater consequences than the damage they cause to the SNF cask. The NRC recognizes that there are some conceivable events (not necessarily traditional 'transportation accidents'), that might be hypothesized to occur to a SNF cask while in transport. Even

though these events have an extremely low probability of occurring, they might result in high consequences if they were to occur. The NRC considers these events to be remote and speculative and thus, does not call for detailed consideration. Because the NRC traditionally considers risk to be the product of the probability of an event and its resultant consequences, events with such low probability of occurring have a negligible contribution to the overall risk. In addition, as the probabilities of the events become very low, the value of insights to be gained, for use in regulatory decisions, is not apparent.

Comment: The study underestimates Clark County's residential population and growth rate. In addition, the study does not account for the large nonresident population, resulting in underestimates of risk and impacts.

Response: In keeping with the generic nature and limited intent of the analysis, the original analysis used best available data and best estimates of existing population and population growth rates. In response to commentors' concerns and to reflect the potentially large population growth rate of Clark County, the NRC staff has incorporated higher population estimates into the analysis to provide conservative (higher than best estimate) assessments of potential impacts. However, as indicated by the comment, the task of estimating the impacts on the area population is more complex than assuming a population growth rate. Both the rate of growth of the population and changes in location of the population within the county are important. As stated in Addendum 1, populations within a half mile of the transportation route are the most affected by the transportation activities. Therefore, in order to ensure that the size of the affected population is conservative, the NRC staff's analysis not only increases over time the existing population densities along the assumed transportation routes, but also forecasts increased residential, business, and transient/tourist populations in the areas of likely development.

Issue 4—Cumulative Impacts

Comment: NRC failed to consider cumulative impacts of all spent fuel, HLW, and low-level-waste shipments.

Response: Table S–4 shows the environmental impacts of transportation of fuel and waste directly attributable to one nuclear power plant. The current rulemaking was narrowly focused on the question of whether the impact values given in Table S–4 would be different with spent fuel shipments converging on one destination, Yucca Mountain—the candidate site under study by DOE for a repository, rather than several destinations. Table S–4 does not consider non-commercial power reactor shipments of fuel and waste. Nevertheless, a discussion of the cumulative impacts of transporting spent fuel, HLW, and low-level waste through southern Nevada has been added to Addendum 1 (Section 2.4). To estimate the potential cumulative effects of DOE shipments of LLW to the Nevada Test Site as well as shipments of HLW to a possible repository, the NRC staff used information published in DOE's Waste Management Programmatic EIS (DOE/EIS–0200—F) May 1997. To ensure that cumulative impacts are not underestimated, the NRC staff selected alternatives in the EIS that led to the highest numbers of shipments to the Nevada Test Site and Yucca Mountain. The results of the analysis indicate that the cumulative doses and expected cancer fatalities resulting from the civilian SNF and the DOE shipments are small compared to the risk of cancer from other causes.

Comment: Commentors stated that cumulative impacts along the Wasatch Front must be considered.

Response: The State of Utah maintains that a study similar to the one conducted for Las Vegas and Clark County must be conducted for the cumulative impacts along the Wasatch Front that would originate from the proposed Private Fuel Storage Facility to be located at Skull Valley, Utah. Such an analysis is beyond the scope of this generic rulemaking because the Commission directed that cumulative impacts attributed to transportation be analyzed only in the vicinity of Yucca Mountain. However, the NRC is currently reviewing a site-specific application for construction and operation of the proposed Private Fuel Storage Facility at Skull Valley in a separate regulatory action. A site-specific study of the cumulative impacts of transportation is part of that review. The study will be reported in a draft Environmental Impact Statement to be published for public comment. Its availability will be noticed in the **Federal Register**.

Issue 5—Legal Requirements

Comment: NRC failed to conduct a legally sufficient risk assessment. Use of a model such as RADTRAN is not in and of itself sufficient to meet the requirements of the National Environmental Policy Act. The NRC must consider consequences of low-probability, high-consequence accidents not included in RADTRAN, including unique local conditions, unforeseen events, sabotage, and human error in cask design. The NRC should adopt the comprehensive risk assessment approach for SNF and HLW transportation described in Golding and White, Guidelines on the Scope, Content, and Use of Comprehensive Risk Assessment in the Management of High-Level Nuclear Waste Transportation (1990).

Response: See the response above regarding consideration of severe accident risk (low probability, high consequence accidents) during transportation.

The NRC's regulatory program will continue to ensure that the risk of severe transportation accidents are minimized. Physical security for spent fuel transportation is regulated under 10 CFR 73.37. The regulatory philosophy is designed to reduce the threat potential to shipments and to facilitate response to incidents and recovery of packages that might be diverted in transit. Although the analysis supporting the current rule does not account for the potential for human error, activities related to the design, fabrication, maintenance, and use of transportation packages are conducted under an NRC-approved Quality Assurance Program. This helps to provide consistency in performance and helps reduce the incidence of human error. While a location-specific transportation risk assessment is included in the DOE EIS for the decisions relating to a possible Yucca Mountain repository, the NRC staff believes that the analysis conducted for this rulemaking provides an adequate consideration of the impacts from license renewal. Further, through its regulatory, licensing, and certification functions, the NRC has tried to ensure that transportation of SNF is performed safely with minimum risk to the public, and that vehicle crashes while transporting SNF do not result in severe accidents. Similarly, DOE is expected to ensure that the routes and procedures chosen for SNF transport to the repository provide ample protection of the public health and safety and the NRC reviews and approves the selected routes.

The analysis in Addendum 1 shows that even with conservative assumptions, the cumulative radiological and non-radiological accident risks of SNF transport in Clark County are small. However, there are a number of opportunities to further reduce human health impacts. These include transporting SNF by rail rather than by truck. This would reduce human health effects by reducing the number of shipments and the likelihood

of accidents. In addition, shipping SNF via the proposed beltway would reduce health impacts compared to shipping via the current interstate highway system. The implementation of such mitigative measures must await future decisions that fall well outside of the scope of this rulemaking. In addition, for the purposes of individual license renewal rule decisions, no plant specific mitigation measures were found appropriate for addressing the impacts identified in the Addendum. The NRC staff notes that DOE addresses transportation impacts, mitigation measures, and alternative transportation modes in its EIS for the proposed repository at Yucca Mountain.

Issue 6—Socioeconomics

Comment: NRC failed to consider socioeconomic impacts.

Response: Several commentors raised an issue of public perception of risk of waste shipments and its effect on tourism and property values. Under the National Environmental Policy Act (NEPA), the NRC is obligated to consider the effects on the physical environment that could result from the proposed action. Effects that are not directly related to the physical environment must have a reasonably close causal relationship to a change in the physical environment. The Supreme Court ruling in *Metropolitan Edison Co.* v. *People Against Nuclear Energy*, 460 U.S. 766 (1983) has narrowly circumscribed, if not entirely eliminated, an agency's NEPA obligation to consider impacts arising solely from the public's perception that an agency's action has created risks of accidents. Accordingly, it is not necessary to consider the impacts on tourism and property values from the public's perception of risk.

The socioeconomic impacts of plant refurbishment and continued operation during the renewal period are discussed in the plant-specific supplement to the GEIS for each individual license renewal applicant. The NRC recognizes that there will likely be increased costs in the unlikely event of an accident. However, for the majority of transportation accidents that may occur, the associated costs are small. For the most severe accidents analyzed by the RADTRAN computer code, the costs could be substantial. Given the low probability of such accidents, the socioeconomic impacts of transportation of SNF do not alter the Commission's conclusions regarding the impacts of this issue.

Issue 7—Higher Burnup Fuel

Comment: There was insufficient consideration of extended fuel burnup issues.

Response: Section 3 of Addendum 1 addresses the issues associated with extended fuel burnup in detail. The NRC staff's analysis of higher burnup fuel examined the issues of radiation doses due to higher dose rates during shipment, higher radiation doses in the event of transportation accidents, and the potential for a criticality in the very unlikely event that high burnup fuel geometry is altered during a transportation accident.

The analysis done by the NRC staff concluded that higher burnup fuel would likely cause higher dose rates during transportation and that dose rates following transportation accidents with radiological releases would also increase, all other things being equal. However, despite the increased dose rates the potential impacts on the transport crews and the affected members of the public would still be acceptably small. The analysis of the potential for criticality following a change in fuel geometry as the result of a transportation accident determined that such an event was not a concern.

Issue 8—Environmental Justice

Comment: NRC failed to consider Environmental Justice.

Response: The analysis suggests that the routes through downtown Las Vegas, Nevada may run through areas containing a higher proportion of low-income and minority groups than the beltway routes. However, as discussed in Sections 2.3 and 2.4 Addendum, the radiological and nonradiological impacts of transportation of SNF are small. In addition, these small impacts are dispersed throughout the entire routes and do not appear to fall disproportionately in any one area. Based on the analysis performed the NRC staff concludes the overall impacts of transportation of SNF will not likely be disproportionately high or adverse for any minority or low-income population.

Issue 9—Regulatory Text

Comment: Several suggestions for clarifying the regulatory text were offered.

Response: The rule has been revised to make it clear that the environmental impact values in Table S–4 (10 CFR 51.52) may be used to account for the environmental effects of transportation of fuel and waste to and from a nuclear power plant at a repository such as Yucca Mountain, Nevada, which is under consideration as a HLW repository. If, in the future, Yucca Mountain is removed from consideration as a HLW repository, the Commission will evaluate whether the generic analysis performed for the current rule is applicable to other sites that are considered. If fuel enrichment greater than 5 percent Uranium-235 and fuel burnup of greater than 62,000 MWd/MTU are approved by the Commission, the Commission will consider a rulemaking to assess the continuing generic applicability of Table S–4 to environmental reviews for license renewal.

Comment: The addition to the rule of local transportation impacts associated with continued operation of a plant during the license renewal period needs further clarification in the rule language and in the Supplementary Information.

Response: The rule was revised to clarify that the issue of ''Public services, Transportation'' in Table B–1 of Appendix B to Subpart A of 10 CFR Part 51 involves the contribution of highway traffic directly attributable to refurbishment and continued operation of a plant during the license renewal period to changes in the service levels of highways in the vicinity of the plant. The majority of traffic directly attributable to a plant is commuting plant workers.

Comment: Paragraph (M) of 10 CFR 51.53(c)(3)(ii) should be deleted.

Response: The rule language has been amended and Paragraph (M) has been deleted. This change from the proposed rule was necessary in order to provide consistency with 51.53(c)(3)(ii), as this section only deals with Category 2 issues. Since the cumulative impacts of transportation of SNF in the vicinity of Yucca Mountain is no longer a Category 2 issue, inclusion in 51.53(c)(3)(ii) is no longer necessary.

Other Comments

This section addresses the comments that are not encompassed by the issue summaries and responses given above. In addition, some comments were received after the close of the comment period. These comments were reviewed, and most were found to be similar to comments already addressed by the issue summaries and responses. However, the comments that raised new ideas relevant to Addendum 1 are also presented in this section. For these late comments, revisions to Addendum 1 were necessarily minimal.

Comment: Addendum 1 assumes that truck transport would have the highest doses. This assumption is not necessarily valid. Also, a different route that avoids Las Vegas should be

addressed. (A route through Nellis Air Force Base and down US–95 is being considered by DOE and it has been shown to have higher risks of accident fatalities and to increase the radiological risk.) Routes chosen in Addendum 1 do not bound the analysis properly.

Response: The transportation and route scenarios and their underlying assumptions were designed to reflect situations that most likely would result in highest doses in order to bound the analysis properly as the routes chosen for this analysis were the most populated routes in the State of Nevada. Also, as noted in an earlier response, the NRC staff consulted DOE in determining that truck shipments through densely populated areas of Clark County, Nevada, would have the highest potential impacts among the alternative transportation scenarios that would be given serious consideration in decisions relating to the suitability of the site undergoing study for a repository at Yucca Mountain.

The comment that a route from Nellis Air Force Base down US–95 is higher risk than those selected by the NRC staff provided no specific details concerning that assertion. In the NRC staff's view, any route that bypasses major centers of population will have significantly lower radiological impacts. With regard to traffic accident rates, while it may be true that certain routes will have accident rates that are higher than average, the average rates are low enough that modest increases from the average will not significantly change the staff's conclusions.

Comment: SNF from California would go through Las Vegas twice (in route to Skull Valley and subsequently to Yucca Mountain), resulting in increased risk.

Response: If the proposed SNF storage facility is licensed and built, some SNF may go through Clark County on the way to Skull Valley, Utah. The NRC staff has not analyzed this possible impact because it is not clear at this time that the proposed Skull Valley facility will be licensed or that the SNF would go through Las Vegas if the facility were built. In addition, SNF from California makes up only a small fraction of the SNF that would be shipped. The NRC staff concludes that the conservative assumptions used in the analysis more than compensate for minor changes in transportation plans that may develop for that fraction of the total SNF.

