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Thursday
November 18, 1999

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

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Farm Service Agency

7 CFR Part 1951

RIN 0560—AF89

Providing Notice to Delinquent Farm Loan Program Borrowers of the Potential for Cross-Servicing

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Debt Collection Improvement Act of 1996 requires Federal agencies to transfer delinquent nontax debt to the Department of the Treasury for debt collection action, known as cross-servicing. The Farm Service Agency is revising to provide notice to delinquent Farm Loan Program borrowers of the potential for referral of their debt for cross-servicing. The revisions also establish time limits for applying for debt settlement in order to implement the Government wide cross-servicing program.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: David Spillman, Chief, Direct Loan Servicing Branch, telephone (202) 720–0900, electronic mail: david__spillman@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been reviewed under Executive Order 12866 and has been determined to be not significant and has not been reviewed by OMB.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Executive Order 12612

It has been determined that under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Environmental Evaluation

It is the determination of FSA that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, and 7 CFR part 1940, subpart G, an Environmental Impact Statement is not required.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this order: (1) all State and local laws and regulations that are in conflict with this rule will be preempted; (2) except as specifically stated in this rule, no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR parts 11 and 780 must be exhausted before seeking judicial review.

Executive Order 12372

For reasons contained in the Notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA requires FSA to prepare a written statement, including a cost benefit assessment, for proposed and final rules with ''Federal mandates'' that may result in such expenditures for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under Title II of the UMRA, for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

The amendments to 7 CFR part 1951, subpart S contained in this rule require no revisions to the information collection requirements that were previously approved by OMB (0560–0161) under the provisions of 44 U.S.C. chapter 35.

Federal Assistance Program

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans

Background

Section 331D of the Consolidated Farm and Rural Development Act (CONACT), requires the Farm Service Agency (FSA) to provide delinquent Farm Loan Program (FLP) borrowers with a summary of FSA's delinquency loan servicing and debt settlement programs and an explanation of all filing requirements and deadlines. Section 331D(c) of the CONACT requires this notice to be published in the agency's regulations. Attachment 1 to Exhibit A of 7 CFR part 1951, subpart S was issued to meet these statutory

requirements. Attachment 1 to Exhibit A of 7 CFR part 1951, subpart S is sent to FLP borrowers who are at least 90 days past due or who are in nonmonetary default.

The Department of the Treasury (Treasury) has promulgated regulations in 31 CFR part 285 (64 FR 22906, April 28, 1999) implementing the Debt Collection Improvement Act of 1996. The Treasury rule is based on 31 U.S.C. 3711(g)(1)(A) which requires executive agencies to transfer delinquent nontax debt to Treasury for action to collect the debt or terminate the claim.

Cross-servicing is a new Government wide program, administered by Treasury, which will also impact the final collection and resolution of delinquent FLP debt. Sections V and VII of Attachment 1 of Exhibit A of part 1951, subpart S, are being revised to state that borrowers must apply for debt settlement within 30 days of receiving an additional debt settlement notice. A cross reference to the section discussing cross-servicing has been added. Attachment 3 of Exhibit A of this subpart has been similarly revised. Section IX of Attachment 1 is being revised to address the provisions of cross-servicing. As revised, FLP borrowers are informed of the conditions for account referral for cross-servicing and information on Treasury's cross-servicing activities.

The conditions for referral of debt for cross-servicing have been established by Treasury in 31 CFR 285.12(c) and (d). Based on Treasury's requirements, in order for a delinquent FLP account to be referred for cross-servicing, all security must have been liquidated and the debt must be legally enforceable. In addition, delinquent FLP borrowers will be notified that they have 30 days to submit an acceptable debt settlement offer to FSA. If a satisfactory debt settlement is not submitted or FSA rejects a debt settlement offer, the account will be referred to Treasury for collection by cross-servicing after all appeal rights are exhausted. Referral of debt to Treasury for cross-servicing is not an appealable action because it is required by statute.

Treasury has outlined cross-servicing activities in 31 CFR 285.12. As revised, section IX of Attachment 1 briefly describes Treasury's collection activities under cross-servicing. If debt is referred for cross-servicing, Treasury may take action to collect the debt by offset or garnishment, refer the debt to a private collection agency for collection, or refer the debt for collection by the U.S. Department of Justice (DOJ). Collection fees may be charged to the borrower when collection is made. In addition, FSA will report the debt to a credit bureau. After an account is referred to Treasury, any debt settlement offer must be submitted to Treasury, or its private collection agency contractor. If the account is referred to DOJ for collection, the settlement offer must be submitted to DOJ.

Good Cause Statement: FSA is publishing this rule as a final rule without notice and opportunity for public comment based on its finding that notice and public comment are unnecessary and contrary to the public interest. Referral of all agencies', including FSA's, nontax debt or claims, to Treasury for cross-servicing is required by 31 U.S.C. 3711(g)(1)(A), which requires Treasury referral of all nontax debt or claims due the United States for a period of 180 days. Treasury published an interim final rule with a request for comments on April 2, 1998, at 63 FR 16353. Treasury's interim final rule was effective immediately based on its good cause finding that the requirement to transfer debt to Treasury for debt collection became effective on April 26, 1996, the date of enactment of the Debt Collection Improvement Act. On April 28, 1999, at 64 FR 22906, Treasury promulgated the final rule. Therefore, FSA's compliance with the Government wide requirements that took effect on April 2, 1998, make additional public comment unnecessary. It would not be in the public interest for FSA to provide incomplete information about the debt settlement program if its loan servicing notice did not immediately discuss Treasury cross-servicing and its impact on FSA's debt settlement programs. For the reasons stated above, FSA for good cause also finds that making this rule immediately effective serves the public interest.

List of Subjects in 7 CFR Part 1951

Accounting Servicing, Credit, Debt Restructuring, Loan Programs-Agriculture, Loan Programs-Housing and Community Development.

Accordingly, 7 CFR part 1951 is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart S—Farm Loan Programs Account Servicing Policy

2. Revise the first paragraph of Section V of Attachment 1 to Exhibit A to Subpart S to read as follows:

Exhibit A—Notice of the Availability of Loan Servicing and Debt Settlement Programs for Delinquent Farm Borrowers

* * * * *

Attachment 1 * * *

V. Debt Settlement Programs

Purpose

These programs apply after it has been determined that primary loan service programs cannot help you. You may be eligible for both debt settlement and homestead protection. If you do not have FSA collateral you will need to apply for debt settlement only. Under these programs, the debt you owe FSA may be settled for less than the amount you owe. Please apply for debt settlement from FSA by submitting an application for debt settlement on Form RD 1956–1 within 30 days of receiving an additional debt settlement notice. See section IX. These programs are subject to the discretion of the agency and are not a matter of entitlement or right.

* * * * *

3. Revise the eighth paragraph of section VII of Attachment 1 to Exhibit A to Subpart S to read as follows:

* * * * *

Attachment 1 * * *

VII. * * *

Consideration for Debt Settlement Programs

If you wish to be considered for debt settlement, you will need to request and return a completed Form RD 1956–1. You may request debt settlement from FSA within 30 days of receiving an additional debt settlement notice. See section IX. Usually, the most appropriate time for making this request is when FSA has determined that Primary Loan Servicing options will not provide the best net recovery to the Government and you are requesting preservation loan servicing. If you no longer have any security remaining for the outstanding FSA loans, you may want to request debt settlement instead of primary and preservation loan servicing.

* * * * *

4. Revise section IX of Attachment 1 to Exhibit A to Subpart S to read as follows:

* * * * *

Attachment 1 * * *

IX. Acceleration and Foreclosure

If you do not appeal an adverse determination or if you are denied relief on appeal, FSA will accelerate your loan account and make demand for payment of the whole debt. FSA will stop allowing you to use any of your crop, livestock, and milk checks, on which they have a claim, to pay for living and operating expenses. FSA will repossess the collateral or start legal foreclosure or liquidation proceedings to take and sell the collateral, including your equipment, livestock, crops, and land. FSA will continue to take by administrative offset, money which FSA and other Federal Government agencies owe you.

FSA may refrain from taking these actions if you agree to do one, or a combination of the following actions, within an agreed upon time, with FSA's approval:

(1) Sell all the collateral for the loan at market value.

(2) Convey (legally transfer) the collateral to FSA. You may apply or reapply for homestead protection jointly with this action, even if you applied before and were not accepted.

(3) Apply to transfer the collateral to someone else and have that person assume all or part of the FSA debt. (This is called transfer and assumption.)

If any of these options, or foreclosure, result in payment of less than you legally owe, the servicing official will send you a notice providing you with 30 days to submit a debt settlement application. If you do not respond in a timely manner, your account will be sent to the U.S. Department of the Treasury (Treasury) for collection through cross-servicing. If you submit a debt settlement application within the required time frame, and the application is rejected, your debt will be referred to Treasury for cross-servicing after all appeal rights on the debt settlement application are exhausted. Referral of debt to Treasury for cross-servicing is not an appealable action. If your debt is referred for cross-servicing, Treasury may:

(1) Take action to collect the debt by offset or garnishment, including offset of tax refunds and garnishment of salary,

(2) Refer the debt to a private collection agency for collection, or

(3) Refer the debt for collection by the U.S. Department of Justice (DOJ).

Collection fees may be charged to you when collections are made. In addition, FSA will report the debt to a credit bureau. After your account is referred to Treasury, any debt settlement offer must be submitted to Treasury, or its private collection agency contractor. If your account is referred to DOJ for collection, your offer must be made to DOJ.

* * * * *

5. Revise the seventh paragraph of Attachment 3 to Exhibit A to Subpart S to read as follows:

* * * * *

Attachment 3 * * *

Purpose of Debt Settlement Programs

These programs apply after it has been determined that primary loan service programs cannot help you. You may be eligible for both debt settlement and preservation loan service programs. If you no longer have FSA collateral you will need to apply for debt settlement only. Under these programs, the debt you owe FSA may be settled for less than the amount you owe. You may apply for debt settlement from FSA by requesting and submitting an application for debt settlement on Form RD 1956–1 within 30 days of receiving an additional debt settlement notice. See section IX of 1951–S, Exhibit A, Attachment 1, which is included with this notice.

* * * * *

Signed in Washington, D.C., on November 4, 1999.

August Schumacher, Jr.,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 99–29866 Filed 11–17–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–58–AD; Amendment 39–11429; AD 99–24–05]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GMBH (ECD) Model BO–105CB–5 and BO–105–CBS–5 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing emergency priority letter airworthiness directive (AD), applicable to ECD Model BO–105CB–5 and BO–105–CBS–5 helicopters, that currently requires, before further flight, creating a component log card or equivalent record and determining the calendar age and number of flights on each tension-torsion (TT) strap. This amendment requires the same actions as the emergency priority letter AD and additionally clarifies the compliance time requirements specified in the emergency priority letter AD. This amendment is prompted by an accident in which a main rotor blade (blade) separated from an ECD Model MBB–BK 117 helicopter due to fatigue failure of a TT strap. The same part number TT strap is also used on the ECD Model BO–105 helicopter. The actions specified by this AD are intended to prevent failure of a TT strap, loss of a blade, and subsequent loss of control of the helicopter.

DATES: Effective December 3, 1999. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of December 3, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 18, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–58–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles Harrison, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5128, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On August 11, 1999, the FAA issued Emergency Priority Letter AD 99–17–15, Docket No. 99–SW–50–AD, applicable to ECD Model BO–105CB–5, BO–105CBS, and BO 105 LS A–3 helicopters, which required, before further flight, creating a component log card or equivalent record and determining the calendar age and number of flights on each TT strap. Emergency Priority Letter AD 99–17–15 also required inspecting and removing, as necessary, certain unairworthy TT straps. That action was prompted by an accident in which a blade separated from an ECD Model MBB–BK 117 helicopter resulting in three fatalities. The cause of the blade separation was a TT strap rupture within the main rotor head. The cause of the TT strap rupture remains under investigation. The ECD Model MBB–BK–117 and certain ECD Model BO–105 helicopters use the same part-numbered TT strap. That condition, if not corrected, could result in failure of a TT strap, loss of a blade, and subsequent loss of control of the helicopter.

After issuing Emergency Priority Letter AD 99–17–15, the FAA determined that the calculations for determining the total number of flights on a particular TT strap for the ECD Model BO–105CB–5 and the ECD Model BO–105CBS–5 helicopters were different than the calculation for determining the total number of flights on the part number TT strap for the ECD Model BO–105 LS A–3 helicopters. Therefore, the FAA decided to issue separate ADs with different calculation methods for each of the affected models. Emergency Priority Letter AD 99–20–13, Docket No. 99–SW–56–AD, was issued on September 24, 1999 for the ECD Model BO 105 LS A–3 helicopters and Emergency Priority Letter AD 99–17–21, Docket No. 99–SW–51–AD, applicable to ECD Model BO–105CB–5 and BO–

105CBS–5, was issued to supersede Emergency Priority Letter AD 99–17–15.

Since issuing superseding Emergency Priority Letter AD 99–17–21, the FAA has received several requests for clarification on the terms ''calendar year'' and ''calendar age.'' To clarify the required compliance times, the FAA has converted years to months and has removed the terms ''calendar year'' and ''calendar age'' from the AD.

The FAA has reviewed ECD Alert Service Bulletin BO 105 No. ASB–BO 105–10–113, dated August 11, 1999 (ASB). The ASB describes procedures for determining the total accumulated installation time and number of flights on each TT strap. The ASB specifies inspecting and replacing, as necessary, certain unairworthy TT straps and reidentifying the main rotor head after replacing the TT strap. The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, classified that ASB as mandatory and issued AD 1999–289, dated August 11, 1999, applicable to Model BO–105C (BO–105CB–5), BO–105S (BO–105CBS–5) helicopters.

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

Since an unsafe condition has been identified that is likely to exist or develop on other ECD Model BO–105CB–5 and BO–105–CBS–5 helicopters of the same type design, this AD supersedes Emergency Priority Letter AD 99–17–21 to require, before further flight, creating a component log card or equivalent record and determining the age and number of flights on each TT strap. The AD also requires inspecting and removing, as necessary, certain unairworthy TT straps. Certain TT straps are not eligible for installation until they are reidentified. The actions must be accomplished in accordance with the ASB described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, creating a component log card or equivalent record and determining the age and number of flights on each TT strap and inspecting and removing, as necessary, certain unairworthy TT straps are required prior to further flight and this AD must be issued immediately.

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

The FAA estimates that 85 helicopters of U.S. registry will be affected by this AD; that it will take approximately 1 work hour to inspect the 4 TT straps on each helicopter; 15 work hours per helicopter to remove and replace the 4 TT straps, if necessary; and the average labor rate is $60 per work hour. Required parts will cost approximately $2,600 per TT strap ($10,400 per helicopter). Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $965,600; $5,100 to inspect each helicopter once and $960,500 to remove and replace the 4 TT straps on all helicopters.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–58–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 that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety. Adoption of the Amendment.

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 99–24–05 Eurocopter Deutschland GMBH: Amendment 39–11429. Docket No. 99–SW–58–AD. Supersedes Emergency Priority Letter AD 99–17–21, Docket No. 99–SW–51–AD.

Applicability: Model BO–105CB–5 and BO–105CBS–5 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) 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 main rotor blade (blade) separation due to failure of a tension-torsion (TT) strap, accomplish the following:

(a) Before further flight:

(1) Create a component log card or equivalent record for each TT strap.

(2) Review the history of the helicopter and each TT strap. Determine the age since initial installation on any helicopter (age) and the number of flights on each TT strap. Enter both the age and the number of flights for each TT strap on the component log card or equivalent record. For the time-in-service (TIS) where the number of flights is unknown, multiply the number of hours TIS by 5 to determine the number of flights. If a TT strap has been previously used at any time on Model BO–105 helicopters not affected by this AD, multiply the number of flights accumulated on those other models by a factor 0.625 and then add that result to the number of flights accumulated on the Model BO–105CB–5 and BO–105CBS–5 helicopters.