Comment: The NRC should provide affected parties with some statement of the regulatory effect of the interrelationships between the numerous other similar analyses.

Response: As a general matter, the National Environmental Policy Act (NEPA) requires all Federal agencies to perform an environmental review for certain actions they propose to conduct. In the context of nuclear waste management, several agencies have regulatory and operational responsibilities which may involve various proposed actions that, in turn, require the preparation of environmental impact statements (EISs). Inevitably, there may be a degree of overlap in the types of impacts discussed in these various EISs. However, the analysis developed by the NRC for the purposes of license renewal is not binding on future actions and associated environmental impact analyses.

The NRC proposed action that has triggered the preparation of this rulemaking and the associated analysis of environmental impact is the agency's responsibility to review applications for the renewal of nuclear power plant licenses. In light of the discrete purpose of this rulemaking, the NRC has sought to gauge the impacts of license renewal given the information currently available on those impacts including the transportation of spent fuel. Even though these impacts do not occur at the plant site during license renewal, the NRC has considered them here pursuant to its NEPA responsibilities.

Future EISs prepared by other agencies on proposed actions in the waste management arena (e.g., any recommendation by DOE on approval of the Yucca Mountain site for development of a repository) will undoubtedly address some of the same impacts covered by the analysis described in this notice. Some of these other impact statements are anticipated to be more detailed given their purpose and the availability of additional information in the future. This, however, does not diminish the adequacy of the NRC's action. This analysis is sufficient for the purpose it serves and it provides the Commission with the information needed to weigh the likely environmental impacts of SNF transportation for individual license renewals applications and reach informed decisions regarding the acceptability of these applications. The rule does not, however, dictate any particular result for future actions taken with regard to a waste repository or other waste management matters. Specifically, any generic conclusions by the Commission concerning the cumulative environmental impacts of transportation associated with nuclear power plants would in no way affect any DOE decision concerning the suitability of Yucca Mountain or any consideration that DOE may give to transportation impacts in making that decision.

Comment: Addendum 1 is not meaningful to the public. For example, it is impossible to determine if the spent fuel isotope inventory shown in the sample pages of the RADTRAN printout matches the fuel considered in the Addendum.

Response: In preparing Addendum 1, the NRC staff has attempted to write to a broad and diverse audience as much as possible. The NRC staff acknowledges that this rulemaking involves complicated, technical issues. However, the NRC staff has attempted to present these matters in the most clear manner possible. Addendum 1 has been revised and Table 2 provides the fuel isotope inventory that can be compared to the sample pages of the RADTRAN computer code printout.

Comment: The study area is inaccurately defined and the location of some cities is incorrectly stated.

Response: During the preparation of Addendum 1, the initial study area selected for analysis emphasized the urban areas in and near Las Vegas. Route selections were based in part on their proximity to those areas, not to county borders. However, in response to public comments, the study area was expanded to include the entire county. Consequently, the ''entry'' point for SNF shipments shifted to cities such as Mesquite.

Comment: Addendum 1 should discuss potential mitigation measures, not rely on the DOE Yucca Mountain EIS for that discussion.

Response: The analysis in Addendum 1 shows that, even with conservative assumptions, the cumulative radiological and non-radiological accident risks of SNF transport in Clark County are small. However, there are a number of opportunities to further reduce human health impacts. These include transporting SNF by rail rather than by truck. This would reduce human health effects by reducing the number of shipments and the likelihood of accidents. In addition, shipping SNF via the proposed beltway would reduce health impacts compared to shipping via the current interstate highway system. The implementation of such mitigative measures must await future decisions that fall well outside of the scope of this rulemaking. In addition, for the purposes of individual license renewal rule decisions, no plant specific mitigation measures were found appropriate for addressing the impacts identified in the Addendum. The NRC notes that DOE addresses transportation

impacts, mitigation measures, and alternative transportation modes in its EIS for the proposed action to develop a repository at Yucca Mountain.

Comment: Addendum 1 does not mention that the proposed repository which is the destination for shipments of spent nuclear fuel is in Nye County.

Response: A statement noting that the proposed Yucca Mountain repository is in Nye County has been added to Addendum 1.

Comment: No statements of baseline conditions are given in Addendum 1.

Response: Addendum 1 uses background and natural radiation levels as the baseline conditions against which dose estimates can be compared. Both are presented in Addendum 1 and are based in large part on information published by the National Council on Radiation Protection and Measurements.

Comment: The analysis in Addendum 1 is limited to human health effects. Other potential impacts should be considered.

Response: Addendum 1 was prepared to provide information regarding a proposed rule to determine whether the transportation of higher enriched, higher burnup fuel to a single destination is consistent with the values of Table S–4. Because the pertinent section of Table S–4 concerns impact values for human health effects, Addendum 1 concentrates on potential cumulative impacts to human health. However, Section 2.3 of Addendum 1 has been revised to look at the potentially most significant non-human health effect which is the potential increase in traffic volume in Clark County as the result of the transportation of SNF. The NRC staff conclusion is that the impacts are small.

Comment: The analysis assumes the use of the large-capacity GA–4/9 truck cask, which has not been certified and must be used in combination with specially designed trucks that have not been tested. It also assumes that these cask and truck systems will be available in sufficient quantity for the shipments. The commentor seeks assurance that the assumed truck cask system is feasible and that DOE's proposed regional service contractor approach would feasiblely result in the use of such a system for all shipments in the potential truck shipment campaign.

Response: The analysis done by the NRC staff assumes that an adequate number of certified casks would be available. Addendum 1 used extremely conservative assumptions regarding SNF shipments and casks to ensure that the analysis would lead to maximum dose estimates. For example, the analysis of incident-free transportation impacts assumes the use of legal-weight trucks for shipment of the SNF, which results in more and smaller shipments. For the accident analysis, the use of the largest-capacity casks was assumed in order to maximize the amount of SNF that would be involved in the accident. These parameters were intended to bound the parts of the analysis, not to describe parts of the actual SNF shipment protocol such as the specific casks that will be used.

Comment: The analysis appears to assume that oldest spent nuclear fuel would be shipped first to the repository. If so, how will institutional measures achieve this sequencing? If they do not, how will the maximum potential radioactive risk in shipment and storage or disposal be addressed?

Response: The spent fuel will be shipped in casks certified by the NRC. In fact, the current practice of NRC issuing certificates of compliance for casks used for shipment of power reactor fuel is to specify 5 years as the minimum cooling period in a certificate.

Comment: Addendum 1 uses national accident rate statistics. State and/or local rates would be more appropriate.

Response: For the analysis of radiological accidents, data specific to Nevada were used in the RADTRAN computer code runs. However, for the analysis of non-radiological accidents, the NRC staff required data regarding not only accident rates but also injury and fatality statistics. Those data were not available except from the U.S. Department of Transportation.

Comment: Water resource supplies within boundaries of the State of Nevada belong to the public. All waters are subject to appropriation for the beneficial use only under state law.

Response: The water resources of the state will be unaffected by the transport of SNF through Clark County.

Comment: Report failed to provide conditions for informed consent which requires disclosure to those affected, their understanding , and voluntary acceptance.

Response: NRC regulations already contain values that the NRC considers to be acceptable environmental impacts from the shipment of SNF and other radioactive waste. In Addendum 1 the NRC staff is, in part, ensuring that the overall impacts of the transportation of the additional SNF that will be generated as the result of nuclear power plant license renewal are bounded, given the best information the NRC staff has at this time, by those values previously found acceptable. The values specified in the regulations are supported by analysis and were adopted into the regulations only after providing opportunity for public comment as part of the NRC's rulemaking process. As such, the NRC has followed all applicable legal requirements and appropriately carried out its responsibility to consider the environmental impacts of its license renewal decision.

Comment: The NRC staff uses ''flawed'' science as evidenced by factors including a questionable definition of risk which fails to account for severe accidents, use of misleading if not false average radiation dose rates, manipulation of dose rate data to obtain acceptable results and lack of empirical data especially that applicable to transportation of SNF.

Response: The decision before the Commission is whether the impacts of license renewal are so severe that they should preclude the option of license renewal. As such, the Commission has considered a reasonable estimate of impacts and not included remote and speculative scenarios that do not add to our regulatory decision (see also response to comment on severe accidents, above).

In the analyses described in Addendum 1 the NRC staff uses dose rates that reflect the applicable regulatory limit rather than average dose rates. Even with these very conservative assumptions for dose rates, transportation modes, transportation routes, and a number of other factors, radiation impacts on the transport crews and the general public were not only found to be within all regulatory limits but small as well and there was no need to adjust the assumptions.

Throughout Addendum 1 the NRC staff discusses the assumptions that were made and where applicable the empirical data used to support those assumptions is referenced. With respect to making judgements about the shipment of spent fuel the NRC staff has the benefit of data from over 40 years of experience in shipping SNF in this country as well as overseas.

Comment: High level waste management and transportation should not be a generic issue and Yucca Mountain should not be used for the study as DOE is behind schedule and it is not an approved site for SNF.

Response: Given that the potential environmental impacts of the transportation of SNF resulting from license renewal are similar for all nuclear power plants who seek to renew their operating licenses, and that the NRC staff's analysis contained in Addendum 1 concludes that the impacts are likely to be small, the Commission feels it is appropriate to reclassify the issue as a Category 1 issue. Use of Yucca

Mountain, Nevada for purposes of the staff's analysis, as the destination of the SNF is appropriate as it is the only site presently under study. It must be emphasized that this generic environmental impact statement is required to make use of the best information available and at this time the assumption that Yucca Mountain is the destination is reasonable for purposes of the staff's analysis. If in the future, conditions change, the assumption made for this analysis may need to be reevaluated.

Comment: Need to consider the intermodal option being considered by Congress for Caliente, Nevada.

Response: The shipment of SNF by rail to Caliente and then transferring it to truck for shipment to Yucca Mountain is one of many options under consideration by DOE. Rather than speculate on which transportation option or options will ultimately be selected, the NRC staff has chosen a mode and routes to Yucca Mountain which in its judgement will have the greatest potential environmental impacts in order to do a bounding analysis for the purpose of this rulemaking.

Comment: The analysis needs to address the impacts of above ground nuclear weapons testing being done at the Nevada Test Site.

Response: For the purposes of considering the environmental impacts of license renewal, there does not appear to be a relevant connection between transportation impacts from civilian SNF and defense related weapons testing at the Nevada test site.

Comment: The analysis relies on assumptions that are 25–30 years old and that have a number of problems including omission of important radionuclides (Iodine-129, Chlorine-36 and Cobalt-60), unrealistic RADTRAN assumptions including inadequate consideration of severe accidents, outdated assumptions from NUREG–0170 and WASH–1238 including the failure to consider the degradation of cladding during extended dry storage, and failure to consider the rail-heavy haul truck option.

Response: With regard to the radionuclides, as indicated in Table 2 of Addendum 1, Cobalt-60 is considered. While both Iodine-129 and Chlorine-36 are long lived, neither is a significant contributor to overall dose. Iodine-129 has a very low specific activity and Chlorine-36 is a beta emitter.

The issue of the severity of accidents considered in the NRC staff's analysis was addressed in an earlier response to comment. The assumptions that are used in the NRC staff's analysis have been periodically reviewed and found adequate. The hypothetical accident conditions of 10 CFR 71.73 have been evaluated against actual conditions encountered in highway and railway accidents and were found to be bounding as documented in NUREG/CR–4829, February 1987, ''Shipping Container Response to Severe Highway and Railway Accident Conditions.'' As noted in Table 3 of Addendum 1, the version of RADTRAN used is updated to March 1999.

Section 3 of Addendum 1 does consider the possible effect of cladding degradation on criticality in the context of increased burnup. That analysis would be equally applicable to any cladding degradation that might occur during prolonged dry storage of the SNF.

With regard to what is asserted to be inadequate consideration of the potential radiological impacts of the rail-heavy haul truck option, the NRC staff has analyzed the radiological impacts of the truck mode along various routes through and around Las Vegas and concludes that they are the limiting scenarios. The largest doses in the incident-free conditions are now to the public. If the rail-heavy haul transport scenario was adopted, a substantial portion of the public exposure would be avoided, since in this scenario, the slow moving heavy haul truck transport would not move through a major population center.

Comment: NRC must consider potential Indian Tribe claims of authority to regulate shipments across reservation lands.

Response: This analysis is a generic study that assumes certain routes for the purpose of evaluating environmental impacts. Because the purpose of this study is neither to propose nor approve routes, the NRC does not need to consider tribal claims of authority to regulate shipments in the context of this analysis.

Comment: The beltway is a county road, not part of the Federal highway system; it is not clear it can be used for shipments.

Response: The DOT regulations do not require that SNF shipments only use federal highways. Therefore, the NRC assumed that the beltway is a possible route around Las Vegas.