(3) If the total hours TIS or number of flights and age cannot be determined for a TT strap, remove it from service.

(4) Remove any TT strap from service that has either accumulated 25,000 or more flights or has an age equal to or greater than 180 months.

(b) When a TT strap age is equal to or greater than 120 months and less than 180 months and has accumulated less than 25,000 flights, inspect the TT strap in accordance with paragraph 2.B.2. of the ''Accomplishment Instructions,'' Eurocopter Deutschland GMBH Alert Service Bulletin BO 105 No. ASB–BO 105–10–113, dated August 11, 1999 (ASB), according to the following:

(1) If the age is greater than or equal to 120 months but less than 132 months and has less than 22,000 flights, inspect the TT strap within the next 6 weeks. If the number of flights equals or exceeds 22,000, inspect the TT strap before further flight.

(2) If the age is greater than or equal to 132 months but less than 144 months and has less than 19,000 flights, inspect the TT strap within the next 5 weeks. If the number of flights equals or exceeds 19,000, inspect the TT strap before further flight.

(3) If the age is greater than or equal to 144 months but less than 156 months and has less than 16,000 flights, inspect the TT strap within the next 4 weeks. If the number of flights equals or exceeds 16,000, inspect the TT strap before further flight.

(4) If the age is greater than or equal to 156 months but less than 168 months and has less than 13,000 flights, inspect the TT strap within the next 3 weeks. If the number of flights equals or exceeds 13,000, inspect the TT strap before further flight.

(5) If the age is greater than or equal to 168 months but less than 180 months and has less than 10,000 flights, inspect the TT strap within the next 2 weeks. If the number of flights equals or exceeds 10,000, inspect the TT strap before further flight.

(c) If a defect is found as a result of the inspection in paragraph (b), remove the TT strap from service prior to further flight.

(d) If no defect is found as a result of the inspection in paragraph (b), a maximum of 500 flights is permitted on a one-time basis before the TT strap must be replaced, provided the limits of paragraphs (a)(4) and (b) are not exceeded.

(e) TT straps, part number (P/N) 2604067 or J17322–1, are not eligible for installation. Prior to installation, P/N 2604067 or J17322–1 must be reidentified according to paragraph 2.B.1.2. of the ''Accomplishment Instructions'' of the ASB.

(f) When the TT straps are replaced because of age, usage, or defects, reidentify the main rotor head in accordance with paragraph 2.B.1.2. of the ''Accomplishment Instructions'' of the ASB.

(g) 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, Regulations Group, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

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

(i) The TT strap inspections and reidentification shall be done in accordance with paragraphs 2.B.1.2. and 2.B.2. of the ''Accomplishment Instructions'' in Eurocopter Deutschland GMBH Alert Service Bulletin No. ASB–BO 105–10–113, dated August 11, 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 American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on December 3, 1999.

Note 3: The subject of this AD is addressed in Luftfahrt-Bundesamt (LBA), Federal Republic of Germany, AD 1999–289, dated August 11, 1999.

Issued in Fort Worth, Texas, on November 10, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–30146 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–06–AD; Amendment 39–11334; AD 99–20–04]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D–7R4 Series Turbofan Engines; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 99–20–04 applicable to certain Pratt & Whitney (PW) JT9D series turbofan engines that was published in the **Federal Register** on September 24, 1999 (64 FR 51683). The final rule inadvertently references HPC disk fracture instead of HPT disk fracture and one service bulletin (SB) reference in the compliance section is incorrect. This document corrects those references. The Compliance section in the final rule was inadvertently changed to incorporate the compliance requirements used in a similar PW2000 Airworthiness Directive. The Compliance requirements were correctly published in the NPRM, but were published incorrectly in the Final Rule. This correction will reinstate the compliance requirements originally published in the NPRM, and as intended for the JT9D. In all other respects, the original document remains the same.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Peter White, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7128, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A final rule airworthiness directive applicable to Pratt & Whitney (PW) JT9D–7R4 series turbofan engines, was published in the **Federal Register** on September 24, 1999 (64 FR 51683). The Rule should reference HPT disk fracture instead of HPC disk fracture. In addition, a typographical error occurred and, as a result, one Service Bulletin reference regarding the performance of the inspections is incorrect and has been corrected to refer to the SB that contains the actual inspection procedure. The following corrections are needed:

§ 39.13 [Corrected]

1. On page 51684, in the first column, in the Compliance Section, in the first paragraph, in the second line, ''To prevent a high pressure compressor (HPC) disk fracture'' is corrected to read ''To prevent a high pressure turbine (HPT) disk fracture.''

2. On page 51684, in the second column, in the Compliance Section, in paragraph (a), in the sixth, seventh, eighth and ninth lines, '''PW SB JT9D–7R4–72–552, Revision 1, dated February 17, 1999 at each separation of the HPT disk from the HPT module after the effective date of the AD.'' is corrected to read ''PW SB JT9D–7R4–72–553, Revision 1, dated February 17, 1999 at each HPT disk piece part accessibility after the effective date of this AD.''

David A. Downey,

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

[FR Doc. 99–29824 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–13–U

RAILROAD RETIREMENT BOARD

20 CFR Part 220

RIN 3220–AB41

Determining Disability

AGENCY: Railroad Retirement Board.

ACTION: Interim final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to increase from $500 to $700 the average monthly earnings guidelines used to determine whether work done by an individual may be considered regular employment. This change coincides with an increase in the guidelines contained in the regulations of the Social Security Administration for determining substantial gainful activity that became effective July 1, 1999.

DATES: *Effective Date:* This rule is effective November 18, 1999.

Applicability Date: This rule will be applied to all disability claims for which a final decision had not been rendered as of July 1, 1999.

Comment Date: Comments due on or before January 18, 2000.

ADDRESSES: Comments may be made to the Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: The Railroad Retirement Act provides for disability annuities for employees, widow(er)s, and children of deceased railroad employees who are unable to engage in any regular employment because of a permanent physical or mental impairment. Regular employment is defined by reference to the definition of substantial gainful activity under the Social Security Act. Sections 220.141 and 220.142 of the Board's regulations reflect this definition and define ''substantial gainful activity'' (SGA) as work activity that involves doing significant physical or mental activities for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized. Section 220.143 sets forth earnings levels at which the Board considers a disabled person to be engaged in SGA regardless of the severity of his or her impairment. The amount of average monthly earnings that ordinarily demonstrates SGA for people with an impairment has not been increased since January 1, 1990. Consequently, with respect to months after June 1999 the Board raises from $500 to $700 the average monthly earnings guidelines used to determine whether work done by a person with a disability is substantial gainful activity. The Board has determined that an increase in the amount of earnings that constitutes SGA provides an updated indicator of when earnings demonstrate the ability to engage in SGA and is a significant improvement to the existing incentives to encourage individuals with disabilities to attempt to work. This increase also conforms to changes in the regulations of the Social Security Administration which became effective July 1, 1999 (64 FR 18566, April 15, 1999; a correction appears at 64 FR 22903, April 28, 1999).

The Board is publishing this rule as an interim final rule in order to make it effective immediately. However, any person wishing to comment on this rule may do so within 60 days of this publication in the **Federal Register**.

In order to comply with the President's June 1, 1998 memorandum directing the use of plain language for all proposed and final rulemaking, the regulatory paragraphs affected by the above rule changes have been rewritten into plain language. The rewrite is intended to have no substantive effect other than those substantive changes described in this preamble to these rules.

The Board, with the concurrence of the Office of Management and Budget, has determined that this rule is not a significant regulatory action under Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 220

Disability benefits, Railroad employees, Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board amends § 220.143 of title 20, chapter II, part 220 of the Code of the Federal Regulations as follows:

PART 220—DETERMINING DISABILITY

1. The authority for part 220 continues to read as follows:

Authority: 45 U.S.C. 231a; 45 U.S.C. 231f.

2. In § 220.143, paragraphs (b)(2), (3), and (4) are revised as follows:

§ 220.143 Evaluation guides for an employed claimant.

* * * * *

(b) * * *

(2) *Earnings that will ordinarily show that the claimant has engaged in substantial gainful activity.* The Board will consider that the earnings from the employed claimant's work activities show that the claimant has engaged in substantial gainful activity if—

For months	Monthly earnings averaged more than
In calendar years before 1976 ...	$200
In calendar year 1976	230
In calendar year 1977	240
In calendar year 1978	260
In calendar year 1979	280
In calendar years 1980–1989	300
In January 1990–June 1999	500
After June 1999	700

(3) *Earnings that will ordinarily show that the claimant has not engaged in substantial gainful activity.* The Board will generally consider that the earnings from the employed claimant's work will show that the claimant has not engaged in substantial gainful activity if—

For months	Monthly earnings averaged less than
In calendar years before 1976 ...	$130
In calendar year 1976	150
In calendar year 1977	160
In calendar year 1978	170
In calendar year 1979	180
In calendar years 1980–1989	190
After December 1989	300

(4) *If the claimant works in a sheltered workshop.* If the claimant is working in a sheltered workshop or a comparable facility especially set up for severely impaired persons, the claimant's earnings and activities will ordinarily establish that the claimant has not done substantial gainful activity if—

For months	Average monthly earnings are not greater than
In calendar years before 1976 ...	$200
In calendar year 1976	230
In calendar year 1977	240
In calendar 1978	260
In calendar year 1979	280
In calendar years 1980–1989	300
In January 1990–June 1999	500
After June 1999	700

* * * * *

Dated: November 10, 1999.

By authority of the Board.

For the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 99–30074 Filed 11–17–99; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 884

[Docket No. 97N–0335]

Obstetric and Gynecologic Devices; Reclassification and Classification of Medical Devices Used for In Vitro Fertilization and Related Assisted Reproduction Procedures; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its obstetrical and gynecological device regulations regarding assisted reproductive microscopes and microscope accessories. This action is being taken to ensure accuracy and clarity in the agency's regulations.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: FDA has discovered that an error was incorporated into the agency's obstetrical and gynecological devices regulations for assisted reproductive microscopes and microscope accessories. In an amendment to 21 CFR part 884, which added 21 CFR 884.6190 and published on September 10, 1998 (63 FR 48428), a sentence stating that the device is exempt from the premarket notification procedures was inadvertently included in paragraph (a) instead of paragraph (b). This document corrects that error. Publication of this document constitutes final action under the Administrative Procedure Act (5 U.S.C. 553). FDA has determined that notice and public comment are unnecessary because this amendment is nonsubstantive.

List of Subjects in 21 CFR Part 884

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 884 is amended as follows:

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

1. The authority citation for 21 CFR part 884 continues to read as follows:

Authority: 21 CFR U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 884.6190 is amended by removing the last sentence in paragraph (a), and paragraph (b) is revised to read as follows:

§ 884.6190 Assisted reproductive microsopes and microscope accessories.

* * * * *

(b) *Classification.* Class 1. This device is exempt from the premarket notification procedures in subpart E of part 807 of chapter subject to limitation in § 884.9.

Dated: November 4, 1999.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–30084 Filed 11–17–99; 8:45 am]

BILLING CODE 4160–01–F

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No.: RM–99–6]

Copyright Rules and Regulations

AGENCY: Copyright Office, Library of Congress.

ACTION: Technical amendment.

SUMMARY: The definition of what is the best edition of a published work is found in 37 CFR 202.19(b)(1)(i). The Copyright Office is amending its regulations to clarify where the public may find a statement on the best edition of published copyrighted works for the collections of the Library of Congress. The statement, which contains the criteria for selection of what constitutes the ''best edition'' of a published work, is located in appendix B of 37 CFR part 202.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Marilyn J. Kretsinger, Assistant General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 407 of the copyright statute requires that the best edition of a published work must be deposited with a copyright registration application so that the Library of Congress may consider whether to select a work for its collections or for other suitable purposes. *See* 37 CFR 202.19. The Copyright Office is now amending its regulation concerning what constitutes

the ''best edition'' of a published work for registration purposes. This amendment merely clarifies that the criteria for selection of the ''best edition'' of published copies or phonorecords is located in appendix B title 37 of the Code of Federal Regulations. Information about ''best edition'' copies or phonorecords is also located in the Office's Circular 7b.

List of Subjects in 37 CFR Part 202

Copyright, Registration of claims to copyright.

For the reasons stated above, 37 CFR part 202 is amended as follows:

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 202.19 [Amended]

2. Section 202.19 is amended by adding at the end of paragraph (b)(1)(i) a new sentence to read as follows:

* * * * *

(b) * * *

(l) * * *

(i) * * * The ''best edition'' requirement is described in detail at Appendix B to this part.

* * * * *

3. Section 202.19(b)(1)(ii) is amended by removing ''Copies of the Best Edition Statement are available upon request made to the Copyright Acquisitions Division.'' .

Dated: November 10, 1999.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 99–29877 Filed 11–17–99; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[IN94–1a; FRL–6476–9]

Approval of Municipal Waste Combustor State Plan for Designated Facilities and Pollutants: Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving Indiana's State Plan to control air pollutants from Municipal Waste Combustors (MWC). The Indiana Department of Environmental Management (IDEM) submitted the State Plan on September 30, 1999. The State Plan adopts the Federal Emissions Guidelines (EG) applicable to existing MWCs with the capacity to combust more than 250 Tons Per Day (TPD) of Municipal Solid Waste (MSW). The State Plan applies to the Indianapolis Resource Recovery Facility in Indianapolis, Indiana. This approval means that EPA finds the State Plan meets applicable Clean Air Act (Act) requirements for MWC State Plans. Once effective, the approval makes the State Plan federally enforceable, and Indiana's MWC will not be subject to the MWC Federal Plan.

DATES: This rule is effective on January 18, 2000, unless EPA receives adverse written comments by December 20, 1999. If adverse written comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. You can inspect copies of the State Plan submittal at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend you contact Mark J. Palermo, Environmental Protection Specialist, at (312) 886-6082 before visiting the Region 5 Office).

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, at (312) 886–6082.

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

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I. What Is EPA Approving in This Action?

We are approving the September 30, 1999, Indiana State Plan which implements the requirements of sections 111(d) and 129 of the Act as applicable to MWCs. This approval, once effective, will make the Indiana MWC rule included in the plan federally enforceable.

II. The MWC State Plan Requirement

What Is an MWC State Plan?

An MWC State Plan is a plan to control air pollutant emissions from certain combustors burning municipal solid waste. The plan also includes source and emission inventory information.

Why Did Indiana Submit an MWC State Plan?

Sections 111(d) and 129 of the Act require States to submit State Plans to control emissions from existing MWCs in the State. The State Plan requirement was triggered when we published the EG for MWCs on December 19, 1995 (60 FR 65387). We codified the EG at 40 CFR part 60, subpart Cb.

Under section 129 of the Act, we are required to promulgate EGs for several categories of existing solid waste incinerators. Section 129 provides that the emission limitations in the EGs may not be less stringent than the average emission limitations achieved by the best performing 12 percent of units in the category. This is commonly referred to as the ''Maximum Available Control Technology (MACT) floor'' for existing units. Emission control options less stringent than the MACT floor can not be considered in developing section 129 EGs. In addition to emission limitations, the MWC EG also establishes requirements for compliance dates, monitoring, and operator training, as required by section 129.

The intent of the State Plan requirement is to reduce several types of air pollutants associated with waste incineration.

What Pollutants Does the MWC State Plan Reduce?

The State Plan establishes control requirements which reduce the following emissions from MWCs: particulate matter, opacity, sulfur dioxide, hydrogen chloride, nitrogen oxides, carbon monoxide, lead, cadmium, mercury, dioxins and dibenzofurans, and visible emissions of fugitive ash.

These pollutants can cause adverse effects to the public health and the environment. For instance, dioxin, lead, and mercury can bioaccumulate in the environment. Exposure to mercury has been linked to serious developmental and adult effects in humans, primarily damage to the nervous system. Exposure to dioxin and furans can cause skin disorders, cancer, and reproductive effects such as endometriosis. Dioxin and furans can also affect the immune system. Acid gases, such as sulfur dioxide and nitrogen oxides, contribute to the acid rain that damages lakes and harms forests and buildings. Exposure to particulate matter has been linked to adverse health effects, including aggravation of existing respiratory and cardiovascular disease and increased risk of premature death. Nitrogen oxides emissions can also contribute to ground level ozone, which is associated with a number of adverse health and environmental effects.