Comment: The NRC should address the implications of higher enrichment, higher burnup fuel for consequences of radiological sabotage, as NRC has done so far for the increase in burnup from 33,000 MWd/MTU to 40,000 MWd/MTU (see 49 FR 23867, Proposed Revisions to 10 CFR 73, Modification of Protection Requirements for Spent Fuel Shipments, 6/8/84).

Response: The NRC has not quantified the likelihood of the occurrence of sabotage in this analysis because the likelihood of an individual attack cannot be determined with any degree of certainty. Nonetheless, the NRC has considered, for the purposes of this environmental impact statement and rulemaking, the environmental consequences of such an event. In the determination of the consequences of such an event, higher burnup is only one factor. Based on the staff's study of higher burnup fuel (NUREG–1437, Vol.1, Addendum 1, Table 2), the consequences of a sabotage event involving such fuel could be larger than those in the studies referenced by the commentor. However, given that the consequences of the studies referenced by the commentor were small, even modest increases due to the effects of higher burnup fuel would not result in unacceptably large consequences. Because burnup is not the only factor that could affect the consequences of a sabotage event, the staff continues to study this area. Should new and significant information result from the further study, actions addressing such information will be considered.

Nevertheless, the extensive security measures required by NRC regulations make sabotage events extremely unlikely. Moreover, the casks required to be used to transport spent fuel are designed to withstand very substantial impacts during transport without loss of containment integrity. The cask designs should serve to further reduce the likelihood of release of radioactive material in the extremely unlikely event of sabotage. In view of the fact that NRC safeguards regulations make sabotage events extremely unlikely, and the fact that the cask designs themselves should make a release of radioactive material unlikely even were sabotage to occur, and based on our judgement that, in the extremely unlikely event that sabotage and releases did occur, the consequences from higher burnup fuel would not be unacceptably large, we have concluded that a more extensive study of higher burnup fuel consequences is not warranted for this environmental impact statement and rulemaking.

On June 22, 1999, the Nevada Attorney General filed a petition with the Commission which requested the NRC to amend regulations governing safeguards for shipments of spent nuclear fuel against sabotage and terrorism and to initiate a comprehensive assessment. In particular, the petition indicated that

NRC should factor into its regulations the changing nature of threats posed by domestic terrorists, the increased availability of advanced weaponry and the greater vulnerability of larger shipping casks traveling across the country. If, as a result of reviewing this petition, the NRC reaches conclusions that are inconsistent with the results or assumptions in the present rulemaking, the Commission will need to revisit the analysis presented here.

Finding of No Significant Environmental Impact: Availability

The NRC has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation. This action is procedural in nature and pertains only to the type of environmental information to be reviewed.

Paperwork Reduction Act Statement

This final rule decreases unnecessary regulatory burden on licensees by eliminating the requirement that license renewal applicants address the generic and cumulative environmental impacts associated with transportation operation in the vicinity of a HLW repository site (−400 hours, −2 responses), and adds a new requirement to address local traffic impacts attributable to continued operation of the plant during the license renewal term (+20 hours, +2 responses). The public burden for these information collections is estimated to average a reduction of 200 hours for each of 2 responses for the elimination of the above mentioned requirement, and an increase of 10 hours for each of 2 responses for the new requirement, for a net burden reduction of 380 hours. Because the burden for this information collection is insignificant, Office of Management and Budget (OMB) clearance is not required. Existing requirements were approved by the OMB, approval number 3150–0021.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

The regulatory analysis prepared for the final rule published on June 5, 1996 (61 FR 28467), and amended on December 18, 1996 (61 FR 66537), to make minor clarifying and conforming changes and add language unintentionally omitted from the June 5, 1996 final rule. The rule is unchanged except for an increase in benefits derived from a reduction in the applicant burden of 190 hours of effort in preparing an application for renewal of a nuclear power plant operating license.

This change increases the substantial cost saving of the final rule estimated in NUREG–1440, ''Regulatory Analysis for Amendments to Regulations for the Environmental Review for Renewal of Nuclear Power Plant Operating Licences.'' NUREG–1440 is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. In addition, copies of NRC final documents cited here may be purchased from the Superintendent of Documents, U.S. Government Printing Office, PO Box 37082, Washington, DC 20013–7082. Copies are also available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this final rule will not have a significant impact on a substantial number of small entities. The final rule will reduce the amount of information to be submitted by nuclear power plant licensees to facilitate NRC's obligations under the National Environmental Policy Act. Nuclear power plant licensees do not fall within the definition of small businesses as defined in Section 3 of the Small Business Act (15 U.S.C. 632) or the Commission's Size Standards, April 11, 1995 (60 FR 18344).

Backfit Analysis

The Commission has determined that these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1); therefore, a backfit analysis need not be prepared.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995, Pub. L 104–113, requires that Federal agencies use technical standards developed by or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. There are no consensus standards that apply to the analysis and findings process, nor to the requirements imposed by this rule. Thus the provisions of the Act do not apply to this rule.

List of Subjects in 10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble to this notice and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the National Environmental Policy Act of 1969, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 51.

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

1. The authority citation for part 51 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, Sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041; and sec.193, Pub. L. 101–575, 104 Stat. 2835, (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.61, 51.80, and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec. 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act of 1982, sec. 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

2. In § 51.53, paragraph (c)(3)(ii)(M) is removed and reserved and paragraph (c)(3)(ii)(J) is revised to read as follows:

§ 51.53 Post-construction environmental reports.

* * * * *

(c) * * *

(3) * * *

(ii) * * *

(J) All applicants shall assess the impact of highway traffic generated by the proposed project on the level of service of local highways during periods of license renewal refurbishment activities and during the term of the renewed license.

* * * * *

(M) [Reserved].

* * * * *

3. The ''Public services, Transportation'' issue under the Socioeconomics Section and the ''Transportation'' issue under the Uranium Fuel Cycle and Waste Management Section of Table B–1, Appendix B to Subpart A to 10 CFR Part 51 are revised to read as follows:

Appendix B to Subpart A—Environmental Effect of Renewing the Operating License of a Nuclear Power Plant

* * * * *

TABLE B–1.—SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS [1]

Issue	Category	Findings
*	*	*
Socioeconomics		
*	*	*
Public services, Transportation	2	SMALL, MODERATE, OR LARGE. Transportation impacts (level of service) of highway traffic generated during plant refurbishment and during the term of the renewed license are generally expected to be of small significance. However, the increase in traffic associated with additional workers and the local road and traffic control conditions may lead to impacts of moderate or large significance at some sites. See § 51.53(c)(3)(ii)(J).
*	*	*
Uranium Fuel Cycle and Waste Management		
*	*	*
Transportation	1	SMALL. The impacts of transporting spent fuel enriched up to 5 percent uranium-235 with average burnup for the peak rod to current levels approved by NRC up to 62,000 MWd/MTU and the cumulative impacts of transporting high-level waste to a single repository, such as Yucca Mountain, Nevada are found to be consistent with the impact values contained in 10 CFR 51.52(c), Summary Table S–4—Environmental Impact of Transportation of Fuel and Waste to and from One Light-Water-Cooled Nuclear Power Reactor. If fuel enrichment or burnup conditions are not met, the applicant must submit an assessment of the implications for the environmental impact values reported in § 51.52.
*	*	*

[1] Data supporting this table are contained in NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants'' (May 1996) and NUREG–1437, Vol. 1, Addendum 1, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Main Report Section 6.3—'Transportation,' Table 9.1 'Summary of findings on NEPA issues for license renewal of nuclear power plants,' Final Report'' (August 1999).

Dated at Rockville, Maryland, this 26th day of August, 1999.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–22764 Filed 9–2–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

RIN 3150–AG05

Changes to Requirements for Environmental Review for Renewal of Nuclear Power Plant Operating Licenses To Include Consideration of Certain Transportation Impacts, Availability of Supplemental Environmental Impact Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; Notice of availability of supplemental document.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the completion and availability of NUREG–1437, Vol. 1, Addendum 1, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Main Report Section 6.3—'Transportation,' Table 9.1 'Summary of findings on NEPA issues for license renewal of nuclear power plants,' Final Report'' (August 1999).

ADDRESSES: Copies of NUREG–1437, Vol. 1, Addendum 1 may be obtained by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. A copy of the document is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120

L Street, NW (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donald P. Cleary, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3903; e-mail: dpc@nrc.gov.

SUPPLEMENTARY INFORMATION: The report provides the technical basis for the final rule ''Changes to Requirements for Environmental Review for Renewal of Nuclear Power Plant Operating Licenses'' that amends requirements to the Commission's rule in 10 CFR Part 51—Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.

The NRC staff has completed the analyses of transportation issues as reported in NUREG–1437, Vol. 1, Addendum 1, which provides the bases for designating the transportation of high level waste as a Category 1 issue. Addendum 1 would supplement the analysis and amend the findings and the Category 2 designation for the issue of Transportation in Section 6.3 and Table 9.1 of NUREG–1437. This report expands the generic findings about the environmental impacts due to transportation of fuel and waste to and from a single nuclear power plant. Specifically, the report adds to findings concerning the cumulative environmental impacts of convergence of spent fuel shipments on a single destination, rather than multiple destinations, and the environmental impact of transportation of higher enriched and higher burnup spent fuel during the renewal term. The report conclusions would permit those findings to be used by incorporation by reference in the environmental review of an application for renewal of an individual nuclear plant operating license. The results are being codified in 10 CFR Part 51.

Electronic Access

NUREG–1437, Vol. 1, Addendum 1, is also available electronically by visiting NRC's Home Page (*http://www.nrc.gov*) and choosing ''Nuclear Materials,'' then ''Business Process Redesign Project,'' then ''Library,'' and then ''NUREG–1437, Volume 1, Addendum 1.''

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Dated at Rockville, Maryland, this 26th day of August, 1999.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–22765 Filed 9–2–99; 8:45 am]

BILLING CODE 7590–01–P

Friday
September 3, 1999

Part IV

Department of Transportation

Federal Highway Administration

49 CFR Part 390

Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle; Interim Final Rule

Federal Motor Carrier Safety Regulations; Requirements for Operators of Small Passenger-Carrying Commercial Motor Vehicles; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 390

[FHWA Docket No. FHWA–97–2858]

RIN 2125–AE22

Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSRs) to adopt the statutory definition of a commercial motor vehicle (CMV) found at 49 U.S.C. 31132. This action is in response to the Transportation Equity Act for the 21st Century (TEA–21). Section 4008(a) of TEA–21 amended the definition of the term ''commercial motor vehicle'' to cover vehicles ''designed or used to transport more than 8 passengers (including the driver) for compensation.'' The FHWA is revising its regulatory definition of CMV to be consistent with the statute, but is exempting the operation of these small passenger-carrying vehicles from all of the FMCSRs for six months to allow time for the completion of a separate rulemaking action published elsewhere in today's **Federal Register**. As a result of this action, the applicability of the FMCSRs will be the same as before the enactment of TEA–21 until March 3, 2000. Therefore, entities that were not subject to the FMCSRs prior to the enactment of TEA–21 are not required to make any changes in their operations until that date.

DATES: This rule is effective on September 3, 1999. Comments must be received on or before November 2, 1999.

ADDRESSES: Submit written, signed comments to FHWA Docket No. FHWA–97–2858, the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, HMCS–10, (202) 366–4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments that were submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–001, in response to previous rulemaking notices concerning the docket referenced at the beginning of this notice by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

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

Background

Section 204 of the Motor Carrier Safety Act of 1984 (MCSA) (Pub. L. 98–554, Title II, 98 Stat. 2832, at 2833) defined a ''commercial motor vehicle'' as one having a gross vehicle weight rating (GVWR) of 10,001 pounds or more; designed to transport more than 15 passengers, including the driver; or transporting hazardous materials in quantities requiring the vehicle to be placarded. This definition, codified at 49 U.S.C. 31132(1), was the basis for the regulatory definition of a CMV in 49 CFR 390.5, which determines the jurisdictional limits and applicability of most of the FMCSRs. The Senate Committee on Commerce, Science and Transportation, in a report which accompanied the MCSA stated: ''The 10,000-pound limit, which is in the current BMCS (Bureau of Motor Carrier Safety, now the FHWA's Office of Motor Carrier and Highway Safety) regulations, is proposed to focus enforcement efforts and because small vans and pickup trucks are more analogous to automobiles than to medium and heavy commercial vehicles, and can best be regulated under State automobile licensing, inspection, and traffic surveillance procedures.'' S. Rep. No. 98–424, at 6–7 (1984), reprinted in 1984 U.S.C.C.A.N. 4785, 4790–91.

Although the MCSA demonstrated congressional intent to focus the applicability of the FMCSRs on larger vehicles, Congress did not repeal section 204 of the Motor Carrier Act of 1935 (Chapter 498, 49 Stat. 543, 546). This statute, now codified at 49 U.S.C. 31502, authorizes the FHWA to regulate the safety of all for-hire motor carriers of passengers and property, and private carriers of property without respect to the weight or passenger capacity of the vehicles they operate.