What Criteria Must an MWC State Plan Meet To Be Approved?

The following table summarizes the criteria for approving an MWC State Plan:

Requirement	Elements
Sections 111(d) and 129: State Plan must be at least as protective as the EG.	—Applicability. —Emission Limits. —Compliance Schedules. —Performance Testing. —Monitoring/Inspection. —Work Practices. —Operator Training/Certification. —Recordkeeping/Reporting.
40 CFR part 60, subpart B: Criteria for an approvable section 111(d) plan.	—Demonstration of Legal Authority. —Enforceable Mechanism. —Evidence of public hearing. —Source and Emission Inventories. —State Progress Report Commitment.

We issued a guidance document which contains the requirements for an approvable MWC State Plan, entitled ''Municipal Waste Combustion: Summary of the Requirements for Section 111(d)/129 States Plans for Implementing the Municipal Waste Combustor Emission Guidelines,'' published July 1996 (EPA–456/R–96–003) (see EPA web site http: // www.epa.gov/ttn/uatw/129/mwc/ rimwc.html). Indiana used this document to develop its State Plan.

III. The Indiana MWC Plan

Who Is Affected by the Indiana MWC State Plan?

The State Plan requirements are applicable to each MWC unit with a combustion capacity greater than 250 TPD of MSW for which construction was commenced on or before September 20, 1994.

According to the source inventory in Indiana's State Plan, there is only one existing applicable MWC source operating in the State, Indianapolis Resource Recovery Facility, in Indianapolis.

The State Plan needs only to address MWC units with a combustion capacity greater than 250 TPD of MSW because the United States Court of Appeals for the District of Columbia Circuit has vacated the portion of the EG applicable to MWC units with capacity to combust less than or equal to 250 TPD of MSW. See *Davis County Solid Waste Management and Recovery District* versus *EPA*, 101 F.3d 1395 (D.C. Cir. 1996), *as amended*, 108 F.3d 1454 (D.C. Cir. 1997).

The State Plan does not need to cover new MWCs, since they are subject to the applicable New Source Performance Standards (NSPS), also promulgated December 19, 1995. See 40 CFR part 60, subpart Eb.

Where Are the Indiana MWC Requirements Codified?

The State Plan requirements are codified under 326 Indiana Administrative Code (IAC) 11–7. The Indiana Pollution Control Board adopted the rule on September 2, 1998. The rule was filed with the Secretary of State on January 18, 1999, and became effective on February 17, 1999. The rule was published in the *Indiana Register* on March 1, 1999, at 22 IR 1967.

What Does the Indiana MWC State Plan Require?

The State Plan's enforceable mechanism for the EG is 326 IAC 11–7. The Indiana rule incorporates the requirements set forth in the December 19, 1995, EG, as well as the amendments made to the EG on August 25, 1997 (62 FR 45116; 62 FR 45124). The rule contains the appropriate emission limits and requirements concerning performance testing, work practices, operator training and certification requirements, monitoring, and recordkeeping and reporting, as specified under the EG.

When Must the State Plan Requirements Be Met?

The rule establishes two compliance schedules to meet the EG requirements. The first compliance schedule is to meet full compliance within one year of the effective date of the rule, or February 17, 2000. If the source will not be able to meet the first compliance schedule, then it must meet the second compliance schedule. The second compliance schedule includes a final compliance date of December 19, 2000, as mandated by the Act.

If the source intends to meet the December 19, 2000, compliance date, instead of the February 17, 2000, date, the source must submit post-1990 performance test results for dioxin/ furans, and must comply with enforceable increments of progress, as required by the EG. The increments of progress ensure subject facilities will be in final compliance by December 19, 2000, the final compliance date. The Indianapolis Resource Recovery Facility has indicated its intent to comply with

the second compliance schedule and has submitted dioxin/furan test data.

The increments of progress and respective compliance dates are as follows:

Increment of progress	Due date
Submit a final control plan to IDEM. (This date does not affect the date a final control plan is required to be submitted to EPA under the Federal Plan).	March 19, 1999.
Award contracts for emission control systems or for process modifications, or issuance of orders for the purchase of component parts to accomplish emission control or process modifications.	May 18, 1999.
Initiate on-site construction or installation of emission control equipment or process change	November 16, 1999.
Complete on-site construction or installation of emission control equipment or process change	November 19, 2000.
Complete the initial performance test in accordance with rule requirements	Within 180 days of initial start-up.

Notwithstanding the above compliance dates, the rule requires the source to be in compliance with the operator training and certification requirements of the rule by September 1, 1999.

If the source is not in compliance with the rule by December 19, 2000, it must cease operation.

What Else Does the Indiana MWC State Plan Include?

The State Plan includes a demonstration of legal authority to implement the EG, documentation of public hearing, comment, and response, a source and emissions inventory, and a provision for State progress reports to EPA. Indiana submitted these materials to satisfy the section 111(d) requirements under 40 CFR part 60, subpart B.

What Public Review Opportunities Were Provided?

Indiana held two public hearings on the MWC rule. It held the first hearing on May 6, 1998, and the second hearing was held on September 2, 1998, both in Indianapolis. Indiana also published a public notice on June 30, 1999, to let the public know that the State Plan was available for viewing at several locations around the State, and that there was a 30-day public comment period and opportunity to request a public hearing on the State Plan. The public comment period closed on July 3, 1999. Indiana did not receive any comments from the public, and no one requested a third public hearing.

IV. Review and Approval of the Indiana MWC State Plan

Why is the Indiana MWC State Plan Approvable?

We compared the Indiana MWC rule, 326 IAC 11–7, to our MWC EG. We find the Indiana rule to be at least as protective as the EG. Therefore, we find the State Plan to meet the requirements of section 129 of the Act. Also, the Indiana State Plan satisfies the requirement for an approvable section 111(d) plan under subparts B and Cb of 40 CFR part 60. For these reasons, we are approving the Indiana MWC State Plan.

How Does the Approval of the State Plan Affect Federal Plan Requirements?

On November 12, 1998, we promulgated a Federal Plan implementing the EG in those States that did not have approved State Plans (see 63 FR 63191). Indiana became subject to the Federal Plan as of that date because it had not yet submitted a State Plan.

In the Federal Plan's preamble, we indicated that once EPA approves a State Plan, the Federal Plan no longer applies in that State, as of the effective date of the State Plan approval. The State will implement and enforce the State Plan in lieu of the Federal Plan. The Federal Plan also states that we will periodically amend the Federal Plan exclusion table to identify States that have approved State Plans. MWC units subject to approved and effective State Plans are not subject to the Federal Plan. The State Plan is effective on the date specified in the **Federal Register** announcing EPA's approval, whether or not we have revised the exclusion table. Therefore, once this final action approving the Indiana MWC State Plan becomes effective, the existing MWC Federal Plan requirements will no longer apply to Indiana.

V. EPA Rulemaking Action

We are approving, through direct final rulemaking action, Indiana's sections 111(d) and 129 State Plan for large MWCs, submitted on September 30, 1999. As of the effective date of this action, Indiana sources will no longer be subject to the November 12, 1998, Federal Plan. The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the State Plan should adverse written comments be filed. This action will be effective January 18, 2000 without further notice unless EPA receives relevant adverse written comment by December 20, 1999. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on January 18, 2000.

VI. 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 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces E.O. 12612 (Federalism) and E.O. 12875 (Enhancing the Intergovernmental Partnership). E.O. 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the E.O. to include regulations that 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.'' Under E.O. 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the

process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule 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, as specified in E.O. 13132. Thus, the requirements of section 6 of the E.O. 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. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. 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 January 18, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and

shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Municipal waste combustors, Reporting and recordkeeping requirements.

Dated: November 4, 1999.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

PART 52—[AMENDED]

40 CFR Part 62 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart P—Indiana

2. Part 62 is amended by adding an undesignated centerhead and §§ 62.3650, 62.3651, and 62.3652 to Subpart P to read as follows:

* * * * *

Metals, Acid Gases, Organic Compounds and Nitrogen Oxide Emissions From Existing Municipal Waste Combustors With the Capacity To Combust Greater Than 250 Tons Per Day of Municipal Solid Waste

§ 62.3650 Identification of plan.

On September 30, 1999, Indiana submitted the State Plan for implementing the Federal Large Municipal Waste Combustor (MWC) Emission Guidelines to control emissions from existing MWCs with the capacity to combust greater than 250 tons per day of municipal solid waste. The enforceable mechanism for this plan is a State rule codified in 326 Indiana Administrative Code (IAC) 11–7. The rule was adopted on September 2, 1998, filed with the Secretary of State on January 18, 1999, and became effective on February 17, 1999. The rule was published in the Indiana State Register on March 1, 1999 (22 IR 1967).

§ 62.3651 Identification of sources.

The plan applies to all existing municipal waste combustors with the capacity to combust greater than 250 tons per day of municipal solid waste, and for which construction, reconstruction, or modification was commenced on or before September 20, 1994, as consistent with 40 CFR part 60, subpart Cb. Subject facilities include the Indianapolis Resource Recovery Facility in Indianapolis, Indiana.

§ 62.3652 Effective Date.

The effective date of the approval of the Indiana State Plan for municipal waste combustors with the capacity to combust greater than 250 tons per day of municipal solid waste is January 18, 2000.

[FR Doc. 99–30021 Filed 11–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300891B; FRL–6395–4]

RIN 2070–AB78

Propargite; Extension of Partial Stay of Order Revoking Certain Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of partial stay of final rule.

SUMMARY: EPA is extending by 30–days a stay concerning the revocation of tolerances for propargite on apples and plums (fresh prunes) leaving those tolerances in place until December 18, 1999.

DATES: The reinstatement amendments published on November 1, 1999 (64 FR 58792) are extended effective from November 18, 1999 until December 18, 1999.

FOR FURTHER INFORMATION CONTACT: For technical information contact: Joseph Nevola, Special Review Branch, (7508C), Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, CM #2, 6th floor, 1921 Jefferson Davis Hwy., Arlington, VA. Telephone: (703) 308–8037; e-mail: *nevola.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not exhaustive, but is a guide to entities likely to be regulated by this action. The North American Industrial Classification System (NAICS) codes will assist you in determining whether this action applies to you. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information, Including Copies of this Document and 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/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300891B. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the 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.

II. What Action is the Agency Taking?

In the **Federal Register** of July 21, 1999 (64 FR 39068) (FRL–6089–7), EPA issued an order by final rule revoking tolerances in § 180.259(a)(1) for the use of propargite on apples; apricots; beans, succulent; cranberries; figs; peaches; pears; plums (fresh prunes); and strawberries. EPA revoked the tolerances on the grounds that previous

cancellation of the underlying uses for propargite rendered the tolerances unnecessary. In the final rule, EPA set an effective date of October 19, 1999 for the revocations.

Any person adversely affected by the July 21, 1999 Order was allowed 60 days to file written objections to the order and a written request for an evidentiary hearing on the objections.

EPA received an objection from Uniroyal Chemical Company requesting EPA to modify the effective date of revocation for propargite on apples; and plums (fresh prunes). Uniroyal also requested an evidentiary hearing. On November 1, 1999 EPA stayed the removal of the tolerances for apples; and plums (fresh prunes) and reinstated the tolerance levels for these commodities effective from October 19, 1999 until November 18, 1999 in order to determine whether to grant the request for modification and if so, for what length of time (64 FR 58792) (FRL–6390–4). Since the objection is still under consideration, EPA is extending the stay of revocation for apples and plums (fresh prunes) by 30 days.

By this document, EPA is extending the stay for the removal of the tolerances for apples; and plums (fresh prunes) in § 180.259(a)(1) from November 18, 1999 until December 18, 1999 in order to allow EPA to determine whether to grant the request for modification and if so, for what length of time.

List of Subjects 40 CFR Part 180

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

Dated: November 10, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–30200 Filed 11–17–99; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 92–237; CC Docket No. 95–185; CC Docket No. 96–98; FCC 99–243]

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document resolves issues concerning numbering administration raised in Petitions for Reconsideration or Clarification filed in response to the Local Competition Second Report and Order. This document also resolves certain issues raised by the New York State Department of Public Service (NYDPS) concerning the Commission's 10-digit dialing rule, and resolves the Petition for Declaratory Ruling filed by the Commonwealth of Massachusetts Department of Public Utilities (MDPU) requesting that we clarify whether states may allow wireless customers to retain wireless telephone numbers in an area code subject to a geographic split.

DATES: Effective December 20, 1999.

ADDRESSES: 445 12th Street, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gregory Cooke, Senior Attorney, Common Carrier Bureau, Network Services Division, (202) 418–2351 or via the Internet at gcooke@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

SUPPLEMENTARY INFORMATION: In 1996, the Commission initiated a rulemaking proceeding, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996,* 61 FR 18311 (April 25, 1996). This summarizes the Commission's *Third Order on Reconsideration of Second Report and Order and Memorandum Opinion and Order* adopted September 13, 1999, and released October 21, 1999. The full text of this *Third Order on Reconsideration of Second Report and Order and Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Room CY–A257, Washington, DC. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc99–243.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., NW, Washington, DC 20036.

Synopsis

The Commission promulgated rules pursuant to section 251(b)(3) of the Act in the Local Competition Second Report and Order. In the *Third Order on Reconsideration of Second Report and Order and Memorandum Opinion and Order,* pursuant to section 251(e)(1) of the Act which grants the Commission ''exclusive jurisdiction over those portions of the North American Numbering Plan (NANP) that pertain to the United States,'' first, the Commission affirms its area code implementation guidelines by declining to permit area code overlays based on major trading areas (MTAs), and by declining to require permanent number portability as a condition precedent to the implementation of area code overlays. Second, the Commission revises its guidelines by eliminating the requirement that an area code overlay plan include the assignment of at least one central office code (NXX code) to each new entrant that had no NXX codes in the original area code 90 days before introduction of the new overlay code. Third, the Commission affirms its area code guidelines' requirement that states must impose 10 digit dialing where they have implemented an area code overlay, and clarifies that state commissions may allow callers to dial national 555 numbers using 7 digits, even if the call is placed from an area code subject to an overlay. Fourth, in response to the Petition for Declaratory Ruling filed by the MDPU, the Commission finds that state commissions may ''take-back'' or ''grandfather'' Type 2 wireless numbers when an area code undergoes a geographic split. Fifth, the Commission authorizes state regulatory commissions to resolve issues involving fees charged for the assignment and activation of NXX codes and finds that LECs are to assess no fees for opening NXX codes. Information collections associated with this authorization are contingent upon approval by the Office of Management and Budget. Sixth, the Commission continues to extend many protections under the Act to paging service providers. Finally, the Commission affirms that its numbering administration cost recovery formula is competitively neutral and that it will retain this method for the current funding year. In order to include cost recovery for the administration of the NANP in the unified report, the Commission concluded that the NANP cost recovery allocator should be changed to be consistent with the other reporting requirements. This requirement will begin in the billing cycle beginning March 2000.

List of Subjects in 47 CFR Part 52

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends part 52 of title 47 of the Code of Federal Regulations as follows:

PART 52—NUMBERING

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

Authority: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–05, 207–09, 218, 225–7, 251–2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–05, 207–09, 218, 225–7, 251–2, 271 and 332 unless otherwise noted.

2. In § 52.19, revise paragraphs (c)(3)(i) and (c)(3)(ii) and remove paragraph (c)(3)(iii) to read as follows:

§ 52.19 Area code relief.

* * * * *

(c) * * *

(3) * * *

(i) No area code overlay may be implemented unless all central office codes in the new overlay area code are assigned to those entities requesting assignment on a first-come, first-serve basis, regardless of the identity of, technology used by, or type of service provided by that entity. No group of telecommunications carriers shall be excluded from assignment of central office codes in the existing area code, or be assigned such codes only from the overlay area code, based solely on that group's provision of a specific type of telecommunications service or use of a particular technology; and,

(ii) No area code overlay may be implemented unless there exists, at the time of implementation, mandatory ten-digit dialing for every telephone call within and between all area codes in the geographic area covered by the overlay area code.