When the Congress enacted the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Pub. L. 99–570, Title XII, 100 Stat. 3207–170) to require implementation of a single, classified commercial driver's license program, it also limited the motor vehicles subject to the program to those designed to transport more than 15 passengers, including the driver (now codified at 49 U.S.C. 31301(4)(B) with slightly different wording). This, too, revealed the congressional policy of applying available Federal motor carrier safety resources to larger vehicles.

The ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 803, 919) changed the MCSA's definition of a commercial motor vehicle. As amended, section 31132(1) defined a commercial motor vehicle, in part, as a vehicle that is ''designed or used to transport passengers for compensation, but exclud(es) vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places; (or) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.'' The ICCTA authorized, but did not require, the FHWA to change the FMCSRs accordingly; the agency did not incorporate the amended language into the CMV definition in § 390.5. The agency notes that the ICCTA included the phrase ''designed or used'' in specifying the passenger-carrying threshold for the FMCSRs. This change will make the FMCSRs applicable based upon the number of passengers in the vehicle or the number of designated seating positions, whichever is greater. In other words, a bus designed to carry 13 people but actually carrying 18 would be subject to the FMCSRs.

Section 4008(a)(2) of TEA–21 (Pub. L. 105–178, 112 Stat. 107, June 9, 1998) again amended the passenger-vehicle component of the CMV definition in 49 U.S.C. 31132(1). Section 4008 also changed the weight threshold in the CMV definition by adding ''gross vehicle weight'' (GVW) to the previous ''gross vehicle weight rating'' (GVWR).

The agency may now exercise jurisdiction based on the GVW or GVWR, whichever is greater. A vehicle with a GVWR of 9,500 pounds that was loaded to 10,500 pounds GVW would therefore be subject to the FMCSRs if it was operating in interstate commerce. Commercial motor vehicle is now defined (in 49 U.S.C 31132) to mean a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle—

(A) Has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

(B) Is designed or used to transport more than 8 passengers (including the driver) for compensation;

(C) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(D) Is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.

Under section 4008(b), operators of the CMVs defined by section 31132(1)(B) will automatically become subject to the FMCSRs one year after the date of enactment of TEA–21, if they are not already covered, ''except to the extent that the Secretary [of Transportation] determines, through a rulemaking proceeding, that it is appropriate to exempt such operators of commercial motor vehicles from the application of those regulations.''

The FHWA views section 4008 of TEA–21 as a mandate either to impose the FMCSRs on previously unregulated smaller capacity vehicles, or to exempt through a rulemaking proceeding some or all of the operators of such vehicles. Although the House Conference Report (H.R. Conf. Rep. No. 104–422 (1995)) on the ICCTA definitional change directed the agency not to impose on the States (as grant conditions under the Motor Carrier Safety Assistance Program (MCSAP)) the burden of regulating a new population of carriers covered by the definition, no such restriction is included in TEA–21 or its legislative history. The mandate of TEA–21 is thus stricter than that of the ICCTA. Still, the FHWA is authorized to undertake rulemaking to exempt some of these passenger vehicles from the FMCSRs.

FHWA's Advance Notice of Proposed Rulemaking

On August 5, 1998 (63 FR 41766), the FHWA published an advance notice of proposed rulemaking (ANPRM) to announce that the agency was considering amending the FMCSRs in response to section 4008(a) of the TEA–21, to seek information about the potential impact of the TEA–21 definition, and to request public comment on the question whether any class of vehicles should be exempted. The agency also requested comment on whether the term ''for compensation'' may be interpreted to distinguish among the types of van services currently in existence.

Discussion of Comments to the ANPRM

The FHWA received 733 comments in response to the ANPRM. The commenters included State and local government agencies, transit authorities, vanpool organizations, vanpool members, universities, trade associations, and members of Congress, as well as private citizens. Most (more than 720) of the commenters were opposed to making the FMCSRs applicable to the operation of small passenger-carrying CMVs. However, several commenters believed it is necessary to regulate these vehicles and, in certain cases, identified what they believe are the specific safety issues section 4008(a) was intended to resolve.

Comments Opposed to Making the FMCSRs Applicable to Small CMVs

The majority of the commenters opposed to the rulemaking were organizers and members of vanpools, and State and local agencies and vanpool associations that believe implementing section 4008(a) of TEA–21 would adversely impact vanpool participation by imposing more stringent standards on drivers of these vehicles. Some of the commenters argued there was no data to support imposing the FMCSRs on the operators of small CMVs while others emphasized the adverse impacts the rulemaking could have on transportation providers for elderly and disabled citizens.

Commenting on the issue of commuter transportation, the Southern California Association of Governments stated:

> The proposed expanded regulation would reduce the current number of commuters willing to volunteer to serve as vanpool drivers and back-up drivers. Members of a vanpool agree to the obligation on a volunteer basis within the commuting group. Currently, a free or partially subsidized commute and personal use of the vanpool vehicles on evenings and weekends is still not enough of an attraction for a large number of commuters. The proposed additional requirements, which include minimum driver training, written testing, behind-the-wheel testing, medical qualifications, drug and alcohol testing, imposed by the FHWA will result in volunteer vanpool driving to become extremely burdensome.

The Florida Department of Transportation, commenting about the impacts the rulemaking would have on transportation providers for the elderly and disabled, stated:

> The proposed amendment to the Federal Motor Carrier Safety Regulations (FMCSR) would have a significant impact to certain Florida rural transportation providers. These primarily include those operators that are located along or near the state border. These operators provide transportation services for disadvantaged persons needing transportation to and from certain medical and rehabilitation facilities. These transportation entities are either public or private-non-profit senior citizen or mental health facilities and designated as community transportation coordinators by Florida Statutes. [Their] operational areas are primarily rural and it is often necessary for these operators to transport passengers needing special care or treatment across state lines to facilities located in bordering states. These transportation operators receive funding and compensation for their services from local, state and federal funds and have been considered as ''eligible transit operators'' by the FHWA pursuant to the ICC Termination Act of 1995. Vehicles operated by these providers mainly consist of 15 passenger vans. These operators are currently exempted from the FMCSR since the 15 passenger vehicles operated do not meet the definition of a ''commercial motor vehicle'' in 49 U.S.C. Section 31132 . These operators are also exempted from the FHWA insurance requirements for interstate motor vehicles by [49 U.S.C. 31138(e)(4)].

The Iowa Department of Transportation expressed concerns that regulating small passenger-carrying CMVs would adversely impact motor carrier safety programs by using limited enforcement resources to regulate the entities operating these vehicles. The agency stated:

> State and local enforcement agencies have numerous enforcement demands on the regulation of straight trucks, truck tractors, tractors with semi-trailers, double bottoms, buses, and vehicles transporting hazardous materials. Expanding the motor carriers safety requirements to passenger carrying vehicles will be costly and a strain on inspector availability for what appears to be little public benefit.
>
> In a period when zero-based regulations are/have been developed and implemented, is it logical to expand the definition of a commercial motor vehicle to include 8-passenger vehicles? If 8-passenger vehicles are included, why not 6-passenger vehicles? Are we beginning to over-regulate? Safety is a major issue in conducting inspections. En-route inspections are kept to a minimum for buses. To protect passengers during an inspection requires special considerations and planning. Adding 8-passenger vehicles will continue to complicate inspection procedures with risks to passengers.

The Oregon Department of Transportation, Motor Carrier Transportation Branch, also expressed opposition to adopting the new definition of CMV. The Motor Carrier Transportation Branch (MCTB) stated:

The MCTB does not understand why the definition of commercial motor vehicle was amended in the [TEA–21] to include vehicles designed or used to transport more than eight passengers (including the driver) for compensation. Further, the MCTB questions whether including these smaller vehicles will improve highway safety.

[I]t is not apparent that these smaller vehicles represent a significant danger. In fact, this move to regulate smaller vehicles contradicts the current Motor Carrier Regulatory Relief and Safety Demonstration Project. Little, if any, safety benefit may result in including these smaller vehicles under the jurisdiction of the motor carrier safety regulations. As stated in the advanced notice of proposed rulemaking: request for comment, ''vans and pickup trucks are more analogous to automobiles than to medium and heavy commercial vehicles, and can be best regulated under State licensing, inspection, and traffic surveillance procedures.

The International Taxicab and Livery Association (ITLA) opposed adopting the new definition of CMV and provided estimates of the number of businesses that would be affected by the rulemaking, as well as the number of vehicles and drivers that would be subject to Federal safety requirements if the FHWA implemented section 4008 of the TEA–21. The ITLA stated:

According to information available to ITLA, there are approximately 50,000 limousines in use that would be affected by the definitional change. It should be noted that there are over 9000 limousine operators nationwide (also operating premium sedan services), and that the median fleet size is less than 5. In addition, the average annual miles operated by limousines is approximately 23,000 miles.

ITLA estimates that there are approximately 74,000 vans nationwide '' the breakdown between ''mini-vans'' and those affected by the proposed definition is not available. Van fleets average less than 10 vans, with an approximate annual mileage of 40,000 per vehicle, and an average trip length of less than 8 miles lasting significantly less than 1 hour.

In September of 1998, the American Business Information (a mailing list sales company) released a sales catalog that reports the following information:

SIC code	Type of service	Number of U.S. companies
4111–01	Airport Transportation	4,752
4119–01	Handicapped Transportation	1,302
4119–03	Limousine Transportation	9,482
4121–01	Taxicab Transportation	7,348
	Total	22,884

The ITLA indicated that if the FHWA decides to make the FMCSRs applicable to the operation of small passenger-carrying vehicles, approximately 14,000 companies, 125,000 vehicles, and 165,000 drivers would be covered.

Comments in Support of Making the FMCSRs Applicable to Small CMVs

Of the 733 comments submitted in response to the agency's ANPRM, only a few (less than 13) expressed support for implementing section 4008(a). The reasons for supporting the adoption of the revised definition of a CMV varied from the belief that highway safety would be improved if the commercial driver's license and controlled substances and alcohol testing rules were applicable to drivers of small passenger-carrying vehicles, to the belief that applying the safety regulations to these vehicles would improve school bus transportation. None of the commenters in support of regulating small passenger-carrying vehicles believed implementing section 4008(a) of the TEA–21 would result in adverse impacts to those businesses.

The United Motor Coach Association (UMA) stated:

UMA's reason for pursuing a legislative change stemmed from the rising tide of uninsured and/or unsafe carriers operating from or through commercial zones (as defined in 49 CFR Part 372), particularly in Texas and the southwestern states. In fact, the problem was so severe in Texas that McAllen City officials petitioned the ICC to severely restrict the motor carrier commercial zone surrounding that city.

Subsequent research by UMA and its operator member companies indicate that the problem is not simply a southern border issue. It is a growing problem that is National in scope. Exempted passenger carriers recognize that municipal commercial zones provide a safe haven from federal safety regulations. These protected and unregulated interstate bus operators perform identical service to that of the regulated companies that provide bus service using larger vehicles. The unregulated carriers are very aware of their current exempt status. They have generally used large vans or mini-buses with a seating capacity of fewer than 15 passengers to escape compliance to Federal Motor Carrier Safety Regulations (FMCSRs). (Manufacturers of these small buses routinely market the vehicles by highlighting their regulation exempt status in their promotions.) In the majority of instances, unregulated service providers operate out of urban locations that fall within the commercial zone classification. UMA does not consider this exemption to be fair or equitable and believes that passenger safety is compromised.

Consolidated Safety Services stated:

During ten years of reviewing the level of compliance with applicable regulations by companies offering passenger travel, we have seen regulatory standards for non-CMV vehicle operations that range from comprehensive to non-existent. We routinely see companies who restrict equipment inventory for the sole purpose of avoiding the costs and efforts associated with compliance with the FMCSRs. Attitudes displayed towards safety in these instances are generally very casual in nature and cause considerable concern. It should be noted that we also see non-CMV carriers whose efforts to provide safe transportation should be commended since they apply the standards published in the FMCSRs even though not required.

Greyhound stated:

Commercial van interstate service has grown dramatically in recent years. It is difficult to document the precise size of the population of commercial vans or their growth because the federal government historically has not regulated them and thus has not kept statistics on them. However, reports of Greyhound managers throughout the country have made it clear that commercial van interstate service has grown significantly.

In 1995, Greyhound documented that growth with a report focusing on one city, Houston. That report, which was shared with DOT and Congress, showed that there were literally dozens of operators performing van and bus service from points in Mexico to destinations throughout the United States. Some of the bus service was licensed as ''charter and tour'' service and thus was regulated, but none of the van service was, or is, subject to any federal safety regulation.

With regard to the impacts section 4008(a) of TEA–21 would have on student transportation, the National School Transportation Association (NSTA) stated:

NSTA supports the proposal to revise the definition of ''commercial motor vehicle'' to include vehicles designed to transport more than 8 passengers. NSTA has long held the position that all school-age children deserve the highest standard of safety, regardless of who owns the vehicle, who operates the vehicle, or how many passengers the vehicle will seat. This proposal will bring all vehicles operating in similar capacity under the same regulations.

Among the State agencies that support the TEA–21 provision, the Colorado Highway Patrol indicated there are safety benefits to regulating smaller vehicles. The Colorado Highway Patrol stated:

The Colorado State Patrol supports the revision which would require a ''Commercial vehicle designed or used to transport more than 8 passengers (including the driver) for compensation'' to be subject to the FMCSR's with qualifications identified below. Most of these vehicles were subject to regulation under the ICC prior to its termination in 1995. Why should passenger carriers, subject to prior regulation by the ICC, be released from regulatory requirements under FHWA? In Colorado the Public Utilities Commission (COPUC) already regulates for-hire passenger carriers (including taxi cabs). This rule should not apply to private motor carrier of passengers (PMCP), business and non-business, (as defined in 390.5).

FHWA Response to Comments

The FHWA has considered all of the comments received in response to the ANPRM and determined there is insufficient data concerning the safety performance of motor carriers operating CMVs designed or used to transport 9 to 15 passengers (including the driver) for compensation, to justify making the FMCSRs applicable to them at this time. Commenters to the docket have expressed opinions for and against regulating operators of passenger-carrying vehicles designed to transport 9 to 15 passengers (including the driver) but none of the commenters have presented safety data that could be useful in deciding whether to regulate such motor carriers. While the FHWA acknowledges that there may be safety benefits to extending the applicability of the FMCSRs to the operation of small passenger-carrying CMVs for compensation, a mere assumption does not satisfy the agency's obligation to quantify the benefits of rulemaking and to prove that the benefits exceed the costs to the relevant segment of the industry and U.S. consumers.

Safety Performance Data

The FHWA is not aware of any accident databases that would enable the agency to estimate the annual accident involvement of small passenger-carrying vehicles, operated for compensation in interstate commerce. The absence of such data makes it difficult to determine whether the accident involvement of these vehicles warrants Federal regulation. For example, the agency is unable to determine whether the number of accidents for this population of CMVs suggests these vehicles are over represented in crashes involving fatalities, injuries, or disabling damage to one or more vehicles (i.e., whether the number of accidents is greater than one would expect given the population of vehicles), which in turn may be an indicator of problems with the safety management controls for the motor carriers operating the vehicles. Also, the FHWA does not have information that would enable the agency to examine the causes of or contributing factors to accidents these motor carriers are typically involved in to determine which, if any, of the FMCSRs could have made a difference in the outcome.

The FHWA has reviewed information from the National Highway Traffic Safety Administration's (NHTSA) Fatality Analysis Reporting System (FARS) and General Estimates System (GES) and determined that there is information concerning the accident involvement of the class of vehicles covered by section 4008 of the TEA–21, but no practical means to distinguish between accidents involving interstate motor carriers of passengers (either private or for-hire) and those involving intrastate motor carriers, or those involving commuter vanpools operated by individuals and not in the furtherance of a commercial enterprise.

The FHWA also searched for information from the National Transportation Safety Board (NTSB) and the Customs Service—because some commenters made reference to the operational safety of motor carriers transporting passengers to and from Mexico—to better understand safety issues concerning the operation of small passenger-carrying vehicles. The NTSB has no published studies indicating a safety problem with this population of motor carriers. The Customs Service, while maintaining records on the number of vehicles crossing the border, does not have information on either the actual number of Mexican-owned CMVs that enter the U.S., or on how many of each type of CMV enter the country. The Customs Service does not record information on each vehicle, or whether the vehicle is operated by a U.S. or foreign motor carrier. To further complicate matters, many vehicles used in cross-border operations may go through customs more than once a day. Also, the Customs Service does not collect CMV accident statistics.

The FHWA believes it is inappropriate to make the FMCSRs applicable to the operation of small passenger-carrying vehicles unless there is data to suggest operational safety problems.

Estimating the Population of Motor Carriers, Drivers, and Vehicles

In addition to difficulties in evaluating the safety performance of motor carriers operating small passenger-carrying vehicles, the FHWA has limited information on the number of vehicles and drivers that would be covered by the FMCSRs. The FHWA has reviewed its database of for-hire motor carriers of passengers who have interstate operating authority.

Although TEA–21 did not define the term ''for compensation'' as used in the amended definition of CMV, the FHWA has, for the purpose of this rulemaking and analysis, focused on for-hire motor carriers of passengers operating vehicles designed to transport less than 16 passengers, including the driver. These carriers are currently required to obtain operating authority from the FHWA (49 CFR 365).

As of April 1999, there are 1,636 for-hire motor carriers of passengers with active authority. Each of these carriers has on file with the FHWA proof of financial responsibility at the minimum level required for the operation of vehicles designed to transport less than 16 passengers. This number does not include pending applications for operating authority, passenger carriers shown as inactive because their authority was revoked for failure to maintain evidence of the required minimum levels of financial responsibility, or private motor carriers of passengers. There is no indication that Congress intended the FHWA to consider regulating private motor carriers of passengers (as defined in 49 CFR 390.5) operating vehicles designed to transport less than 16 passengers so the agency has not made an effort to estimate the number of such carriers.

The FHWA has information on the number of for-hire motor carriers of passengers who have complied with the operating authority requirements, but the agency does not have data on the number of drivers employed by these motor carriers. The FHWA cannot determine what percentage of these drivers would meet the applicable requirements of part 391 on driver qualifications or how their typical work schedules would be disrupted by having to comply with part 395 concerning hours of service for drivers. Therefore,

the FHWA can estimate neither the costs nor the benefits of applying the driver-related requirements of the FMCSRs to the vehicle operators based on the information currently in its databases.

In short, the FHWA believes the ITLA's estimates of the number of small passenger-carrying vehicles (or their drivers) operating in interstate commerce for compensation should be considered, but cannot confirm the accuracy of those estimates. The FHWA cannot estimate with certainty the regulatory burden associated with making parts 391, 395, or 393 applicable to these drivers and CMVs. However, in a separate rulemaking action published elsewhere in today's **Federal Register**, the agency is proposing certain requirements to improve its ability to gather data about the operators of small passenger-carrying vehicles.

Commercial Driver's License and Controlled Substances and Alcohol Testing

Many of the commenters, both for and against extending the applicability of the FMCSRs to small passenger-carrying CMVs, misconstrued section 4008 as mandating application of the CDL and controlled substances and alcohol testing rules (parts 383 and 382, respectively) to the drivers of such vehicles. Section 4008 does not amend the CMV definition used for those programs (49 U.S.C. 31301). Therefore, the potential benefits that some commenters argued would be associated with imposing the CDL and controlled substances and alcohol regulations can not be achieved. Conversely, commenters who argued against adopting the amended CMV definition on the assumption that it would make parts 382 and 383 applicable, thereby making it more difficult to find vanpool drivers, were also mistaken. Furthermore, since section 4008 is targeted at the operation of passenger-carrying vehicles for compensation, vanpools would generally remain unregulated, as explained below.

Applicability of Section 4008 to Vanpools

The FHWA agrees with commenters that the agency should not make the FMCSRs applicable to vanpools. The agency recognizes the importance of vanpools in reducing traffic congestion and air pollution caused by automobile emissions and agrees that having to comply with the FMCSRs would increase the costs of operating vanpools and could make it more difficult to get people to volunteer to drive vans. The FHWA does not believe Congress intended the agency to regulate commuter vanpools. The use of the phrase ''for compensation'' in section 4008 of TEA–21 suggests that the implementing regulations be limited to vans operated in the furtherance of a commercial enterprise, which is generally not the case for commuter vanpools. Certain vanpool services may, depending on whether the FHWA regulates the operation of small passenger-carrying vehicles and how the agency interprets or defines ''for compensation,'' be subject to the safety regulations. However, the agency does not intend to regulate commuter vanpools that are not operated in the furtherance of a commercial enterprise.

The FHWA considers the phrase ''for compensation'' to be synonymous with ''for hire.'' On April 4, 1997 (62 FR 16370), the FHWA published Regulatory Guidance for the Federal Motor Carrier Safety Regulations. Page 16407 of that notice includes an interpretation of ''for-hire motor carrier.'' The guidance states:

> The FHWA has determined that any *business* (emphasis added) entity that assesses a fee, monetary or otherwise, directly or indirectly for the transportation of passengers is operating as a for-hire carrier. Thus, the transportation for compensation in interstate commerce of passengers by motor vehicles (except in six-passenger taxicabs operating on fixed routes) in the following operations would typically be subject to all parts of the FMCSRs, including part 387: whitewater river rafters; hotel/motel shuttle transporters; rental car shuttle services, etc. These are examples of for-hire carriage because some fee is charged, usually indirectly in a total package charge or other assessment for transportation performed.

The reference to six-passenger taxicabs operating on fixed routes was included in the guidance because of the ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 803, 919). The ICCTA amended the statutory definition of a CMV prior to TEA–21, adding ''designed or used to transport passengers for compensation, but exclud(es) vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places.'' The TEA–21 resulted in the removal of this clause from the definition of CMV.

The FHWA understands that passengers in many vanpools pay a monthly fee to an individual, who either owns or leases the van. The FHWA does not believe this is a business. The individual uses this money not as a source of income or in the furtherance of a commercial enterprise, but to pay for the van, insurance premiums, and maintenance. There may be surplus funds each month that are put in reserve to cover unexpected costs or losses of revenue during periods in which vanpool membership decreases. The FHWA, however, does not believe that this type of arrangement should be considered ''for compensation'' and does not intend to regulate such operations. The agency requests comments on the nature of these operations.

Minimum Levels of Driver Training and Testing

Although numerous commenters argued against adopting the TEA–21 definition of CMV because they believe the FMCSRs require a minimum of 8 hours of driver training, a written test, and a road test, these arguments are based upon a misunderstanding of the current safety regulations, and an assumption that all driver-related FMCSRs would be applicable to drivers of small passenger-carrying CMVs.

If the FHWA made the FMCSRs applicable to drivers of small passenger-carrying CMVs, the drivers of such vehicles would, unless an exception were provided, be required to comply with all of the provisions of part 391, Qualifications of Drivers. However, part 391 does not require that drivers of CMVs have 8 hours of training. Section 391.11 requires that drivers be capable of operating safely the CMV they are assigned, and have a valid operator's license issued by only one State or jurisdiction. The determination of the driver's ability may be based upon experience, training, or both. The regulations do not specify a minimum amount of training or experience.

Section 391.11(b)(8) requires drivers to successfully complete a road test, or present an operator's license (or a certificate of road test) to the motor carrier for acceptance as equivalent to a road test. Section 391.33, Equivalent of road test, allows motor carriers to accept a CDL in lieu of administering a road test if the driver was required to successfully complete a road test to obtain the license. If the FHWA required drivers of small passenger-carrying vehicles to comply with all the requirements of part 391, the agency could consider allowing motor carriers to accept a license other than a CDL if that license required a road test. Even if the agency required drivers to take road tests, the regulatory burden would be minimal. The operating characteristics of vehicles designed or used to transport 9 to 15 passengers, including the driver, are similar to vehicles most drivers are capable of driving (i.e., vans, full-sized sport utility vehicles, commuter vans), and the amount of time and effort needed to conduct the road test (as

specified in § 391.31) would not be unreasonable.

With regard to a written test, the FHWA does not require that non-CDL drivers be subjected to a written test. The FHWA rescinded the written examination requirements of part 391 on November 23, 1994 (59 FR 60319).

Transportation of Children

In response to commenters that believe the adoption of section 4008 would either enhance or reduce the transportation safety of school children, the FHWA notes that the FMCSRs include exceptions for all school bus operations (as defined in § 390.5), and transportation performed by the Federal government, a State, or any political subdivision of a State (§ 390.3(f)(2)). School bus operation means the use of a school bus to transport school children and/or school personnel from home to school and from school to home. School bus is defined (§ 390.5) as a passenger motor vehicle designed to carry more than 10 passengers in addition to the driver, and used primarily for school bus operations. School bus operations are not regulated by the FHWA, even when such operations are conducted by a for-hire motor carrier of passengers. Irrespective of the decision the FHWA ultimately makes concerning the applicability of the TEA–21 definition to small passenger CMVs, vans used to transport children to and from school would not be regulated as a result of that rulemaking.