[FR Doc. 99–29926 Filed 11–17–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 203, 209, 225, and 249

[DFARS Case 99–D013]

Defense Federal Acquisition Regulation Supplement; Debarment Investigation and Reports

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the historical practice of the agencies and the original intent of the regulation that any person may refer a matter to the agency debarring and suspending official, and that the absence of a referral or any information specified in the report format in the DFARS will not preclude the debarring and suspending official from initiating the debarment or suspension process or from making a final decision.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, PDUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0288; telefax (703) 602–0350. Please cite DFARS Case 99–D013.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the DFARS to clarify that any person may refer a matter to the agency debarring and suspending official, and that the absence of a referral or any information specified in the report format at DFARS 209.406(a)(ii) will not preclude the debarring and suspending official from initiating the debarment or suspension process or from making a final decision.

There have been recent efforts to convince various Federal courts that receipt of a contracting officer's report is a jurisdictional prerequisite to action by the debarring and suspending official. In fact, the historical practice of the agencies has been to take suspending and debarring action whenever appropriate, whether or not a contracting officer's report was available. This DFARS change is intended merely to make clear the actual practices of the debarring and suspending authorities and the original intent of this language.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 99–D013.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 203, 209, 225, and 249

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 203, 209, 225, and 249 are amended as follows:

1. The authority citation for 48 CFR Parts 203, 209, 225, and 249 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Section 203.103–2 is revised to read as follows:

203.103–2 Evaluating the certification.

(b)(3) Report the matter in accordance with 209.406–3 or 209.407-3, and DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

3. Section 203.104–10 is added to read as follows:

203.104–10 Violation or possible violations.

(d)(3) When referring a violation to the agency debarring and suspending official, use the procedures at 209.406–3 or 209.407–3, and DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

203.203, 203.301, 203.405, and 203.502 [Amended]

4. The following sections are amended by adding, after the phrase ''in accordance with 209.406–3,'' the phrase ''or 209.407–3,'':

a. 203.203;

b. 203.301(b);

c. 203.405(b); and

d. 203.502.

5. Section 203.570–4 is revised to read as follows:

203.570–4 Reporting.

When a defense contractor or first-tier subcontractor is found in violation of the prohibition in 203.570–2, report the matter in accordance with 209.406–3 or 209.407–3, and DoDD 7050.5,

Coordination of Remedies for Fraud and Corruption Related to Procurement Activities.

PART 209—CONTRACTOR QUALIFICATIONS

6. Section 209.105–2 is added to read as follows:

209.105–2 Determinations and documentation.

(a) When the contracting officer considers such action appropriate, the contracting officer must submit a copy of the determination to the appropriate debarring and suspending official (see 209.403).

7. Section 209.403 is amended as follows:

a. In the introductory text by removing the words ''*Debarring official*'' and adding in their place the words ''*Debarring and suspending official*'';

b. In paragraph (1), in the second entry, by removing the words ''Navy-the'' and adding in their place the words ''Navy-The'';

c. In paragraph (2) introductory text by adding, after the word ''debarring,'' the words ''and suspending''; and

d. By adding paragraph (3) to read as follows:

209.403 Definitions.

* * * * *

(3) The Defense Logistics Agency Special Assistant for Contracting Integrity is the exclusive representative of the Secretary of Defense to suspend and debar contractors from the purchase of Federal personal property under the Federal Property Management Regulations (41 CFR 101–45.6) and the Defense Materiel Disposition Manual (DoD 4160.21–M).

8. Section 209.406–3 is revised to read as follows:

209.406–3 Procedures.

(a) *Investigation and referral.*

(i) Refer all matters appropriate for consideration by an agency debarring and suspending official as soon as practicable to the appropriate debarring and suspending official identified in 209.403. Any person may refer a matter to the debarring and suspending official.

(ii) Use the following format when referring a matter to the agency debarring and suspending official for consideration. To the extent practicable, provide all specified information.

(A) Name, address, and telephone number of the point of contact for the activity making the report.

(B) Name, contractor and Government entity (CAGE) code, and address of the contractor.

(C) Name and addresses of the members of the board, principal officers, partners, owners, and managers.

(D) Name and addresses of all known affiliates, subsidiaries, or parent firms, and the nature of the business relationship.

(E) For each contract affected by the conduct being reported—

(1) The contract number;

(2) All office identifying numbers or symbols;

(3) Description of supplies or services;

(4) The amount;

(5) The percentage of completion;

(6) The amount paid the contractor;

(7) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom; and

(8) The amount due the contractor.

(F) For any other contracts outstanding with the contractor or any of its affiliates—

(1) The contract number;

(2) The amount;

(3) The amounts paid the contractor;

(4) Whether the contract is assigned under the Assignment of claims Act and, if so, to whom; and

(5) The amount due the contractor.

(G) A complete summary of all pertinent evidence and the status of any legal proceedings involving the contractor.

(H) An estimate of any damages sustained by the Government as a result of the contractor's action (explain how the estimate was calculated).

(I) If a contracting office initiates the report, the comments and recommendations of the contracting officer and of each higher-level contracting review authority regarding—

(1) Whether to suspend or debar the contractor;

(2) Whether to apply limitations to the suspension or debarment;

(3) The period of any recommended debarment; and

(4) Whether to continue any current contracts with the contractor (or explain why a recommendation regarding current contracts is not included).

(J) When appropriate, as an enclosure to the report—

(1) A copy or pertinent extracts of each pertinent contract;

(2) Witness statements or affidavits;

(3) Copies of investigative reports when authorized by the investigative agency;

(4) Certified copies of indictments, judgments, and sentencing actions;

(5) A copy of any available determinations of nonresponsibility in accordance with FAR 9.105–2(a)(1); and

(6) Any other appropriate exhibits or documentation.

(iii) Send three copies of each report, including enclosures, to the appropriate debarring and suspending official.

(iv) If a referral lacks sufficient evidence of a cause for debarment, the debarring and suspending official may initiate a review or investigation, as appropriate, by reporting the referral to the appropriate Government entity, e.g., contracting activity, inspector general, or criminal investigative agency.

(b) *Decisionmaking process.*

(i) The agency debarring and suspending official may initiate the debarment process by issuing a notice of proposed debarment in accordance with FAR 9.406–3(c) when the debarring and suspending official finds that the administrative record contains sufficient evidence of one or more of the causes for debarment stated in FAR 9.406–2 or 209.406–2.

(A) The absence of a referral in accordance with paragraph (a)(i) of this subsection, or the absence of any information specified in the report format in paragraph (a)(ii) of this subsection, will not preclude the debarring and suspending official from making such a finding.

(B) The signature of the debarring and suspending official on the notice of proposed debarment is sufficient evidence that the debarring and spending official has made such a finding.

(ii) The agency debarring and suspending official must use the decisionmaking process stated in FAR 9.406–3(b), DFARS Appendix H, and any agency-specific procedures that were provided to the contractor in advance of the decision.

(d) *Debarring official's decision.* The absence of a referral in accordance with paragraph (a)(i) of this subsection, or the absence of any information specified in the report format in paragraph (a)(ii) of this subsection, will not preclude the debarring and suspending official from making a decision.

9. Sections 209.407 and 209.407–3 are added to read as follows:

§ 209.407 Suspension.

209.407–3 Procedures.

(a) *Investigation and referral.*

(i) Refer all matters appropriate for consideration by an agency debarring and suspending official as soon as practicable to the appropriate debarring and suspending official identified in 209.403. Any person may refer a matter to the debarring and suspending official.

(ii) Use the format at 209.406–3(a)(ii) when referring a matter to the agency debarring and suspending official for consideration. To the extent practicable, provide all information specified in the format.

(iii) If a referral lacks sufficient evidence of a cause for suspension, the

debarring and suspending official may initiate a review or investigation, as appropriate, by reporting the referral to the appropriate Government entity, e.g., contracting activity, inspector general, or criminal investigative agency.

(b) *Decisionmaking process.*

(i) The agency debarring and suspending official may initiate the suspension process by issuing a notice of suspension in accordance with FAR 9.407–3(c) when the debarring and suspending official finds that the administrative record contains sufficient evidence of one or more of the causes for suspension stated in FAR 9.407–2.

(A) The absence of a referral in accordance with paragraph (a)(i) of this subsection, or the absence of any information specified in the report format at 209.406–3(a)(ii), will not preclude the debarring and suspending official from making such a finding.

(B) The signature of the debarring and suspending official on the notice of suspension is sufficient evidence that the debarring and suspending official has made such a finding.

(ii) In deciding whether to terminate a suspension following a submission of matters in opposition, the agency debarring and suspending official must use the decisionmaking process stated in FAR 9.407–3(b), DFARS Appendix H, and any agency-specific procedures that were provided to the contractor in advance of the decision.

(d) *Suspending officials's decision.* The absence of a referral in accordance with paragraph (a)(i) of this subsection, or the absence of any information specified in the report format at 209.406–3(a)(ii), will not preclude the debarring and suspending official from making a decision.

PART 225—FOREIGN ACQUISITION

10. Section 225.206 is added to read as follows:

225.206 Noncompliance.

(c)(4) Prepare any report of noncompliance in accordance with the procedures at 209.406–3 or 209.407–3.

PART 249—TERMINATION OF CONTRACTS

11. Section 249.106 is added to read as follows:

249.106 Fraud or other criminal conduct.

If the TCO suspects fraud or other criminal conduct, the TCO must report the facts in accordance with the procedures at 209.406–3 or 209.407–3.

[FR Doc. 99–29984 Filed 11–17–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 219

[DFARS Case 99–D304]

Defense Federal Acquisition Regulation Supplement; Subcontracting Goals for Purchases Benefiting People Who Are Blind or Severely Disabled

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 807 of the National Defense Authorization Act for Fiscal Year 2000. Section 807 makes permanent the authority for contractors to credit their purchases from nonprofit agencies for the blind or severely disabled toward their small business subcontracting goals.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, PDUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; telefax (703) 602–0350. Please cite DFARS Case 99–D304.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 219.703 to implement Section 807 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65). Section 807 amends 10 U.S.C. 2410d, which provides that contractors may credit their purchases from qualified nonprofit agencies for the blind or severely disabled toward their small business subcontracting goals. 10 U.S.C. 2410d previously contained a termination date of September 30, 1999. Section 807 repeals this termination date.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 99–D304.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 219

Government procurement.

Michel P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 219 is amended as follows:

1. The authority citation for 48 CFR Part 219 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

219.703 [Amended]

2. Section 219.703 is amended as follows:

a. In paragraph (a) introductory text, in the last sentence, by removing the phrase ''through fiscal year 1999''; and

b. In paragraph (a)(2)(B) by removing the words ''Small Business and Small Disadvantaged'' and adding in their place the words, ''Small, Small Disadvantaged and Women-Owned Small''.

[FR Doc. 99–29987 Filed 11–17–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 219

[DFARS Case 99–D306]

Defense Federal Acquisition Regulation Supplement; Comprehensive Small Business Subcontracting Plans

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 817 of the National Defense Authorization Act for Fiscal Year 2000. Section 817 provides for a 5-year extension of the DoD test program for negotiation of comprehensive small business subcontracting plans.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, PDUSD(AT&L)DP(DAR), IMD 3D139,

3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; telefax (703) 602–0350. Please cite DFARS Case 99–D306.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 219.702 to implement Section 817 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65). Section 817 amends Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 15 U.S.C. 637 note) to extend the termination date of the DoD test program for negotiation of comprehensive small business subcontracting plans from September 30, 2000, to September 30, 2005.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 99–D306.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 219

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 219 is amended as follows:

1. The authority citation for 48 CFR Part 219 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

219.702 [Amended]

2. Section 219.702 is amended as follows:

a. In paragraph (a) introductory text by revising the phrase ''requires the DoD'' to read ''requires DoD''; and

b. In paragraph (a)(i)(A)*(1)* by removing the number ''2000'' and adding in its place the number ''2005''.

[FR Doc. 99–29986 Filed 11–17–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 219 AND 226

[DFARS Case 99–D305]

Defense Federal Acquisition Regulation Supplement; Contract Goal for Small Disadvantaged Businesses and Certain Institutions of Higher Education

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 808 of the National Defense Authorization Act for Fiscal Year 2000. Section 808 provides for a 3-year extension of the percentage goal for contract awards to small disadvantaged businesses and certain institutions of higher education.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, PDUSD(AT&L)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; telefax (703) 602–0350. Please cite DFARS Case 99–D305.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 219.000 and 226.7000 to implement Section 808 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65). Section 808 amends 10 U.S.C. 2323, which establishes a goal for DoD to award 5 percent of contract and subcontract dollars to small disadvantaged business concerns, historically black colleges and universities, and minority institutions. 10 U.S.C. 2323 previously contained a termination date of September 30, 2000. Section 808 extends the termination date to September 30, 2003.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 99–D305.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 219 and 226

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 219 and 226 are amended as follows:

1. The authority citation for 48 CFR Parts 219 and 226 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

219.000 [Amended]

2. Section 219.000 is amended in the introductory text by removing the number ''2000'' and adding in its place the number ''2003''.

PART 226—OTHER SOCIOECONOMIC PROGRAMS

226.7000 [Amended]

3. Section 226.7000 is amended in paragraphs (a) and (b) by removing the number ''2000'' and adding in its place the number ''2003''.

[FR Doc. 99–29985 Filed 11–17–99; 8:45 am]

BILLING CODE 5000–04–M

Proposed Rules

Federal Register
Vol. 64, No. 222
Thursday, November 18, 1999

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–65–AD]

Airworthiness Directives; Eurocopter France Model SE 3130, SA 3180, SE 313B, SA 318B, and SA 318C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Eurocopter France Model SE 3130, SA 3180, SE 313B, SA 318B, and SA 318C helicopters. The existing AD currently requires visual inspections and modification, if necessary, of the horizontal stabilizer spar tube (spar tube). This action would require the same corrective actions as the existing AD but would also require visually inspecting the four half-shell attachment clamps for cracks and fitting a safety wire around the attachment clamps. This proposal is prompted by an in-service report of fatigue cracks that initiated from corrosion pits. The actions specified by the proposed AD are intended to prevent fatigue failure of the spar tube, separation of the horizontal stabilizer and impact with the main or tail rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before January 18, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–65–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ‘‘Comments to Docket No. 98–SW–65–AD.’’ The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–65–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On June 2, 1998, the FAA issued AD 98–12–20, Amendment 39–10574 (63 FR 31350, June 9, 1998), to require initial and repetitive visual inspections and modification, if necessary, of the spar tube. That action was prompted by an in-service report of fatigue cracks that initiated from corrosion pits. The requirements of that AD are intended to prevent fatigue failure of the spar tube, separation and impact of the horizontal stabilizer with the main or tail rotor, and subsequent loss of control of the helicopter.

Since the issuance of that AD, Eurocopter France has issued Eurocopter France SA3130/3180 Service Bulletin No. 55.10, Revision 3, dated May 4, 1998, which specifies a visual inspection of the spar tube, inspection and modification of the stabilizer supports, modification of the stabilizer, visually inspecting the four attachment clamps for cracking, and fitting a lockwire around the four attachment clamps.

The Direction Generale De L’Aviation Civile (DGAC), which is the airworthiness authority for France, has notified the FAA that an unsafe condition may exist on Eurocopter France Model SE 3130, SA 3180, SE 313B, SA 318B, and SA 318C helicopters. The DGAC advises that improving the horizontal stabilizer fatigue strength is necessary in these model helicopters and has issued AD 96–278–054(A)R2, dated July 29, 1998.