Applicability of Financial Responsibility and Operating Authority Regulations

In response to commenters who believe the FHWA should make the financial responsibility (49 CFR 387) and operating authority (49 CFR 365) requirements applicable to the operators of small passenger-carrying vehicles, it should be noted that these requirements are already applicable to for-hire motor carriers of passengers operating vehicles designed to transport less than 16 passengers, with certain exceptions. The financial responsibility exceptions, however, cover many of the operations of interest to commenters, e.g., school bus operations and most vanpools (see § 387.27(b)(1), (3) and (4)). Since these exceptions are statutory (see 49 U.S.C. 31138(e)(1) and (3)), the FHWA has no discretion to rescind them. Subpart B of part 387 requires a minimum of $1.5 million in public liability for the operation of vehicles with a seating capacity of 15 passengers or less, unless the vehicles fall into one of the exempt categories. Part 365 requires for-hire motor carriers to obtain operating authority and subpart C of part 387 requires them to file proof of financial responsibility.

FHWA Decision

Given the statutory deadline of June 9, 1999, for deciding whether to exempt the operation of small passenger-carrying CMVs from the FMCSRs, the FHWA has decided that it is in the public interest temporarily to limit the applicability of the FMCSRs to the motor carrier operations covered prior to the enactment of TEA–21. The FHWA has no useful data on the relative safety of small passenger CMVs. In the absence of such data, the agency has no rational basis for extending the FMCSRs to this class of vehicles.

However, the FHWA believes that action must be taken to learn more about the operational safety of motor carriers operating small passenger vehicles for compensation. In a notice of proposed rulemaking published elsewhere in today's **Federal Register**, the agency is proposing that these motor carriers be required to complete a motor carrier identification report (49 CFR 385.21), and comply with the FHWA's CMV marking requirement (49 CFR 390.21) which would include displaying a USDOT motor carrier identification number on all vehicles designed to transport 9 to 15 passengers for compensation in interstate commerce. The agency would also require that these motor carriers be required to maintain an accident register (49 CFR 390.15).

Discussion of the Interim Final Rule

The FHWA is amending the FMCSRs to adopt the revised statutory definition of CMV provided by section 4008 of TEA–21. The FHWA is revising its definition of CMV found at § 390.5 and adding a new paragraph (f)(6) to § 390.3 giving operators of CMVs designed or used to transport 9 to 15 passengers a six-month exemption from all of the FMCSRs. The FHWA is exempting until March 6, 2000 the operation of small passenger-carrying vehicles from all of the FMCSRs to allow time for the completion of a separate rulemaking action published elsewhere in today's **Federal Register**. As a result of this action, the applicability of the FMCSRs will be the same as before the enactment of TEA–21 until that date. Therefore, entities that were not subject to the FMCSRs prior to the enactment of TEA–21 are not required to make changes in their operations to comply with the safety regulations.

The FHWA, however, is adopting the statutory changes to the definition of CMV concerning the use of ''gross vehicle weight'' in addition to ''gross vehicle weight rating,'' and ''designed or used'' to transport passengers instead of ''designed'' to transport passengers.

Rulemaking Analysis and Notices

Under the Administrative Procedure Act (APA) (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest.

In this case, notice and comment are unnecessary. The rule adopts the statutory definition of a ''commercial motor vehicle'' and an exemption for passenger vehicles with a capacity of 9 to 15, including the driver, that are operated for compensation in interstate commerce. Because this rule makes the applicability of the FMCSRs the same as before the enactment of TEA–21, and codifies two minor TEA–21 amendments that eliminate jurisdictional loopholes from the CMV definition, the FHWA finds good cause to waive prior notice and comment. The current regulations were adopted through notice and comment rulemaking and do not require further procedural review. Nonetheless, the agency's August 5, 1998 ANPRM (63 FR 41766) sought information from operators of small passenger vehicles and other interested parties; the FHWA received more than 700 responses. As explained in the preamble, the commenters were overwhelmingly opposed to the application of the FMCSRs to these vehicles. The most significant conclusion drawn from those comments, and from every other source the agency consulted, is that accident data which would allow the FHWA to determine the relative safety of small passenger CMVs, and thus to perform an analysis of the costs and benefits of subjecting them to the FMCSRs, is not currently available. The FHWA has therefore decided that it could not, consistent with the requirements of the APA and other laws, impose on small passenger CMVs the burdens of complying with the FMCSRs. Because this final rule establishes an exception to make the applicability of the FMCSRs the same as before the enactment of TEA–21, and will remain in effect only for 6 months while the agency solicits and evaluates comments on the companion NPRM published elsewhere in today's issue of the **Federal Register**, the FHWA finds that there is no need to publish this temporary measure for notice and comment.

As explained above, however, the FHWA also believes that operators of these vehicles should be required to

keep accident registers and display a USDOT number. Since these changes are substantive, the agency is publishing an NPRM on that subject elsewhere in this issue of the **Federal Register**. Those proposals, if adopted, would enable the agency to collect safety information specific to small passenger CMVs. If the data demonstrate that a serious safety problem exists, the FHWA could then propose to apply some or all of the FMCSRs to passenger vehicles with a capacity of 9 to 15.

Accordingly, the FHWA finds that there is good cause to waive prior notice and comment for the limited reasons described above. For the same reasons, the FHWA finds, pursuant to 5 U.S.C. 553(d)(3), that there is good cause for making the interim final rule effective upon publication. Comments received will be considered in evaluating whether any changes to this interim final rule are required. All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866 and significant within the meaning of Department of Transportation regulatory policies and procedures because of the substantial public interest concerning the possible extension of the applicability of the FMCSRs to a larger population of motor carrier operations. This interim final rule exempts temporarily from the FMCSRs the operation of vehicles designed or used to carry between 9 and 15 passengers (including the driver), for compensation in interstate commerce. As a result of this action, the applicability of the FMCSRs is changed to be the same as before the enactment of section 4008. The FHWA is simply establishing an exception until the agency has better information upon which to make a determination of the costs and benefits. The agency is not making any estimate of either the costs or benefits of either using the statutory definition or exempting all, or some, of these operations.

Regulatory Flexibility Act

The FHWA has considered the effects of this regulatory action on small entities and determined that this rule will not affect a substantial number of small entities. The FHWA is revising its regulatory definition of CMV, at 49 CFR 390.5, to be consistent with the statute, but exempting temporarily the operation of small passenger-carrying vehicles from all of the FMCSRs for six months to allow the agency to complete a separate rulemaking action published elsewhere in today's **Federal Register**. As a result of this action, the applicability of the FMCSRs will be the same as before the enactment of TEA–21. Entities that were not subject to the FMCSRs prior to the enactment of TEA–21 are not required to make changes in their operations to comply with the safety regulations. The FHWA, in compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has considered the economic impacts of this rulemaking on small entities and certifies that this rule will not have a significant economic impact on a substantial number of small entities. The FHWA will reexamine this certification after reviewing the comments to this rule and the companion NPRM.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. Nothing in this document preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action does not have any effect on the quality of the environment.

Unfunded Mandates Reform Act

This rule does not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*), that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

Regulation Identification Number

A regulatory identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 390

Highway safety, Motor carriers, Motor vehicle identification and marking, Reporting and record keeping requirements.

Issued on: August 30, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends title 49, Code of Federal Regulations, chapter III, as follows:

PART 390—[AMENDED]

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

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, and 31504; sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); and 49 CFR 1.48.

2. Amend § 390.3 to revise paragraph (f)(5) by replacing the period with a semicolon, and add paragraph (f)(6) to read as follows:

§ 390.3 General applicability.

* * * * *

(f) *Exceptions.*

* * * * *

(6) The operation of commercial motor vehicles designed to transport less than 16 passengers (including the driver) until March 6, 2000.

2. Amend § 390.5 to revise the definition of ''commercial motor vehicle'' to read as follows:

§ 390.5 Definitions.

* * * * *

Commercial motor vehicle means any self-propelled or towed motor vehicle

used on a highway in interstate commerce to transport passengers or property when the vehicle—

(1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or

(2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or

(3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

[FR Doc. 99–23026 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 390

[FHWA Docket No. FHWA–99–5710]

RIN 2125–AE60

Federal Motor Carrier Safety Regulations; Requirements for Operators of Small Passenger-Carrying Commercial Motor Vehicles

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The FHWA is proposing to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to require that motor carriers operating commercial motor vehicles (CMVs) designed or used to transport between 9 and 15 passengers (including the driver) for compensation file a motor carrier identification report, mark their CMVs with a USDOT identification number and certain other information (i.e., name or trade name and address of the principal place of business), and maintain an accident register. This action is in response to the Transportation Equity Act for the 21st Century (TEA–21). Section 4008(a) of TEA–21 amended the definition of the term ''commercial motor vehicle'' to cover these vehicles. In a separate document published elsewhere in today's **Federal Register** the FHWA is adopting the statutory definition of a CMV found at 49 U.S.C. 31132 to be consistent with the statute, but is exempting for six months the operation of these small passenger-carrying vehicles from all of the FMCSRs, to allow time for the completion of this rulemaking.

DATES: Comments must be received on or before November 2, 1999.

ADDRESSES: Submit written, signed comments to FHWA Docket No. FHWA–99–5710, the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, HMCS–10, (202) 366–4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments that were submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–001, in response to previous rulemaking notices concerning the docket referenced at the beginning of this notice by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

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

Background

Section 4008(a)(2) of TEA–21 (Pub. L. 105–178, 112 Stat. 107, June 9, 1998) amended the passenger-vehicle component of the CMV definition in 49 U.S.C. 31132(1). Section 4008 also changed the weight threshold in the CMV definition by adding ''gross vehicle weight'' (GVW) to the previous ''gross vehicle weight rating'' (GVWR). The agency may now exercise jurisdiction based on the GVW or GVWR, whichever is greater. For example, a vehicle with a GVWR of 9,500 pounds that was loaded to 10,500 pounds GVW would be subject to the FMCSRs if it was operating in interstate commerce. Commercial motor vehicle is now defined (in 49 U.S.C 31132) to mean a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle—

(A) Has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

(B) Is designed or used to transport more than 8 passengers (including the driver) for compensation;

(C) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(D) Is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.

Under section 4008(b) of TEA–21, operators of the CMVs defined by 49 U.S.C. 31132(1)(B) will automatically become subject to the FMCSRs one year after the date of enactment of TEA–21, if they are not already covered, ''except to the extent that the Secretary [of Transportation] determines, through a rulemaking proceeding, that it is appropriate to exempt such operators of commercial motor vehicles from the application of those regulations.''

The FHWA views section 4008 of TEA–21 as a mandate either to impose the FMCSRs on previously unregulated smaller capacity vehicles, or to exempt through a rulemaking proceeding some, or all, of the operators of such vehicles.

FHWA's Advance Notice of Proposed Rulemaking

On August 5, 1998 (63 FR 41766), the FHWA published an advance notice of proposed rulemaking (ANPRM) to announce that the agency was considering amending the FMCSRs in response to section 4008(a) of the TEA–21, to seek information about the potential impact of the TEA–21 definition, and to request public comment on whether any class of vehicles should be exempted. The agency also requested comment on whether the term ''for compensation'' may be interpreted to distinguish among the types of van services currently in existence.

Summary of the Comments to the ANPRM

The FHWA received 733 comments in response to the ANPRM. The commenters included State and local government agencies, transit authorities, vanpool organizations, vanpool members, universities, trade associations, and members of Congress, as well as private citizens. Most (more than 720) of the commenters were opposed to making the FMCSRs applicable to the operation of small passenger-carrying CMVs. However, several commenters believed it is necessary to regulate these vehicles and, in certain cases, identified what they believe are the specific safety issues section 4008(a) was intended to resolve. A detailed discussion of the comments is provided in an interim final rule, published elsewhere in today's **Federal Register**, exempting these motor carriers from the FMCSRs for a period of six months.

Summary of the FHWA's Response to Comments

As indicated in the interim final rule, the FHWA has considered all of the comments received in response to the ANPRM and determined there is insufficient data concerning the safety performance of motor carriers operating CMVs designed or used to transport 9 to 15 passenger (including the driver) for compensation, to justify making the FMCSRs applicable to them. Commenters to the docket have expressed opinions for and against regulating operators of passenger-carrying vehicles designed to transport 9 to 15 passengers (including the driver), but none of the commenters have presented safety data that could be useful in deciding whether to regulate such motor carriers. While the FHWA acknowledges that there may be safety benefits to extending the applicability of the FMCSRs to the operation of small passenger-carrying CMVs for compensation, a mere assumption does not satisfy the agency's obligation to quantify the benefits of rulemaking.

Given the statutory deadline of June 9, 1999, for deciding whether to exempt the operation of small passenger-carrying CMVs from the FMCSRs, the FHWA has decided that it is in the public interest to limit the applicability of the FMCSRs to the motor carrier operations covered prior to the enactment of TEA–21 for the time being. The FHWA currently has no useful data on the relative safety of small passenger CMVs. In the absence of such data, the agency has no rational basis for extending the FMCSRs to this class of vehicles. Accordingly, in a separate rulemaking document published elsewhere in today's **Federal Register**, the FHWA is exempting for a period of six months, all of the operators of small passenger-carrying CMVs from the FMCSRs to allow time for the completion of this rulemaking.