These helicopter models are manufactured in France 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SE 3130, SA 3180, SE 313B, SA 318B, and SA 318C helicopters of the same type design, this proposed AD would supersede AD 98–12–20 to require the same actions required by that AD but would also require visually inspecting the four half-shell attachment clamps for cracks, replacing any cracked attachment clamp, and fitting a safety wire around the attachment clamps.

Cost Impact

The FAA estimates that 14 helicopters of U.S. registry would be affected by this proposed AD. It would take approximately 0.5 work hour per helicopter to accomplish the inspection, 3 work hours per helicopter to accomplish the modification, and 1 work hour to accomplish the attachment clamp inspection and to install the safety wire. The average labor rate is $60 per work hour. Required parts would cost approximately $1,100 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $19,180.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10574 (63 FR 31350, June 9, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter France: Docket No. 98–SW–65–AD. Supersedes AD 98–12–20, Amendment 39–10574, Docket No. 98–SW–03–AD.

Applicability: Model SE 3130, SA 3180, SE 313B, SA 318B, and SA 318C helicopters with horizontal stabilizer, part number (P/N) 3130–35–60–000, 3130–35–60–000–1, 3130–35–60–000–2, 3130–35–60–000–3, 3130–35–60–000–4 or higher dash numbers, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (g) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of the horizontal stabilizer spar tube (spar tube), separation of the horizontal stabilizer and impact with the main or tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight:

(1) Inspect the aircraft records and the horizontal stabilizer to determine whether Modification 072214 (installing the spar tube without play) or Modification 072215 (adding two half-shells on the spar) has been accomplished.

(2) If Modification 072214 has not been installed, comply with paragraphs 2.A., 2.B.1), 2.B.2)a), and 2.B.2)b) of the Accomplishment Instructions of Eurocopter France SA3130/3180 Service Bulletin No. 55.10, Revision 3, dated May 4, 1998 (SB). If the fit and dimensions of the components specified in paragraph 2.B.2)a) exceed the tolerances in the applicable structural repair manual, replace with airworthy parts.

(3) If Modification 072215 has not been installed, first comply with paragraphs 2.A., 2.B.1), and 2.B.3), and then comply with paragraph 2.B.2)c) of the Accomplishment Instructions of the SB.

Note 2: Modification kit P/N 315A–07–0221571 contains the necessary materials to accomplish this modification.

(b) Before the first flight of each day:

(1) Visually inspect the installation of the half-shells, the horizontal stabilizer supports, and the horizontal stabilizer for corrosion or cracks. Repair any corroded parts in accordance with the applicable maintenance manual. Replace any cracked components with airworthy parts before further flight.

(2) Confirm that there is no play in the horizontal stabilizer supports by lightly shaking the horizontal stabilizer. If play is detected, comply with paragraphs 2.A. and 2.B.2)a) of the SB. If the fit and dimensions of the components specified in paragraph 2.B.2)a) exceed the tolerances in the applicable structural repair manual, replace with airworthy parts before further flight.

(c) At intervals not to exceed 400 hours time-in-service (TIS) or four calendar months, whichever occurs first, inspect and lubricate the spar tube attachment bolts.

(d) For stabilizers, P/N 3130–35–60–000, 3130–35–60–000–1, 3130–35–60–000–2, or 3130–35–60–000–3, within 90 days and thereafter at intervals not to exceed 18 calendar months, visually inspect the inside of the horizontal spar tube in accordance with paragraph 2.A. and 2.B.1) of the SB.

(1) If corrosion is found inside the tube, other than in the half-shell area, replace the tube with an airworthy tube within the next 500 hours TIS or 24 calendar months, whichever occurs first.

(2) If corrosion is found inside the tube in the half-shell area, apply a protective treatment as described in paragraph 2.B.1)b) of the SB.

(e) For stabilizers, P/N 3130–35–60–000–4 or higher dash numbers, accomplish the following:

(1) At or before the next major inspection, 3,200 hours total TIS, or 144 calendar months total TIS, whichever occurs first, and thereafter at each major inspection, visually inspect the inside of the horizontal spar tube in accordance with paragraph 2.A. and 2.B.1) of the SB.

(2) If corrosion is found inside the tube, other than in the half-shell area, replace the tube with an airworthy tube within the next 500 hours TIS or 18 calendar months, whichever occurs first. If corrosion is found inside the tube in the half-shell area, apply a protective treatment as described in paragraph 2.B.1)b) of the SB.

(f) Within 30 calendar days, visually inspect the four attachment clamps of the half-shells and install a safety wire around the four attachment clamps in accordance with paragraph 2.B.2)d) of the SB. If any attachment clamp is found cracked, replace it with an airworthy attachment clamp and

install a safety wire around the replacement attachment clamp before further flight.

(g) 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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

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

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 96–278–054(A)R2, dated July 29, 1998.

Issued in Fort Worth, Texas, on November 10, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–30147 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–146–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Jetstream Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain British Aerospace Jetstream Model 4101 airplanes. That action would have required revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has received new data that indicates that the specified AFM revision is not necessary. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Norman 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 add a new airworthiness directive (AD), applicable to certain British Aerospace Jetstream Model 4101 airplanes, was published in the **Federal Register** as a Notice of Proposed Rulemaking (NPRM) on July 16, 1999 (64 FR 38335). The proposed rule would have required revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. That action was prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The action specified by the proposed AD was intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. Such ice accumulation, if not corrected, could result in reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

Actions that Occurred Since the NPRM Was Issued

Since the issuance of that NPRM, the manufacturer of British Aerospace Jetstream Model 4101 airplanes has requested that the NPRM be withdrawn. The manufacturer advises that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification, and referenced the data summary in response to the proposed rulemaking. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR 25), and the draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½-to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1-to 1½-inches of ice on all leading edges; and Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths are consistent with the operational procedure of the airframe deicing system, and were established to address the following: Ice accreted during the rest time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

FAA's Conclusions

Upon further consideration, the FAA has determined that, in light of the above information, it is unnecessary to require the AFM revision as proposed. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 99–NM–146–AD, published in the **Federal Register** on July 16, 1999 (64 FR 38335), is withdrawn.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30148 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–138–AD]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Model G–159 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Gulfstream Model G–159 series airplanes, that would have required revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. That proposal was prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. This new action revises the proposed rule by adding an inspection to determine the type of pneumatic deicing boots, and requiring the AFM change only for those airplanes equipped with ''modern'' boots. The actions specified by this new proposed AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–138–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.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349.

FOR FURTHER INFORMATION CONTACT: Neil Berryman, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6098; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–138–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–138–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Gulfstream Model G–159 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on July 16, 1999 (64 FR 38341). That NPRM would have required revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. That NPRM was prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by that proposed AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. Such ice accumulation, if not corrected, could result in reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

Distinction Between ''Older'' and ''Modern'' Boots

For the purposes of this supplemental NPRM, the FAA considers that a definition of the terms ''older'' and ''modern'' pneumatic deicing boots is necessary. ''Modern'' pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. ''Older'' pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.) The FAA has specified these definitions in a new Note 1 in the final rule.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comments received in response to the NPRM.

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and

McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word ''modern.'' One commenter states that the current AFM specifically directs the flight crew to wait for ½-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicate that the existing procedures are appropriate for these airplanes. The commenters conclude that the proposed AFM revision is in direct opposition to the certification findings.

As discussed in the original NPRM, the FAA recognizes that early activation of the ''older'' pneumatic deicing boots may create the hazard of ice bridging on the ''older'' systems. The FAA also acknowledges that ''older'' boots may be susceptible to ice bridging because they operate at lower pressure and have larger diameter tubes. The FAA concurs that requiring activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes.

In order to address this issue, the FAA is taking the following steps. First, to accommodate certain Gulfstream Model G–159 airplanes that may be equipped with the ''older'' pneumatic deicing boot system, the FAA is issuing this supplemental Notice of Proposed Rulemaking (NPRM). This supplemental NPRM proposes to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with ''modern'' boots. Second, for aircraft with ''older'' pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

Additionally, the FAA is issuing a similar supplemental NPRM to accommodate certain McDonnell Douglas Model DC–3 and DC–4 series airplanes that may be equipped with ''older'' pneumatic deicing boot systems.

In response to the commenter's assertion that existing procedures are appropriate for these airplanes, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. In the previous NPRM, the FAA also discussed an accident that occurred as a result of the failure of the flight crew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This supplemental NPRM addresses that unsafe condition.

Conclusion

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The FAA estimates that 141 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 2 work hours per airplane to accomplish the proposed AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $16,920, or $120 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Gulfstream Aerospace Corporation (Formerly Grumman): Docket 99–NM–138–AD.

Applicability: Model G–159 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

Note 1: For the purposes of this AD, the following definitions of ''older'' and ''modern'' apply:

''Modern'' pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. ''Older'' pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the

inflation cycle until the beginning of the deflation cycle.)

(a) Within 10 days after the effective date of this AD: Perform a visual inspection to determine if the type of pneumatic deicing boots installed are either ''older'' or ''modern'' boots.

(1) For those airplanes equipped with ''older'' pneumatic deicing boots, no further action is required by this AD.

(2) For those airplanes equipped with ''modern'' pneumatic deicing boots: Within 10 days after the inspection required by paragraph (a) of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(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, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

(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.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30149 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–139–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Models DC–3 and DC–4 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain McDonnell Douglas Models DC–3 and DC–4 series airplanes, that would have required revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. That proposal was prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. This new action revises the proposed rule by adding an inspection to determine the type of pneumatic deicing boots, and requiring the AFM change only for those airplanes equipped with ''modern'' boots. The actions specified by this new proposed AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–139–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.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137.

FOR FURTHER INFORMATION CONTACT: Albert Lam, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5346; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–139–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–139–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain McDonnell Douglas Models DC–3 and DC–4 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on July 16, 1999 (64 FR 38335). That NPRM would have required revising the Airplane Flight Manual (AFM) to include requirements for activation of

the airframe pneumatic deicing boots. That NPRM was prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by that proposed AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. Such ice accumulation, if not corrected, could result in reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

Distinction Between ''Older'' and ''Modern'' Boots

For the purposes of this supplemental NPRM, the FAA considers that a definition of the terms ''older'' and ''modern'' pneumatic deicing boots is necessary. ''Modern'' pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. ''Older'' pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.) The FAA has specified these definitions in a new Note 1 in the final rule.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comments received in response to the NPRM:

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word ''modern.'' One commenter states that the current AFM specifically directs the flight crew to wait for ½-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicate that the existing procedures are appropriate for these airplanes. The commenters conclude that the proposed AFM revision is in direct opposition to the certification findings.

As discussed in the original NPRM, the FAA acknowledges that early activation of the ''older'' pneumatic deicing boots may create the hazard of ice bridging on the ''older'' systems. The FAA considers that ''older'' boots may be susceptible to ice bridging because the boots operate at lower pressure and have larger diameter tubes. The FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes.

In order to address this issue, the FAA is taking the following steps. First, to accommodate certain McDonnell Douglas Model DC–3 and DC–4 series airplanes that may be equipped with the ''older'' pneumatic deicing boot system, the FAA is issuing this supplemental Notice of Proposed Rulemaking (NPRM). This supplemental NPRM proposes to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with ''modern'' boots. Second, for aircraft with ''older'' pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. The FAA may consider further rulemaking if it is determined that there is an existing unsafe condition on those airplanes equipped with ''older'' pneumatic deicing boot systems.

Additionally, the FAA is issuing a similar supplemental NPRM to accommodate certain Gulfstream Model G–159 series airplanes that may be equipped with ''older'' pneumatic deicing boot systems.

In response to the commenter's assertion that existing procedures are appropriate for these airplanes, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. In the previous NPRM, the FAA also discussed an accident that occurred as a result of the failure of the flight crew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This supplemental NPRM addresses that unsafe condition.

Conclusion

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The FAA estimates that 166 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 2 work hours per airplane to accomplish the proposed actions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $19,920, or $120 per airplane.

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

Regulatory Impact

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

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

contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–139–AD.

Applicability: Models DC–3 and DC–4 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

Note 1: For the purposes of this AD, the following definitions of ''older'' and ''modern'' apply:

''Modern'' pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. ''Older'' pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

(a) Within 10 days after the effective date of this AD: Perform a visual inspection to determine if the type of pneumatic deicing boots installed is either ''older'' or ''modern'' boots.

(1) For those airplanes equipped with ''older'' pneumatic deicing boots, no further action is required by this AD.

(2) For those airplanes equipped with ''modern'' pneumatic deicing boots, within 10 days after the inspection required by paragraph (a) of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(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, Los Angeles Aircraft Certification Office, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations 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.

(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.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30150 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–136–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Model 500, 501, 550, 551, and 560 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain Cessna Model 500, 501, 550, 551, and 560 series airplanes. That action would have required revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has received new data that indicates the AFM revision is unneccessary. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Carlos Blacklock, Aerospace Engineer, Flight Test Branch, ACE–117W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4166; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to certain Cessna Models 500, 501, 550, 551, and 560 series airplanes, was published in the **Federal Register** as a Notice of Proposed Rulemaking (NPRM) on July 16, 1999 (64 FR 38374). The proposed rule would have required revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. That NPRM was prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by that NPRM were intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. Such ice accumulation, if not corrected, could result in reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

Actions That Occurred Since the NPRM Was Issued

Since the issuance of that NPRM, the manufacturer of Cessna Model 500, 501, 550, 551, and 560 series airplanes has requested that the NPRM be withdrawn. The manufacturer contends that these models have similar handling characteristics in icing, and that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary. The manufacturer concludes that the testing summarized in its comment provides

evidence that the current procedures demonstrate a safe method to operate the airplane.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with a 23-minute system failure configuration. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were performed with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had acceptable stall warning margin with ice shapes present. The manufacturer maintains that the Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated inter-cycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. [The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were mandated by an airworthiness directive, Rules Docket No. 98–NM–312–AD.] Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

Therefore, the FAA concurs that the proposal should be withdrawn. The FAA notes that the extensive testing of Model 550 series airplanes and the similarity of Model 500 series airplanes demonstrated that these airplanes can safely operate if the procedures for operation of the deicing boot as specified in the applicable AFM are followed. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

FAA's Conclusions

Upon further consideration, the FAA has determined that, in light of the above information, it is unnecessary to require the proposed AFM revision. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 99–NM–136–AD, published in the **Federal Register** on July 16, 1999 (64 FR 38374), is withdrawn.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30151 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–13–P

RAILROAD RETIREMENT BOARD

20 CFR Part 220

RIN 3220–AB42

Determining Disability

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) hereby proposes to amend its disability regulations to discontinue the current policy of conducting continuing disability reviews (CDR's) for medical recovery of disability annuitants in medical improvement not expected (MINE) cases. The Board has found that these reviews have not been cost effective and impose an unnecessary burden on the annuitant.

DATES: Comments should be submitted on or before January 18, 2000.

ADDRESSES: Any comments should be submitted to the Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: The Board conducts continuing disability reviews (CDRs) to determine whether or not a disability annuitant continues to meet the disability requirements contained in the Railroad Retirement Act and, in some cases, the Social Security Act. Payment of cash benefits based on disability ends if the medical or other evidence shows that the annuitant is no longer disabled under the standards set out in the Railroad Retirement Act or, for some benefits, the Social Security Act. Section 220.186 of the regulations of the Board provides when and how often the Board will conduct a CDR. This rulemaking would amend § 220.186(d) to discontinue the Board's current policy of conducting a CDR in cases where medical improvement is not expected (MINE). The current regulation requires a review no less frequently than once every 7 years but no more frequently than once every 5 years in MINE cases. The Board's CDR of MINE cases has not proved cost effective. For fiscal years 1995 through 1997 the Board conducted 552 MINE exams; however, in only 1 case did the evidence merit termination of the annuity. Such results, in the Board's view, do not justify continuation of this program. Consequently, the Board proposes to cease routine continuing disability review in these cases. The cessation will be of routine reviews only. These cases will still be reviewed for continuing eligibility: if the beneficiary returns to work and successfully completes a trial work period; if substantial earnings are posted to the beneficiary's earnings record; or if information is received either from the annuitant or a reliable source that the annuitant has recovered or returned to work, or that a review is otherwise warranted.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866.