Discussion of the Proposal

The FHWA believes that action must be taken to learn more about the operational safety of motor carriers operating small passenger vehicles for compensation. The agency is proposing that these motor carriers be required to complete a motor carrier identification report (49 CFR 385.21), and comply with the FHWA's CMV marking regulation (49 CFR 390.21) which would include displaying a USDOT motor carrier identification number on all vehicles designed or used to transport 9 to 15 passengers for compensation in interstate commerce. The agency would also require that these motor carriers maintain an accident register (49 CFR 390.15).

Motor Carrier Identification Report

Section 385.21 of the FMCSRs requires motor carriers to file Form MCS–150, Motor Carrier Identification Report, within 90 days after beginning operations in interstate commerce. The information from the Form MCS–150 is used to create a file in the Motor Carrier Management Information System (MCMIS), a database containing safety information (e.g., compliance review results, roadside inspection results, CMV accidents, etc.) about interstate motor carriers.

The FHWA is proposing that operators of small passenger-carrying CMVs be required to file Form MCS–150 to enable the agency to determine how many motor carriers are affected by the TEA–21 revision to the CMV definition, the number of drivers employed and vehicles operated by these carriers, and the principal place of business for each of these entities. Each motor carrier would be assigned a USDOT census or identification number which, when marked on each CMV operated by the motor carrier, could help enforcement officials and the general public identify these businesses.

Vehicle Marking

Section 390.21 requires that motor carriers mark their CMVs with the name or trade name of the business, the city or community and State in which the motor carrier maintains its principal place of business, and its motor carrier identification number. The FHWA requests comments on the practical utility of applying these marking requirements to the operators of small passenger-carrying CMVs. The FHWA would require the operators of small passenger-carrying vehicles to comply with all the provisions of § 390.21 to ensure that enforcement officials and the public can identify their vehicles and that accidents (as defined in 49 CFR 390.5) can be recorded by the States and entered into the FHWA's SAFETYNET database. The FHWA would use the information to study the number and locations of accidents, and the motor carriers involved, to determine if there are patterns or trends concerning the safety performance of these carriers.

Accident Register

Section 390.15 requires that motor carriers make all records and information pertaining to an accident available to the FHWA upon request. Motor carriers must give the FHWA all reasonable assistance in the investigation of any accident. Motor carriers also must maintain at the principal place of business, for a period of one year after an accident occurs, an accident register with the following information:

(1) Date of the accident;

(2) City or town in which or most near where the accident occurred, and the State in which the accident occurred;

(3) Driver's name;

(4) Number of injuries;

(5) Number of fatalities; and

(6) Whether hazardous materials, other than fuel spilled from the fuel tanks of the motor vehicles involved in the accident, were released.

Copies of all accident reports required by State or other government entities or insurers also must be maintained by the motor carriers.

The FHWA is proposing that operators of CMVs designed or used to transport 9 to 15 passengers be required to comply with § 390.15 to assist the agency in conducting investigations and, if necessary, special studies about the safety performance of particular motor carriers or segments of the industry. For example, if one of a motor carrier's vehicles is involved in a major accident or a series of accidents, the FHWA could review the records required by § 390.15 as part of the process of determining whether there are deficiencies with the carrier's safety management controls.

Explanation of the Term ''For Compensation''

The TEA–21 definition of a passenger CMV includes the phrase ''for compensation'' in 49 U.S.C. 31132(1)(B). However, TEA–21 did not include a definition of the phrase. The FHWA considers the term to be synonymous with ''for hire.'' The FHWA intends that this rulemaking be applicable to all interstate for-hire motor carriers of passengers operating CMVs designed or used to transport 9 to 15 people. Although some commenters to the FHWA's ANPRM suggested that a distinction be made between motor carriers that are ''directly compensated'' and those that are ''indirectly compensated,'' the agency does not believe it is appropriate to exempt a for-hire motor carrier from the requirements being proposed on the basis of how the motor carrier is paid for its services. The FHWA requests comments on this issue.

On April 4, 1997 (62 FR 16370), the FHWA published Regulatory Guidance for the Federal Motor Carrier Safety Regulations. Page 16407 of that notice includes an interpretation of ''for-hire motor carrier.'' The guidance states:

> The FHWA has determined that any *business* (emphasis added) entity that

assesses a fee, monetary or otherwise, directly or indirectly for the transportation of passengers is operating as a for-hire carrier. Thus, the transportation for compensation in interstate commerce of passengers by motor vehicles (except in six-passenger taxicabs operating on fixed routes) in the following operations would typically be subject to all parts of the FMCSRs, including part 387: whitewater river rafters; hotel/motel shuttle transporters; rental car shuttle services, etc. These are examples of for-hire carriage because some fee is charged, usually indirectly in a total package charge or other assessment for transportation performed.

The reference to six-passenger taxicabs operating on fixed routes was included in the guidance because of the ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 803, 919). The ICCTA amended the statutory definition of a CMV prior to TEA–21, adding ''designed or used to transport passengers for compensation, but exclud(es) vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places.'' The TEA–21 resulted in the removal of this clause from the definition of CMV.

An example of transportation that would not be covered by this rulemaking is commuter vanpools. The FHWA understands that passengers in many vanpools pay a monthly fee to an individual, who either owns or leases the van. The FHWA does not believe this is a business. The individual uses this money not as a source of income or in the furtherance of a commercial enterprise, but to pay for the van, insurance premiums, fuel, and maintenance. There may be surplus funds each month that are put in reserve to cover unexpected costs, or losses of revenue during periods in which vanpool membership decreases. The FHWA, however, does not believe that this type of arrangement should be considered ''for compensation'' and does not intend to regulate such operations. The agency requests comments on the nature of these operations.

Rulemaking Analysis and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866 and significant within the meaning of Department of Transportation regulatory policies and procedures because of the substantial public interest concerning the possible extension of the applicability of the FMCSRs to a larger population of motor carrier operations. This rulemaking proposal would require that operators of vehicles designed or used to carry between 9 and 15 passengers (including the driver), for compensation in interstate commerce file a motor carrier identification report, mark their CMVs with a USDOT identification number, and maintain an accident register.

The FHWA believes the costs of complying with the requirements to submit a motor carrier identification report and to maintain an accident register are negligible. These requirements impose only information collection burdens (i.e., completion of forms, recordkeeping, etc.) and are discussed in greater detail below in the ''Paperwork Reduction Act'' section of this notice.

The FHWA estimates that the cost of marking CMVs will be between $11 and $26 per vehicle depending on the number of vehicles the motor carrier operates. The cost estimates are based upon the FHWA's preliminary regulatory evaluation and regulatory flexibility analysis prepared for the June 16, 1998 (63 FR 32801), notice of proposed rulemaking about CMV marking requirements. The complete regulatory evaluation and regulatory flexibility analysis are included in FHWA Docket No. FHWA–98–3547.

Since motor carriers operating CMVs designed or used to transport 9 to 15 passengers currently are not required to complete Form MCS–150, the FHWA does not have sufficient data to estimate the total number of CMVs that would need to be marked in accordance with § 390.21. However, one of the commenters responding to the FHWA's August 5, 1998, ANPRM (63 FR 41766) provided information that may be useful in estimating the population of vehicles that would need to be marked. The International Taxicab and Livery Association (ITLA) stated:

According to information available to ITLA, there are approximately 50,000 limousines in use that would be affected by the definitional change. It should be noted that there are over 9000 limousine operators nationwide (also operating premium sedan services), and that the median fleet size is less than 5. In addition, the average annual miles operated by limousines is approximately 23,000 miles.

ITLA estimates that there are approximately 74,000 vans nationwide—''the breakdown between ''mini-vans'' and those affected by the proposed definition is not available. Van fleets average less than 10 vans, with an approximate annual mileage of 40,000 per vehicle, and an average trip length of less than 8 miles lasting significantly less than 1 hour.

In September of 1998, the American Business Information (a mailing list sales company) released a sales catalog that reports the following information:

SIC code	Type of service	Number of U.S. companies
4111–01	Airport Transportation	4,752
4119–01	Handicapped Transportation	1,302
4119–03	Limousine Transportation	9,482
4121–01	Taxicab Transportation	7,348
	Total	22,884

The ITLA indicated that, if the FHWA decides to make the FMCSRs applicable to the operation of small passenger-carrying vehicles, approximately 14,000 companies, 125,000 vehicles, and 165,000 drivers would be covered. If there are 125,000 vehicles designed or used to transport 9 to 15 passengers for compensation in interstate commerce,

the costs to the industry for marking CMVs could be between $1,375,000 and $3,250,000. The costs are one-time expenses and would not be recurring. Generally, the marking would last the normal life of the vehicle.

At this time, the FHWA is not able to specifically quantify the safety benefits resulting from requiring CMVs to be marked. The requirement is necessary because it would be used to monitor the safety performance of these motor carriers. The safety performance data ultimately would be used to determine whether there are safety problems with operators of small passenger-carrying CMVs, and whether other FMCSRs should be made applicable to them. The FHWA specifically requests comments on the potential costs and benefits of the proposed requirements.

The FHWA has considered other rulemaking options such as, not imposing any regulatory burdens on these motor carriers, excluding the marking requirements from this rulemaking proposal, or imposing more stringent requirements. The agency believes the option chosen would be most effective at helping to achieve its objective to monitor the safety performance of these passenger carriers. Based upon the information above, the agency anticipates that the economic impact associated with this rulemaking action is minimal and a full regulatory evaluation is not necessary.

Regulatory Flexibility Act

The FHWA has considered the effects of this regulatory action on small entities and determined that this proposal could affect a substantial number of small entities, but would not have a significant impact on these entities. If the ITLA's estimate of 14,000 interstate motor carriers operating CMVs designed or used to transport 9 to 15 passengers is accurate, and most or all of these businesses are classified as small businesses by the Small Business Administration (SBA), the rulemaking would affect up to 14,000 small entities.

Generally, the costs per vehicle for small companies to mark their CMVs would be greater than those for large companies. If a motor carrier has between 1 to 6 vehicles, the total cost per vehicle for marking is estimated at $26. The motor carrier's total cost would therefore be between $26 and $156. For a motor carrier operating 7 to 20 CMVs, the total cost per vehicle marking would be $21. The total cost for the motor carrier's fleet would be between $147 and $420. For a fleet of 21–99 vehicles, the total cost per vehicle marking would decrease to $16. The total cost for the motor carrier's fleet would be between $336 and $1,584. And, for a fleet of 100 to 999 vehicles the cost per vehicle marking would decrease to $11. The total fleet cost would be between $1,100 and $10,989.

For the purpose of this rulemaking analysis, the FHWA will use the ITLA estimate for the number of business, vehicles, and drivers. The FHWA's data concerning carriers that have operating authority can only be used to identify 1,636 interstate motor carriers operating vehicles designed or used to transport 9 to 15 passengers. The agency believes there are many more carriers and that the ITLA's estimate appears to be a reasonable number. The FHWA requests comments on the number of motor carriers that would be subject to the proposed requirements, and the number of such carriers that are classified as small businesses.

Based on its analysis summarized above, the FHWA believes that this rulemaking could affect a substantial number of small entities, but would not have a significant impact on these entities. For example, if a small entity operated between 7 and 20 CMVs, the total cost per vehicle marking would be $21. The total cost for the motor carrier's fleet would be between $147 and $420. The FHWA does not consider this total fleet cost to be a significant impact on a business operating 20 vehicles. The FHWA, in compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has considered the economic impacts of the proposed requirements on small entities and certifies that this rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (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, sponsor, or require through regulations. The FHWA has determined that this proposal contains new collection of information requirements for the purposes of the PRA. The FHWA is proposing that motor carriers operating CMVs designed or used to transport 9 to 15 passengers meet the vehicle marking requirements at 49 CFR 390.21. The FHWA believes it is important that CMVs be properly marked so that the public has an effective means to identify motor carriers operating in an unsafe manner. Such markings will also assist Federal and State officials in accident investigations.

The information collection requirements contained on Form MCS–150 have been approved by the OMB under the provisions of the PRA and assigned the control number of 2125–0544 which expires on January 31, 2000. The FHWA estimates it takes approximately 20 minutes for interstate motor carriers to complete a Form MCS–150. The agency estimates that as a result of this rulemaking, 14,000 interstate motor carriers, currently not subject to the FHWA's safety regulations, would have to complete the Form MCS–150. Motor carriers are required to complete the form within 90 days after beginning operations. Motor carriers may have the information updated but are not required to periodically submit a new Form MCS–150. Therefore, the FHWA estimates an additional burden of 4,667 hours [(20 minutes per motor carrier × 14,000 motor carriers)/60 minutes per hour] to OMB 2125–0544. Because this action contains a proposal to require businesses currently not subject to 49 CFR 385.21 to file the Form MCS–150, the FHWA is required to resubmit this proposed collection of information, as revised, to OMB for review and approval. Accordingly, the FHWA seeks public comment on this proposed information collection requirement.

The information collection requirements for the accident register have been approved by the OMB under the provisions of the PRA and assigned the control number of 2125–0526 which expires on August 31, 2002. The FHWA estimates it takes approximately 18 minutes for interstate motor carriers to collect and record the seven elements of information on the accident register. However, since the FHWA does not have sufficient information to estimate the number of accidents operators of small passenger-carrying CMVs have each year, the agency is unable to

estimate the total time burden. If each of the estimated 14,000 interstate motor carriers operating small passenger-carrying vehicles has one accident per year, an additional burden of 4,200 hours per year [(18 minutes per motor carrier × 14,000 motor carriers)/60 minutes per hour] would be added to OMB No. 2125–0526. Because this action contains a proposal to require businesses currently not subject to 49 CFR 390.15 to maintain an accident register, the FHWA is required to resubmit this proposed collection of information, as revised, to OMB for review and approval. Accordingly, the FHWA seeks public comment on this proposed information collection requirement.

Interested parties are invited to send comments regarding any aspect of these information collection requirements, including, but not limited to: (1) Whether the collection of information is necessary for the performance of the functions of the FHWA, including whether the information has practical utility; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collection information; and (4) ways to minimize the collection burden without reducing the quality of the information collected.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action does not have any effect on the quality of the environment.

Unfunded Mandates Reform Act

This rule does not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*), that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

Regulation Identification Number

A regulatory identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects 49 CFR Part 390

Highway safety, Motor carriers, Motor vehicle identification and marking, Reporting and recordkeeping requirements.

Issued on: August 30, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 49, Code of Federal Regulations, chapter III, as follows:

PART 390—[AMENDED]

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

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, and 31504; sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); and 49 CFR 1.48.

2. Amend § 390.3 to revise paragraph (f)(6) to read as follows:

§ 390.3 General Applicability.

* * * * *

(f) *Exceptions.*

* * * * *

(6) The operation of commercial motor vehicles designed to transport less than 16 passengers (including the driver). However, motor carriers operating these vehicles for compensation are required to comply with 49 CFR 385.21, Motor carrier identification report, 49 CFR 390.15, Assistance in investigations and special studies, and 49 CFR 390.21, Marking of commercial motor vehicles.

[FR Doc. 99–23027 Filed 9–2–99; 8:45 am]

BILLING CODE 4910–22–P

Federal Register

Friday
September 3, 1999

Part V

Department of Labor

Wage and Hour Division

29 CFR Part 697

Industries in American Samoa; Wage Order; Final Rule

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 697

Industries in American Samoa; Wage Order

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: Under the Fair Labor Standards Act, minimum wage rates in American Samoa are set by a special industry committee appointed by the Secretary of Labor. This document puts into effect the minimum wage rates recommended for various industry categories by Industry Committee No. 23 which met in Pago Pago, American Samoa, during the week of June 7, 1999.

DATES: This rule shall become effective on September 20, 1999.

Applicability date: The new minimum wage rates are effective on September 20, 1999, unless otherwise noted.

FOR FURTHER INFORMATION CONTACT: Arthur M. Kerschner, Jr., Office of Enforcement Policy, Child Labor and Special Employment Team, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, NW., Washington, DC 20210: telephone (202) 693–0072. This is not a toll free number. Copies of the Final Rule in alternative formats may be obtained by calling (202) 693–0072 or (202) 693–1461 (TTY). The alternative formats available are large print, electronic file on computer disk (Word Perfect, ASCII, Mates with Duxbury Braille System) and audio-tape.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule contains no reporting or recordkeeping requirements which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

II. Background

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064), as amended (29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 664 (64 FR 13822), the Secretary of Labor appointed and convened Industry Committee No. 23 for Industries in American Samoa, referred to the Committee the question of the minimum rates of wages to be paid under section 8 of the FLSA to employees within the industries, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted in Pago Pago pursuant to the notice, the Committee filed with the Administrator of the Wage and Hour Division a report containing its findings of fact and recommendations with respect to minimum wage rates for various industry classifications. The Committee also corrected a typographical error that previously appeared in the definition of shipping and transportation. The FLSA requires that the Secretary publish this report in the **Federal Register** and further requires that the recommendations in the report be effective 15 days after publication.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950 and 29 CFR 511.18, this rule hereby revises § 697.1 and 697.3 of 29 CFR part 697 to implement the recommendations of Industry Committee No. 23.

Executive Order 12866/Section 202 of the Unfunded Mandates Reform Act of 1995 and Small Business Regulatory Enforcement Fairness Act

This rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866, and no regulatory impact analysis is required. This document puts into effect the wage rates recommended by Industry Committee No. 23 which met in Pago Pago, American Samoa during the week of June 7, 1999. The Committee recommended increases over two years in various industry categories; ranging from 3 cents per hour for the bottling, brewing, and dairy products industry; to 12 cents per hour over two years for the government employees industry.

When these increases are fully implemented, wage rates will range from $2.50 an hour (miscellaneous activities) to $3.97 an hour (shipping and transportation, classification A, stevedoring, lighterage, and maritime shipping activities).

There are approximately 16,000 employees in the various industry classifications. Based on the number of workers whose wages must be increased to the new minimum wage levels in 1999 and/or 2000, and assuming that employees currently paid at or in excess of the new minimum wages will also receive commensurate wage increases to maintain relative pay comparability, increases in the overall annual wage bill are expected to be very modest—approximately $618,000 in 1999 and $1.4 million (cumulative) in 2000. Thus this rule is not expected to result in a rule that may (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

For reasons similar to those noted above, the rule does not require a section 202 statement under the Unfunded Mandates Reform Act of 1995. Because the Secretary has no authority to change a recommendation of the Industry Committee, compliance with Executive Order 12875 is neither feasible nor permitted by law, and in any event, the rule is not a significant rule.

Furthermore, a resident of American Samoa is nominated by the Governor of American Samoa as a public member of the Industry Committee. Its representatives also provided testimony and made recommendations at the hearing.

Finally, the rule is not a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996. Although the rule will impact solely on American Samoa, its impact is not expected to be significant, for the reasons discussed above.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

Administrative Procedure Act

Good cause exists for issuance of this rule without publication 30 days in advance of its effective date, as normally required by section 553(d) of the Administrative Procedure Act. As discussed above, section 8 of the FLSA requires that the rule be effective 15 days after publication.

Document Preparation

This document was prepared under the direction and control of John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 697

American Samoa, Minimum wages.

Signed at Washington, DC this 30th day of August, 1999.

Bernard E. Anderson,

Assistant Secretary, Employment Standards Administration.

Accordingly, part 697 of Chapter V of Title 29, Code of Federal Regulations is amended as follows:

PART 697—INDUSTRIES IN AMERICAN SAMOA

The authority citation for part 697 continues to read as follows:

Authority: Secs. 5, 6, 8, 52 Stat. 1062, 1064; 29 U.S.C. 205, 206, 208.

2. Section 697.1 is amended by revising paragraphs (a)(1), (b)(1) and (2), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1), (n)(1); (o)(1) and (p)(1) to read as follows:

§ 697.1 Wage rates and industry definitions.

* * * * *

(a) *Fish canning and processing and can manufacturing industry.* (1) The minimum wage for this industry is $3.17 an hour effective October 27, 1998, and $3.20 an hour effective September 20, 2000.

* * * * *

(b) *Shipping and transportation industry.* (1) The minimum wage for classification A, stevedoring, lighterage and maritime shipping agency activities, is $3.92 an hour effective September 20, 1999 and $3.97 an hour effective September 20, 2000. The minimum wage for classification B, unloading of fish, is $3.76 an hour effective October 27, 1998, and $3.81 an hour effective September 20, 2000. The minimum wage for classification C, all other activities, is $3.72 an hour effective October 27, 1998, and $3.77 an hour effective September 20, 2000.

(2) This industry shall include the transportation of passengers and cargo by water or by air and all activities in connection therewith, including storage and lighterage operations: *Provided, however,* that this industry shall not include the operation of tourist bureaus and of travel and ticket agencies: *Provided, further;* that this industry shall not include bunkering of petroleum products or activities engaged in by seamen in American vessels which are documented or numbered under the Laws of the United States which operate exclusively between points in the Samoan Islands, and which are not in excess of 350 tons net capacity. Within this industry there shall be three classifications:

(i) *Classification A: Stevedoring, lighterage and maritime shipping agency activities.* This classification shall include all employees of employers who engage in each of the following three services: Stevedoring, lighterage and maritime shipping agency activities.

(ii) *Classification B: Unloading of fish.* This classification shall include the unloading of raw and/or frozen fish from vessels.

(iii) *Classification C: All other activities.* This classification shall include all other activities in the shipping and transportation industry.

(c) *Tour and travel service industry.* (1) The minimum wage for this industry is $3.22 an hour effective October 27, 1998.

* * * * *

(d) *Petroleum marketing industry.* (1) The minimum wage for this industry is $3.73 an hour effective October 27, 1998, and $3.78 an hour effective September 20, 2000.

* * * * *

(e) *Construction industry.* (l) The minimum wage for this industry is $3.45 an hour effective on September 20, 1999, and $3.50 an hour effective September 20, 2000.

* * * * *

(f) *Hotel industry.* (1) The minimum wage for this industry is $2.78 an hour effective October 27, 1998.

* * * * *

(g) *Retailing, wholesaling and warehousing industry.* (1) The minimum wage for this industry is $2.97 an hour effective September 20, 1999, and $3.01 an hour effective September 20, 2000.

* * * * *

(h) *Ship maintenance industry.* (1) The minimum wage for this industry is $3.20 an hour effective October 27, 1998, and $3.25 an hour effective September 20, 2000.

* * * * *

(i) *Bottling, brewing and dairy products industry* (1) The minimum wage for this industry is $3.07 an hour effective October 27, 1998, and $3.10 an hour effective September 20, 2000.

* * * * *

(j) *Printing industry.* (1) The minimum wage for the printing industry is $3.37 an hour effective September 20, 1999, and $3.40 an hour effective September 20, 2000.

* * * * *

(k) *Finance and insurance industry.* (1) The minimum wage for this industry is $3.83 an hour effective September 20, 1999, and $3.88 an hour effective September 20, 2000.

* * * * *

(l) *Private hospitals and educational institutions.* (1) The minimum wage for this industry is $3.24 an hour effective October 27, 1998.

* * * * *

(m) *Government employees industry.* (1) The minimum wage for this industry is $2.63 an hour effective September 20, 1999, and $2.69 an hour effective September 20, 2000.

* * * * *

(n) *Miscellaneous activities industry.* (1) The minimum wage for this industry is $2.45 an hour effective July 1, 1996, and $2.50 an hour effective September 20, 2000.

* * * * *

(o) *Garment manufacturing industry.* (1) The minimum wage for this industry is $2.55 an hour effective October 27, 1998, and $2.60 an hour effective September 20, 2000.

* * * * *

(p) *Publishing industry.* (1) The minimum wage for the publishing industry is $3.48 an hour effective September 20, 1999, and $3.53 an hour effective September 20, 2000.

3. Section 697.3 is revised to read as follows:

§ 697.3 Effective dates.

The wage rates specified in § 697.1 shall be effective on September 20, 1999, except as otherwise specified.

[FR Doc. 99–23015 Filed 9–2–99; 8:45 am]

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Boeing Model 767-400ER airplane; comments due by 9-7-99; published 7-21-99
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 211/P.L. 106–48

To designate the Federal building and United States courthouse located at 920 West Riverside Avenue in Spokane, Washington, as the ''Thomas S. Foley United States Courthouse'', and the plaza at the south entrance of such building and courthouse as the ''Walter F. Horan Plaza''. (Aug. 17, 1999; 113 Stat. 230)

H.R. 1219/P.L. 106–49

Construction Industry Payment Protection Act of 1999 (Aug. 17, 1999; 113 Stat. 231)

H.R. 1568/P.L. 106–50

Veterans Entrepreneurship and Small Business Development Act of 1999 (Aug. 17, 1999; 113 Stat. 233)

H.R. 1664/P.L. 106–51

Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999 (Aug. 17, 1999; 113 Stat. 252)

H.R. 2465/P.L. 106–52

Military Construction Appropriations Act, 2000 (Aug. 17, 1999; 113 Stat. 259)

S. 507/P.L. 106–53

Water Resources Development Act of 1999. (Aug. 17, 1999; 113 Stat. 269)

S. 606/P.L. 106–54

For the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical, LLC (successor to Kerr-McGee Chemical Corporation), and for other purposes. (Aug. 17, 1999; 113 Stat. 398)

S. 1546/P.L. 106–55

To amend the International Religious Freedom Act of 1998 to provide additional administrative authorities to the United States Commission on International Religious Freedom, and to make technical corrections to that Act, and for other purposes. (Aug. 17, 1999; 113 Stat. 401)

Last List August 18, 1999

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