Therefore, no regulatory analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 220.186

Disability benefits, Railroad employees; Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend part 220 of title 20, chapter II, of the Code of Federal Regulations as follows:

PART 220—DETERMINING DISABILITY

1. The authority citation for part 220 continues to read as follows:

Authority: 45 U.S.C. 231a; 45 U.S.C. 231f.

§ 220.186 When and how often the Board will conduct a continuing disability review.

2. In § 220.186, paragraph (b)(2), remove the phrase ''(medical improvement possible or medical improvement not expected)'', and in paragraph (d), remove the fourth sentence which reads: ''If the annuitant's disability is considered permanent, the Board will review the annuitant's continuing eligibility for benefits no less frequently than once every 7 years but no more frequently than once every 5 years.'', and add in its place ''If no medical improvement is expected in the annuitant's impairment(s), the Board will not routinely review the annuitant's continuing eligibility.''

Dated: November 10, 1999.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 99–30161 Filed 11–17–99; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF LABOR

Employment Standards Administration

20 CFR Parts 718, 722, 725, 726 and 727

RIN 1215–AA99

Regulations Implementing the Federal Coal Mine Health and Safety Act of 1996, as Amended; Extension of Comment Period

AGENCY: Employemnt Standards Administration, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the period for filing comments regarding the proposed rule to amend and revise the regulations implementing the Black Lung Benefits Act. This action is taken to permit additional comment from interested persons.

DATES: Comments must be received on or before January 6, 2000.

ADDRESSES: Send written comments on the proposed rule to James L. DeMarce, Director, Division of Coal Mine Workers' Compensation, Room C–3520, Frances Perkins Building, 200 Constitution Ave., NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James L. DeMarce, (202) 219–6692.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of the October 8, 1999, (64 FR 54965–55072), the Department of Labor published a proposed rule intended to amend and revise the regulations implementing the Black Lung Benefits Act, subchapter IV of the Federal Coal Mine Health and Safety Act of 1969, as amended. Interested persons were requested to submit comments on or before December 7, 1999.

The Department has received requests for an extension of the comment period. In order to afford interested parties an appropriate period in which to submit comments, the Department believes that it is desirable to extend the comment period for 30 days. Therefore, the comment period for the proposed rule, amending and revising 20 CFR parts 718, 722, 725, 726 and 727, is extended for all interested parties through January 6, 2000. On November 5, 1999, the Department completed its mailing of the proposal to coal mine operators. This extension will allow each potentially affected coal mine operator an appropriate period to consider and respond to the proposed rule.

The Department has also received requests that it hold additional hearings on the black lung regulations. In 1997, following the first proposed revision of the regulations, in addition to extending the comment period for 150 days, the Department held hearings in Washington, DC, and Charleston, WV. The Department does not believe that additional hearings are necessary.

Signed at Washington, DC, this 15th day of November, 1999.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

[FR Doc. 99–30174 Filed 11–17–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26

[REG–103841–99]

RIN 1545–AX08

GST Issues

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the application of the effective date rules of the generation-skipping transfer (GST) tax imposed under chapter 13 of the Internal Revenue Code. The proposed regulations provide guidance with respect to the type of trust modifications that will not affect the exempt status of a trust. In addition, the proposed regulations clarify the application of the effective date rules in the case of property transferred pursuant to the exercise of a general power of appointment. The proposed regulations are necessary to provide guidance to taxpayers so that they may properly determine if chapter 13 of the Code is applicable to a particular trust.

DATES: Written and electronic comments must be received by February 16, 2000. Outlines of topics to be discussed at the public hearing scheduled for March 15, 2000 at 10:00, must be received by February 23, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–103841–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–103841–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.gov/tax__ regs/reglist.html. The public hearing will be held in room 2615, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, James F. Hogan, (202) 622–3090; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the

hearing, Michael L. Slaughter, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The GST tax provisions were enacted as part of the Tax Reform Act of 1986 (TRA), Pub. L. 99–514, 1986–3 (Vol. 1) C.B. 1, 634. Under section 1433(a) of the TRA, the GST tax generally applies to all generation-skipping transfers made after October 22, 1986, the date the TRA was enacted.

Section 1433(b)(2) of the TRA exempts transfers from certain trusts from the GST tax. Hereinafter, a trust that is exempt under section 1433(b)(2) is referred to as an ''exempt trust.''

First, under section 1433(b)(2)(A) of the TRA, the GST tax does not apply to any transfer from a trust that was irrevocable on September 25, 1985, to the extent the transfer is not made out of additions to the trust after September 25, 1985 (the day before the House Ways and Means Committee began considering the bill containing the GST provisions). Under § 26.2601–1(b)(1)(ii) of the Generation-skipping Transfer Tax Regulations, a trust created on or before September 25, 1985, is considered irrevocable on that date unless: (1) The settlor retained a power that would cause the trust to be included in the settlor's gross estate for federal estate tax purposes by reason of section 2038 of the Code, if the settlor had died on September 25, 1985; or (2) the property held in the trust is a life insurance policy transferred by the insured and the insured possessed, on September 25, 1985, any incident of ownership that would have caused the value of the trust to be included in the insured's gross estate under section 2042 of the Code if the insured had died on September 25, 1985.

Second, under section 1433(b)(2)(B) of the TRA, as amended by the Technical and Miscellaneous Revenue Act of 1988, the GST tax does not apply to any generation-skipping transfer under a will or revocable trust executed before October 22, 1986, if the decedent died before January 1, 1987.

Third, under section 1433(b)(2)(C) of the TRA, the GST tax does not apply to any generation-skipping transfer under a trust to the extent such trust consists of property included in the gross estate of a decedent or reinvestments thereof, but only if the decedent was, on October 22, 1986, under a mental disability to change the disposition of the decedent's property and did not regain competence to dispose of the property before death.

Numerous taxpayers have requested private letter rulings regarding the effect that a proposed modification or construction will have on an exempt trust for GST tax purposes. In rulings in this area, the IRS has held that a modification will not cause the trust to lose its exempt status if the modification does not result in any change in the quality, value, or timing of any beneficial interest under the trust. Although the statute does not specifically address modifications to trusts that are exempt under section 1433(b)(2) of the TRA, Treasury and the IRS believe that a trust that is modified such that none of the beneficial interests change can be viewed as the same trust that was in existence on September 25, 1985.

The majority of the ruling requests received by the Service concern proposed modifications intended to enable the trust to adapt to changed circumstances or to enable the trustee to administer the trust properly. These proposed modifications often are not inconsistent with the purpose of the TRA effective date provisions. Accordingly, as discussed below, these proposed regulations adopt a more liberal standard with respect to changes that may be made to the trust without the loss of exempt status. Treasury and the IRS intend that the regulations, when finalized, provide sufficient guidance concerning modifications that the need for private letter rulings will be greatly diminished. Comments are requested regarding whether the proposed regulations will achieve this result.

In addition, the proposed regulations clarify the application of the effective date provisions when the exercise or lapse of a general power of appointment over an otherwise grandfathered trust results in property passing to a skip person.

Explanation of Provisions

1. Modifications to Trusts

The proposed regulations provide guidance regarding the types of modifications, constructions, and settlements of controversies that will not cause a trust to lose its exempt status. However, the rules contained in these proposed regulations apply only for GST tax purposes. Thus, the rules do not apply in determining, for example, whether a modification will result in a gift for gift tax purposes, or may cause inclusion of the trust assets in the gross estate, or may result in the realization of gain for purposes of section 1001 of the Code.

Under the proposed regulations, a court order in a construction proceeding that resolves an ambiguity in the terms of a trust instrument will not cause the trust to lose its exempt status. The judicial action, however, must involve a bona fide issue and the court's decision must be consistent with applicable state law that would be applied by the highest court of the state. *Commissioner* v. *Estate of Bosch*, 387 U.S. 456 (1967). Construction proceedings determine a settlor's intent as of the date the instrument became effective, and thus, a court order construing an instrument that satisfies these requirements does not alter or modify the terms of the instrument.

Similarly, under the proposed regulations, a court-approved settlement of a bona fide controversy relating to the administration of a trust or the construction of terms of the governing instrument of a trust will not cause a trust to lose its exempt status. This will be the case, however, only if the settlement is the product of arm's length negotiations, and the settlement is within the range of reasonable outcomes under the governing instrument and applicable state law addressing the issues resolved by the settlement. *See Ahmanson Foundation* v. *United States*, 674 F.2d 761 (9th Cir. 1981); *Estate of Suzuki* v. *Commissioner*, T.C. Memo. 1991–624. For example, *A* and *B* are the sole remainder beneficiaries of a trust established by their parent. They disagree as to the portion of the remainder each is entitled to under the terms of the trust when the trust terminates. A settlement dividing the corpus equally among *A*, *B*, and *C*, *B*'s child and the grandchild of the parent who established the trust, would not be considered within the range of reasonable outcomes because *C* is not a potential remainderman under any construction of the trust agreement.

The proposed regulations also address the situation in which a trustee distributes trust principal to a new trust for the benefit of succeeding generations. In some cases, the governing instrument grants the trustee broad discretionary powers to distribute principal to or for the benefit of the trust beneficiaries, outright or in trust. Under these circumstances, distributions by the trustee to trusts for the benefit of trust beneficiaries will not cause the original trust or the new trusts to lose exempt status provided the vesting of trust principal is not postponed beyond the perpetuities period applicable to the original trust.

Finally, under the proposed regulations, a trust may be modified and remain exempt for GST purposes. The modification, however, must not shift a beneficial interest in the trust to any beneficiary who occupies a lower generation (as defined in section 2651)

than the person or persons who held the beneficial interest prior to the modification and must not extend the time for vesting of any beneficial interest in the trust beyond the period provided for in the original trust.

2. Exercise of a General Power of Appointment After September 25, 1985

In *Simpson* v. *United States,* 183 F.3d 812 (8th Cir. 1999), the decedent exercised a testamentary general power of appointment granted under a marital trust that was created in 1966. Pursuant to the decedent's exercise of the general power of appointment, the property passed to her grandchildren who were skip persons under section 2612. The court concluded that the transfer to the grandchildren was exempt from the GST tax under section 1433(b)(2)(A) of the TRA, because the transfer was ''under a trust'' that was irrevocable on September 25, 1985.

The facts in Simpson are similar to those presented in *Peterson Marital Trust* v. *Commissioner,* 78 F.3d 795 (2nd Cir. 1996). In *Peterson,* the decedent had a testamentary general power to appoint property in a pre-September 25, 1985 marital trust created under her husband's will. Rather than appointing the property outright, the taxpayer allowed the power to lapse and the property passed to her husband's grandchildren, who were skip persons under section 2612. The court concluded that the transfer was subject to the GST tax. The court noted that the effective date provisions in section 1433(b)(2) of the TRA were ''designed * * * to protect those taxpayers who, on the basis of pre-existing rules, made arrangements from which they could not reasonably escape and which, in retrospect, had become singularly undesirable.'' *Peterson Marital Trust,* at 801 (footnote omitted). The court concluded that there was no basis to apply the protection provided in section 1433(b)(2) to the marital trust because the arrangement could have been changed to avoid the GST tax through the exercise of the decedent's general power of appointment.

Treasury and the IRS believe that there is no substantive difference between the situation in *Simpson* where property passed pursuant to the exercise of a general power of appointment and the situation in *Peterson Marital Trust* where property passed pursuant to a lapse of a general power of appointment. An individual who has a general power of appointment has the equivalent of outright ownership in the property. *Estate of Kruz* v. *Commissioner,* 101 T.C. 44, 50–51, 59–60 (1993). The value of the property subject to the general power is includible in the powerholder's gross estate at death under section 2041(a). In either case, the powerholder can avoid the consequences of the GST tax by appointing the property to nonskip persons. Therefore, as the court noted in *Peterson Marital Trust,* there is no basis for exempting such dispositions from the GST tax under the TRA effective date provisions.

Accordingly, the proposed regulations clarify that the transfer of property pursuant to the exercise, release, or lapse of a general power of appointment created in a pre-September 25, 1985 trust is not a transfer under the trust, but rather is a transfer by the powerholder occurring when the exercise, release, or lapse of the power becomes effective, for purposes of section 1433(b)(2)(A) of the TRA.

Special Analysis

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

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely (in the manner described in **ADDRESSES**) to the IRS. Treasury and the IRS specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for March 15, 2000 at 10:00 a.m. in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons that wish to present oral comments at the hearing must submit comments by February 16, 2000, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by February 23, 2000. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is James F. Hogan, Office of the Chief Counsel, IRS. Other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 26

Estate taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 26 is proposed to be amended as follows:

PART 26—GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986

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

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

Paragraph 2. In § 26.2600–1 the Table is amended under § 26.2601–1 by revising the entry for paragraphs (b) and (b)(4) and adding an entry for paragraph (b)(5) to read as follows:

§ 26.2600–1. Table of contents.

§ 26.2601–1. Effective dates.

* * * * *

(b) Exceptions.

* * * * *

(4) Retention of trust's exempt status in the case of modifications, etc.

(5) Exceptions to additions rule.

Paragraph 3. Section 26.2601–1 is amended as follows:

1. Adding four sentences to the end of paragraph (b)(1)(i).

2. Redesignating paragraph (b)(4) as paragraph (b)(5).

3. Adding a new paragraph (b)(4).

4. Paragraph (c) is amended by adding a new sentence to the end of the paragraph.

The additions read as follows:

§ 26.2601–1 Effective Dates.

* * * * *

(b) * * *

(1) * * *

(i) * * * Further, the rule in the first sentence of this paragraph (b)(1)(i) does not apply to a transfer of property pursuant to the exercise, release, or lapse of a general power of appointment that is treated as a taxable transfer under chapter 11 or chapter 12. The transfer is made by the person holding the power at the time the exercise, release, or lapse of the power becomes effective, and is not considered a transfer under a trust that was irrevocable on September 25, 1985. *See* § 26.2601–1(b)(1)(v)(B) regarding the treatment of the release, exercise, or lapse of a power of appointment that will result in a constructive addition to a trust. *See* § 26.2652–1(a) for the definition of a transferor.

* * * * *

(4) *Retention of trust's exempt status in the case of modifications, etc.* (i) *In general.* This paragraph provides rules for determining when a modification, judicial construction, settlement agreement, or trustee action with respect to a trust that is exempt from the generation-skipping transfer tax under paragraphs (b)(1), (b)(2), or (b)(3) of this section (hereinafter referred to as an exempt trust) will not cause the trust to lose its exempt status. The rules contained in this paragraph (b)(4) are applicable only for purposes of determining whether an exempt trust retains its exempt status for generation-skipping transfer tax purposes. The rules do not apply in determining, for example, whether the transaction results in a gift subject to gift tax, or may cause the trust to be included in the gross estate of a beneficiary, or may result in the realization of capital gain for purposes of section 1001 of the Code.

(A) *Trustee's discretionary powers.* The distribution of trust principal from an exempt trust to a new trust will not cause the new trust to be subject to the provisions of chapter 13, if—

(*1*) The terms of the governing instrument of the exempt trust authorize the trustee to make distributions to the new trust without the consent or approval of any beneficiary or court, and

(*2*) The terms of the governing instrument of the new trust do not extend the time for vesting of any beneficial interest in the trust in a manner that may postpone or suspend the vesting, absolute ownership, or power of alienation of an interest in property for a period, measured from the date of creation of the original trust, extending beyond any life in being at the date of creation of the original trust plus a period of 21 years, plus if necessary, a reasonable period of gestation. For purposes of this paragraph (b)(4)(i)(A), the exercise of a trustee's distributive power that validly postpones or suspends the vesting, absolute ownership, or power of alienation of an interest in property for a term of years that will not exceed 90 years (measured from the date of creation of the original trust) will not be considered an exercise that postpones or suspends vesting, absolute ownership, or the power of alienation beyond the perpetuities period. If a trustee's distributive power is exercised by creating another power, it is deemed to be exercised to whatever extent the second power may be exercised.

(B) *Settlement.* A court-approved settlement of a bona fide controversy regarding the administration of the trust or the construction of terms of the governing instrument will not cause an exempt trust to be subject to the provisions of chapter 13, if—

(*1*) The settlement is the product of arm's length negotiations, and

(*2*) The settlement is within the range of reasonable outcomes under the governing instrument and applicable state law addressing the issues resolved by the settlement.

(C) *Judicial construction.* A judicial construction of a governing instrument to resolve an ambiguity in the terms of the instrument or to correct a scrivener's error will not cause an exempt trust to be subject to the provisions of chapter 13, if—

(*1*) The judicial action involves a bona fide issue, and

(*2*) The construction is consistent with applicable state law that would be applied by the highest court of the state.

(D) *Other changes.* A modification of the governing instrument of an exempt trust (including a trustee distribution, settlement, or construction that does not satisfy paragraphs (b)(4)(i)(A), (B), or (C) of this subsection) by judicial reformation, or nonjudicial reformation that is valid under applicable state law, will not cause an exempt trust to be subject to the provisions of chapter 13, but only if—

(*1*) The modification does not shift a beneficial interest in the trust to any beneficiary who occupies a lower generation (as defined in section 2651) than the person or persons who held the beneficial interest prior to the modification, and

(*2*) The modification does not extend the time for vesting of any beneficial interest in the trust beyond the period provided for in the original trust.

(E) *Examples.* The following examples illustrate the application of this paragraph (b)(4). In each example, assume that the trust established in 1980 was irrevocable for purposes of § 26.2601–1(b)(1)(ii) and that there have been no additions to any trust after September 25, 1985.

Example 1. Trustee's power to distribute principal authorized under trust instrument. In 1980, Grantor established an irrevocable trust (Trust) for the benefit of Grantor's child, *A*, *A*'s spouse, and *A*'s issue. At the time Trust was established, *A* had two children, *B* and *C*. A corporate fiduciary was designated as trustee. Under the terms of Trust, the trustee has the discretion to distribute all or part of the trust income to one or more of the group consisting of *A*, *A*'s spouse or *A*'s issue. The trustee is also authorized to distribute all or part of the trust principal to one or more trusts for the benefit of *A*, *A*'s spouse, or *A*'s issue under terms specified by the trustee in the trustee's discretion. Any trust established under Trust, however, must terminate 21 years after the death of the last child of *A* to die who was alive at the time Trust was executed. Trust will terminate on the death of *A*, at which time the remaining principal will be distributed to *A*'s issue, per stirpes. In 2000, the trustee distributed part of Trust's principal to a new trust for the benefit of *B* and *C* and their issue. The new trust will terminate 21 years after the death of the survivor of *B* and *C*, at which time the trust principal will be distributed to the issue of *B* and *C*, per stirpes. The terms of the governing instrument of Trust authorize the trustee to make the distribution to a new trust without the consent or approval of any beneficiary or court. In addition, the terms of the governing instrument of the new trust do not extend the time for vesting of any beneficial interest in a manner that may postpone or suspend the vesting, absolute ownership or power of alienation of an interest in property for a period, measured from the date of creation of Trust, extending beyond any life in being at the date of creation of Trust plus a period of 21 years, plus if necessary, a reasonable period of gestation. Accordingly, neither Trust nor the new trust will be subject to the provisions of chapter 13 of the Code.

Example 2. Trustee's power to distribute principal pursuant to state statute. In 1980, Grantor established an irrevocable trust (Trust) for the benefit of Grantor's child, *A*, *A*'s spouse, and *A*'s issue. At the time Trust was established, *A* had two children, *B* and *C*. A corporate fiduciary was designated as trustee. Under the terms of Trust, the trustee has the discretion to distribute all or part of the trust income or principal to one or more of the group consisting of *A*, *A*'s spouse or

A's issue. Trust will terminate on the death of *A*, at which time the trust principal will be distributed to *A*'s issue, per stirpes. Under a state statute applicable to Trust, a trustee who has the absolute discretion under the terms of a testamentary instrument or irrevocable inter vivos trust agreement to invade the principal of a trust for the benefit of the income beneficiaries of the trust, may exercise the discretion by appointing so much or all of the principal of the trust in favor of a trustee of a trust under an instrument other than that under which the power to invade is created, or under the same instrument. The trustee may take the action either with consent of all the persons interested in the trust but without prior court approval, or with court approval, upon notice to all of the parties. The exercise of the discretion, however, must not reduce any fixed income interest of any income beneficiary of the trust and must be in favor of the beneficiaries of the trust. In 2000, the trustee distributes one-half of Trust's principal to a new trust that provides for the payment of trust income to *A* for life and further provides that, at *A*'s death, one-half of the trust remainder will pass to *B* or *B*'s issue and one-half of the trust will pass to *C* or *C*'s issue. Because the state statute requires the consent of all of the parties, the transaction constitutes a modification of Trust. However, because the modification does not shift any beneficial interest in Trust to a beneficiary or beneficiaries who occupy a lower generation than the person or persons who held the beneficial interest prior to the modification, neither Trust nor the new trust will be subject to the provisions of chapter 13 of the Code.

Example 3. Construction of an ambiguous term in the instrument. In 1980, Grantor established an irrevocable trust for the benefit of Grantor's children, *A* and *B*, and their issue. The trust is to terminate on the death of the last to die of *A* and *B*, at which time the principal is to be distributed to their issue. However, the provision governing the termination of the trust is ambiguous regarding whether the trust principal is to be distributed per stirpes, only to the children of *A* and *B*, or per capita among the children, grandchildren, and more remote issue of *A* and *B*. The trustee files a construction suit with the appropriate local court to resolve the ambiguity. The court issues an order construing the instrument to provide for per capita distributions to the children, grandchildren, and more remote issue of *A* and *B* living at the time the trust terminates. The court's construction is consistent with applicable state law as it would be interpreted by the highest court of the state and resolves a bona fide controversy regarding the proper interpretation of the instrument. Therefore, the trust will not be subject to the provisions of chapter 13 of the Code.

Example 4. Change in trust situs. In 1980, Grantor, who was domiciled in State *X*, executed an irrevocable trust for the benefit of Grantor's issue, naming a State *X* bank as trustee. Under the terms of the trust, the trust is to terminate, in all events, no later than 21 years after the death of the last to die of certain designated individuals living at the time the trust was executed. The provisions of the trust do not specify that any particular state law is to govern the administration and construction of the trust. In State *X*, the common law rule against perpetuities applies to trusts. In 2000, a State *Y* bank is named as sole trustee. The effect of changing trustees is that the situs of the trust changes to State *Y*, and the laws of State *Y* govern the administration and construction of the trust. State *Y* law contains no rule against perpetuities. In this case, however, in view of the terms of the trust, the trust will terminate at the same time before and after the change in situs. Accordingly, the change in situs does not shift any beneficial interest in the trust to a beneficiary who occupies a lower generation (as defined in section 2651) than the person or persons who held the beneficial interest prior to the transfer. Furthermore, the change in situs does not extend the time for vesting of any beneficial interest in the trust beyond that provided for in the original trust. Therefore, the trust will not be subject to the provisions of chapter 13 of the Code. If, in this example, as a result of the change in situs, State *Y* law governed such that the time for vesting was extended beyond the period prescribed under the terms of the original trust instrument, the trust would not retain exempt status.

Example 5. Division of a trust. In 1980, Grantor established an irrevocable trust for the benefit of his two children, *A* and *B*, and their issue. Under the terms of the trust, the trustee has the discretion to distribute income and principal to *A*, *B*, and their issue in such amounts as the trustee deems appropriate. On the death of the last to die of *A* and *B*, the trust principal is to be distributed to the living issue of *A* and *B*, per stirpes. In 2000, the appropriate local court approved the division of the trust into two equal trusts, one for the benefit of *A* and *A*'s issue and one for the benefit of *B* and *B*'s issue. The trust for *A* and *A*'s issue provides that the trustee has the discretion to distribute trust income and principal to *A* and *A*'s issue in such amounts as the trustee deems appropriate. On *A*'s death, the trust principal is to be distributed equally to *A*'s issue, per stirpes. The trust for *B* and *B*'s issue is identical (except for the beneficiaries), and terminates at *B*'s death at which time the trust principal is to be distributed equally to *B*'s issue, per stirpes. The division of the trust into two trusts does not shift any beneficial interest in the trust to a beneficiary who occupies a lower generation (as defined in section 2651) than the person or persons who held the beneficial interest prior to the division. In addition, the division does not extend the time for vesting of any beneficial interest in the trust beyond the period provided for in the original trust. Therefore, the two partitioned trusts resulting from the division will not be subject to the provisions of chapter 13 of the Code.

Example 6. Merger of two trusts. In 1980, Grantor established an irrevocable trust for Grantor's child and the child's issue. In 1983, Grantor's spouse also established a separate irrevocable trust for the benefit of the same child and issue. The terms of the spouse's trust and Grantor's trust are identical. In 2000, the appropriate local court approved the merger of the two trusts into one trust to save administrative costs and enhance the management of the investments. The merger of the two trusts does not shift any beneficial interest in the trust to a beneficiary who occupies a lower generation (as defined in section 2651) than the person or persons who held the beneficial interest prior to the merger. In addition, the merger does not extend the time for vesting of any beneficial interest in the trust beyond the period provided for in the original trust. Therefore, the trust that resulted from the merger will not be subject to the provisions of chapter 13 of the Code.

Example 7. Modification that does not shift an interest to a lower generation. In 1980, Grantor established an irrevocable trust for the benefit of Grantor's grandchildren, *A*, *B*, and *C*. The trust provides that income is to be paid to *A*, *B*, and *C*, in equal shares for life. The trust further provides that, upon the death of the first grandchild to die, one-third of the principal is to be distributed to that grandchild's issue, per stirpes. Upon the death of the second grandchild to die, one-half of the remaining trust principal is to be distributed to that grandchild's issue, per stirpes, and upon the death of the last grandchild to die, the remaining principal is to be distributed to that grandchild's issue, per stirpes. In 2000, *A* became disabled. Subsequently, the trustee, with the consent of *B* and *C*, petitioned the appropriate local court and the court approved a modification of the trust that increased A's share of trust income. The modification does not shift a portion of the income interest to a beneficiary who occupies a generation lower than the generation occupied by *A*, *B* and *C*, and does not extend the time for vesting of any beneficial interest in the trust beyond the period provided for in the original trust. Accordingly, the trust as modified will not be subject to the provisions of chapter 13 of the Code. However, the modification increasing *A*'s share of trust income is a transfer by *B* and *C* to *A* for federal gift tax purposes.

(ii) *Effective date.* The rules in this paragraph (b)(4) are effective as of [INSERT THE DATE OF PUBLICATION IN THE **Federal Register** AS A FINAL REGULATION].

* * * * *

(c) * * * The last four sentences in paragraph (b)(1)(i) of this section are effective as of November 18, 1999.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–29920 Filed 11–17–99; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[FRL–6477–5]

Rescinding Findings That the 1-Hour Ozone Standard No Longer Applies in Certain Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; clarifications.

SUMMARY: This document clarifies the summary of the preamble to the proposed rule rescinding findings that the 1-hour ozone standard no longer applies in certain areas published on October 25, 1999.

FOR FURTHER INFORMATION CONTACT: Annie Nikbakht, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Ozone Policy and Strategies Group, MD–15, Research Triangle Park, NC 27711, (919) 541–5246.

SUPPLEMENTARY INFORMATION: On October 25, 1999, EPA published the preamble to the proposed rule, ''Rescinding Findings That the 1–Hour Ozone Standard No Longer Applies in Certain Areas' (64 FR 57424). Included in the published summary was the statement regarding our proposal to amend 40 CFR 50.9(b) to provide by rule that the 1-hour ozone standard will continue to apply to all areas notwithstanding promulgation of the 8-hour standard. Inadvertently, additional language, elaborating on the proposed amendment to 40 CFR 50.9(b), was not included in the published summary of the preamble to the proposed rule, although the full text of the preamble and the proposed regulatory language contained the additional explanation of our proposal. To provide clarification, we today add to that summary the following additional language: EPA is proposing that after the 8-hour standard has become fully enforceable under part D of title I of the CAA and subject to no further legal challenge, the 1-hour standards set forth in section 50.9 will no longer apply to an area once EPA determines that the area has air quality meeting the 1-hour standard.

Dated: November 12, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 99–30116 Filed 11–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN94–1b; FRL–6477–1]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Indiana's State Plan to control air pollutants from Municipal Waste Combustors (MWC), submitted on September 30, 1999. The State Plan adopts the Federal Emissions Guidelines applicable to existing MWCs with capacity to combust more than 250 tons per day of municipal solid waste.

In the final rules section of this **Federal Register**, the EPA is approving the State's request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this action. Should the Agency receive such comment, it will publish a final rule informing the public that the direct final rule will not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before December 20, 1999.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Dated: November 4, 1999.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

[FR Doc. 99–30022 Filed 11–17–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Part 203

[DFARS Case 99–D028]

Defense Federal Acquisition Regulation Supplement; Anticompetitive Teaming

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add policy addressing exclusive teaming arrangements. The proposed amendments specify that certain exclusive teaming arrangements may evidence violations of the antitrust laws.

DATES: Comments on the proposed rule should be submitted in writing to the address specified below on or before January 18, 2000, to be considered in the formation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Melissa Rider, PDUSD(AT&L)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite DFARS Case 99–D028.

E-mail comments submitted via the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 99–D028 in all correspondence related to this proposed rule. E-mail correspondence should cite DFARS Case 99–D028 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, (703) 602–4245. Please cite DFARS Case 99–D028.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends DFARS Subpart 203.3 to add a definition of ''exclusive teaming arrangement'' and to specify that certain exclusive teaming arrangements may evidence violations of the antitrust laws. Teaming arrangements that inhibit competition limit the Government's ability to obtain the best products at reasonable prices.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because DoD does not expect frequent use of anticompetitive teaming arrangements by contractors or subcontractors. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 99–D028 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 203

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 203 is proposed to be amended as follows:

1. The authority citation for 48 CFR Part 203 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Sections 203.302 and 203.303 are added to read as follows:

203.302 Definitions.

''Exclusive teaming arrangement'' means that two or more companies agree, in writing, through understandings, or by any other means, to team together on a procurement and further agree not to team with any other competitors on that procurement.

203.303 Reporting suspected antitrust violations.

(c) Practices or events that may evidence violations of the antitrust laws also include exclusive teaming arrangements, if one or a combination of the companies participating on the team is the sole provider of a product or service that is essential for contract performance, and efforts to eliminate the arrangements are not successful.

[FR Doc. 99–29982 Filed 11–17–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 226

[DFARS Case 99–D300]

Defense Federal Acquisition Regulation Supplement; Utilization of Indian Organizations and Indian-Owned Economic Enterprises

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise procedures pertaining to the Indian Incentive Program. The Program provides for incentive payments to Government contractors that use Indian organizations and Indian-owned economic enterprises as subcontractors. This proposed rule reflects new statutory provisions that permit small business concerns to participate in the Indian Incentive Program.

DATES: Comments on the proposed rule should be submitted in writing to the address specified below on or before January 18, 2000, to be considered in the formation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Susan Schneider, PDUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite DFARS Case 99–D300.

E-mail comments submitted via the Internet should be addressed to: dfarsacq.osd.mil

Please cite DFARS Case 99–D300 in all correspondence related to this proposed rule. E-mail correspondence should cite DFARS Case 99–D300 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, (703) 602–0326. Please cite DFARS Case 99–D300.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends DFARS Subpart 226.1 to update procedures pertaining to the Indian Incentive Program. Section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) established the Indian Incentive Program, which provides for payment of incentives to Government contractors that use Indian organizations and Indian-owned economic enterprises as subcontractors. Prior to fiscal year 1999, annual appropriations acts restricted DoD payments under the Program to those contractors that submitted small business subcontracting plans pursuant to 15 U.S.C. 637(d) or section 854 of Public Law 101–89 (15 U.S.C. 637 note). Since small business concerns are not required to submit subcontracting plans, small businesses were excluded from participation in the Indian Incentive Program under DoD contracts. Section 8024 of the DoD Appropriations Act for Fiscal Year 1999 (Public Law 105–262) and section 8024 of the DoD Appropriations Act for Fiscal Year 2000 (Public Law 106–79) eliminated the requirement for a DoD contractor to submit a subcontracting plan before it may participate in the Indian Incentive Program.

DoD implements the Indian Incentive Program through use of the clause at Federal Acquisition Regulation (FAR) 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises. The FAR and DFARS presently prescribe use of the clause in only those DoD contracts that contain subcontracting plan requirements. On October 27, 1999, a proposed FAR rule was published in the **Federal Register** (64 FR 57964) to remove the FAR requirements for DoD use of the clause; these proposed DFARS amendments would replace the FAR requirements.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* An Initial Regulatory Flexibility Analysis has been prepared and is summarized as follows:

The legal basis for the proposed rule is Section 504 of the Indian Financing

Act of 1974 (25 U.S.C. 1544); Section 8024 of the DoD Appropriations Act for Fiscal Year 1999 (Public Law 105–262); and Section 8024 of the DoD Appropriations Act for Fiscal Year 2000 (Public Law 106–79). This rule will apply to all DoD contractors that have the clause at FAR 52.226–1 incorporated into their contracts. The proposed rule does not impose any new reporting, recordkeeping, or other compliance requirements, and does not duplicate, overlap, or conflict with any other Federal rules. The rule is expected to have a beneficial effect on small business concerns, because small businesses are now eligible to receive incentive payments for the use of Indian organizations and Indian-owned economic enterprises as subcontractors.

DoD has submitted a copy of the analysis to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy of the analysis from the address specified herein. Comments are invited. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 99–D300 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 226

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 226 is proposed to be amended as follows:

1. The authority citation for 48 CFR Part 226 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 226—OTHER SOCIOECONOMIC PROGRAMS

2. Sections 226.103 and 226.104 are revised to read as follows:

226.103 Procedures.

(f) The contracting officer must submit a request for funding of the Indian incentive to the Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics) (OUSD (AT&L) SADBU), 1777 North Kent Street, Suite 9100, Arlington, VA 22209. Upon receipt of funding from OUSD (AT&L) SADBU, the contracting officer must issue a contract modification to add the Indian incentive funding for payment of the contractor's request for adjustment as described at FAR 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

226.104 Contract clause.

(1) The contracting officer must use the clause at FAR 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises, in solicitations and contracts that—

(i) Do not use FAR part 12 procedures; and

(ii) (A) Are for supplies or services valued at $500,000 or more; or

(B) Are for construction valued at $1,000,000 or more.

(2) The contracting officer may use the clause at FAR 52.226–1 in any solicitation or contract if, in the opinion of the contracting officer, subcontracting possibilities exist for Indian organizations or Indian-owned economic enterprises.

[FR Doc. 99–29983 Filed 11–17–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To Revise Critical Habitat for Alabama Beach Mouse, Perdido Key Beach Mouse, and Choctawhatchee Beach Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the Fish and Wildlife Service, announce a 90-day finding on a petition to revise critical habitat for the Alabama beach mouse *(Peromyscus polionotus ammobates)*, Perdido Key beach mouse *(P. p. trissyllepsis)*, and Choctawhatchee beach mouse *(P. p. allophrys)*, under the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial information, we find that the petition presents substantial information indicating that revising critical habitat for these three species may be warranted.

DATES: The finding announced in this notice was made on October 14, 1999. Send your comments and materials to reach us on or before January 18, 2000. We may not consider comments received after the above date in making our decision for the 12-month finding.

ADDRESSES: Send information, comments, or questions to the Field Supervisor, U.S. Fish and Wildlife Service, 1612 June Avenue, Panama City, Florida 32405, or Field Supervisor, P.O. Box 1190, 1208–B main Street, Daphne, Alabama 36526. The petition, findings, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above Panama City, Florida, address.

FOR FURTHER INFORMATION CONTACT: Ms. Gail A. Carmody, Field Supervisor, at the above Panama City, Florida, address or telephone 850/769–0552 or Mr. Larry Goldman, Field Supervisor, at the above Daphne, Alabama, address or telephone 334/441–5181.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(D)(i) of the Act and our listing regulations (50 CFR 424.14 (c)(1)), require that we make a finding on whether a petition to revise critical habitat of a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. We are to base this finding on all information available to us at the time the finding is made. To the maximum extent practicable, we are to make this finding within 90 days of the date we received the petition, and we are to publish the finding promptly in the **Federal Register**. Our regulations (50 CFR 424.14 (c)(2)(i)) further require that, in making a finding on a petition to add critical habitat, we consider whether the petition contains information indicating that areas petitioned to be added to critical habitat contain physical and biological features essential to, and that may require special management to provide for, the conservation of the species involved.

On May 8, 1998, we published Listing Priority Guidance for Fiscal Years 1998 and 1999 (63 FR 25502). The guidance clarifies the order in which we will process rulemakings giving highest priority (Tier 1) to processing emergency rules to add species to the Lists of Endangered and Threatened Wildlife and Plants (Lists); second priority (Tier 2) to processing final determinations on proposals to add species to the Lists, processing new proposals to add species to the Lists, processing administrative findings on petitions (to add species to the Lists, delist species, or reclassify listed species), and processing a limited

number of proposed or final rules to delist or reclassify species; and third priority (Tier 3) to processing proposed or final rules designating critical habitat. Processing of this petition is a Tier 2 action.

On February 2, 1999, the Sierra Club and Biodiversity Legal Foundation submitted a petition to us to revise the critical habitat designation for three endangered species: Alabama beach mouse, Perdido Key beach mouse, and the Choctawhatchee beach mouse. We received the petition on February 8, 1999. On February 11, 1999, we sent a letter to Mr. Eric Huber, Earthjustice Legal Defense Fund, Inc., acknowledging receipt of the petition. Mr. Huber submitted additional information on April 16, 1999. We sent a letter to Mr. Huber acknowledging receipt of this information on May 12, 1999.

The petition requested that critical habitat be revised for the three beach mouse subspecies mentioned above. The petitioner asserted that the current designated critical habitat is now inadequate and that coastal development has previously destroyed and continues to destroy part of the habitat. The petitioner asserted that designation of the secondary and scrub dunes as critical habitat is supported by substantial scientific evidence. He further stated that this scientific information, gathered since the listing of the three subspecies of beach mice, indicated that currently designated critical habitat encompassing the primary dunes should also include the secondary and scrub dunes. The petitioner also asserted that the current designation of critical habitat does not provide for conservation of the three subspecies in accordance with the statutory requirements of the Act. As part of conservation of the subspecies, secondary and scrub dunes are essential as refugia during and after storms. In addition, the petitioner stated that scientific evidence has shown that secondary and scrub dunes are now known to provide biological and physical constituent elements as defined under critical habitat for the beach mouse subspecies. These secondary and scrub habitats, therefore, require special management consideration and protection. The petitioner provided further information concerning current threats to these habitats from residential development. The petitioner did not provide specific locations for areas to be included in the critical habitat but referred to subspecies range wide habitats that are secondary or scrub dunes that could be on private or public lands.

On November 5, 1991, we received a petition from the Alabama Conservancy to revise critical habitat for the Perdido Key beach mouse through an emergency rule. The area to be added included lands north of Highway 182 at the northwestern end of Perdido Key, Baldwin County, Alabama. The petitioner maintained that this action was necessary to prevent the permanent loss of crucial habitat for the species. The area included both public and private lands. The petitioner asserted that private development would cause the loss of important habitat for the Perdido Key beach mouse and cited a biological opinion, prepared by us in accordance with section 7 of the Act, as evidence for this assertion. We made a 90-day finding that the petition presented substantial information, indicating that revision of critical habitat for the Perdido Key beach mouse may be warranted. We published a notice announcing our finding in the **Federal Register** on November 24, 1992 (57 FR 5521). We also found that the request to revise the critical habitat designation through an emergency rule was unjustified. We subsequently made a 12-month finding on the petition and described how we were to proceed with the critical habitat revision for the Perdido Key beach mouse. We published a notice announcing our finding in the **Federal Register** on June 18, 1993 (58 FR 33606). We determined that the petitioned action was warranted but would be delayed until other higher priority actions to amend the Lists of Threatened and Endangered Wildlife and Plants had been completed.

Since the listing of the three gulf coast beach mouse subspecies, we have been funding, seeking, and soliciting information regarding their status, life history, and ecology. We also participated in and funded conservation efforts including habitat protection and recovery, reintroductions, and predator control. These efforts have expanded and refined our knowledge about critical habitat for the three beach mouse subspecies. We have issued 15 section 10(a)(1)(B) incidental take permits (13 for the Alabama beach mouse, 1 for the Perdido Key beach mouse, and 1 for the Choctawhatchee beach mouse). Mitigation and monitoring required for these permits also contributed to our database regarding critical habitat.

We have reviewed the petition, the information provided in the petition, other literature, and information available in our files. Based on the best scientific and commercial information available, we find the petition presents substantial information that revision of critical habitat for the Alabama beach mouse may be warranted. We also find that if additional secondary and scrub dunes may also be required for Alabama beach mouse critical habitat, then these habitats may be required for the Perdido Key beach mouse and the Choctawhatchee beach mouse since they are ecologically equivalent subspecies. The petition supports much of the information already present in our files. Available information and data indicate that secondary and scrub dune habitat may be essential to the survival and recovery of all three subspecies. Therefore, we find that there is substantial information to indicate that the petitioned action may be warranted.

We solicit information, including additional comments and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or other interested parties, concerning revision of the critical habitat for the Alabama beach mouse, Perdido Key beach mouse, and the Choctawhatchee beach mouse.

After consideration of additional information, submitted during the indicated time period (see **DATES** section), we will prepare a 12-month finding.

Author:

The primary author of this document is Lorna Patrick, Panama City Field Office (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: October 14, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 99–30114 Filed 11–17–99; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 64, No. 222
Thursday, November 18, 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

Forest Service

Myrtle-Cascade Timber Sales

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) to disclose the potential environmental effects of timber harvest, prescribed burning, mechanical treatments, precommercial thinning, road reconstruction, and watershed improvement projects on National Forest lands in the Myrtle and Cascade drainages of the Bonners Ferry Ranger District, Idaho Panhandle National Forests.

DATES: Written comments and suggestions should be received on or before December 29, 1999. The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in late January 2000. A Final Environmental Impact Statement will be published no sooner than May 1, 2000.

ADDRESSES: Submit written comments and suggestions on the proposal or requests to be placed on the project mailing list to Elaine Zieroth, Bonners Ferry Ranger District, Route 4, Box 4860, Bonners Ferry, Idaho 83805–9764, e-mail address: ezieroth/r1__ipnf@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Pat Behrens, project leader, Bonners Ferry Ranger District, Idaho Panhandle National Forests, Route 4, Box 4860, Bonners Ferry, Idaho 83805–9764, e-mail address: pbehrens/r1__ipnf@fs.fed.us.

SUPPLEMENTARY INFORMATION: The existing condition of the forested vegetation in the project area will be compared to conditions that occurred historically in the area to determine potential treatment opportunities (timber harvest, prescribed burning, mechanical treatments, precommercial thinning, etc.). Many ecological factors have combined to develop our forests as we see them today. Fire is the primary ecological factor that influences forest development. Over seventh years of fire suppression by Federal and State agencies has led to changes in structure and composition of these forests. Specifically, the forests are more densely stocked with trees today since fires have not thinned out the smaller trees. This creates more competition for water and nutrients and stresses the trees. Consequently, the risk of severe fire, and insect and disease outbreaks, is greater than it was historically.

One of the primary objectives of the timber sales will be to restore composition and structure of the forested ecosystem. In the dry forest types ponderosa pine and western larch are being overcrowded by Douglas-fir and grand fir. Treatments would be designed to favor the development of large, open-grown stands of ponderosa pine and western larch. In the mixed conifer and subalpine forests there is very little size and age class diversity. In addition, western white pine, once a significant component of the mixed confer forests in north Idaho, is gradually dying out because of white pine blister rust. Some of the subalpine forests also contain a high percentage of lodgepole pine at high risk to maintain pine beetle infestation. Treating these stands prior to a beetle epidemic would significantly reduce fuel loadings and therefore reduce the risk of severe fire in these forest types.

Preliminary issues include water quality, forest health, timber supply and demand, Threatened, Endangered, and Sensitive wildlife, fish and plant species.

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative, under which thee would be no change from current management of the Forest. Additional alternatives will represent a range of strategies to accomplish the goals of this project. The Idaho Panhandle National Forest Land and Resource Management Plan provides the guidance for management objectives within the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. Inland Native Fish Strategy guidelines (USDA Forest Service, 1995) supercede Forest Plan guidelines established for riparian areas. The public is encouraged to visit with Forest Service officials during the analysis and prior to the decision. The Forest Service is also seeking information, comments, and assistance from federal, state and local agencies and other individuals or organizations that may be interested in or affected by the proposed actions.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available public review in late January 2000. At that time, the EPA will publish a Notice of Availability of the draft environmental impact statement in the **Federal Register**. The comment period on the draft environmental impact statement will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. A final environmental impact statement will be published after all comments are reviewed and responded to. A Record of Decision will be published at that time.

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 but that are not raised until after completion of the final environmental statement 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 them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns regarding the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Public scoping for this project was initiated in April 1997 with a proposed action to treat roughly 6,600 acres. At this time the project was titled the Myrtle-Ball Environmental Assessment (EA) and the assessment area encompassed nearly 49,000 acres. In October 1997 the assessment area was reduced to 31,000 acres, the proposed treatment area reduced to 3,700 acres, and the project renamed the Myrtle-Cascade EA. Based on scoping and changes in Agency direction the Forest Service believes an EIS is now the appropriate level of documentation. Any comments received in response to previous solicitations regarding this project will be considered during the environmental analysis and will be part of the public record. Anyone on the previous mailing list will be added to the EIS mailing list.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments may not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

I am the responsible official for this environmental analysis. My address is Bonners Ferry Ranger District, Route 4 Box 4860, Bonners Ferry, ID 83805–9764.

Dated: November 10, 1999.

Elaine J. Zieroth,

District Ranger.

[FR Doc. 99–30160 Filed 11–17–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Gravina Island Timber Sales Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) to provide timber for the Tongass National Forest timber sale program. The Record of Decision will disclose how the Forest Service decides to provide harvest units, roads, and associated timber harvesting facilities. The proposed action is to harvest up to an estimated 40 million board feet (mmnbf) of timber on an estimated 1800 acres in several timber sales. The project area is located within Gravina roadless area (#522) as inventoried in the Tongas Land and Resource Management Plan. A range of alternatives responsive to significant issues will be developed and will include a no-action alternative. The proposed timber harvest is located within Tongass Forest Plan Value Comparison Units 7610, 7630, 7640, 7650 on Gravina Island, Alaska, on the Ketchikan Ranger District/Misty Fiords National Monument of the Tongass National Forest.

DATES: Opportunities for comment will be made available throughout the process and are identified below. In order to take full advantage of scheduled comment periods, individuals interested in receiving a scoping package should contact us by December 1, 1999. Further opportunities for comment will be provided following development of a specific agency proposed action, during alternative development and following release of the Draft EIS.

ADDRESSES: Please send written comments to District/Monument Ranger, Ketchikan Ranger District/Misty Fiords National Monument, 3031 Tongass Avenue, Ketchikan, AK 99901.

FOR FURTHER INFORMATION CONTACT: Questions about the proposal and EIS should be directed to Jerry Ingersoll, District/Monument Ranger, Ketchikan Ranger District/Misty Fiords National Monument, Tongass National Forest, 3031 Tongass Ave., Ketchikan, AK 99901 telephone (907) 228–4100 or Susan Marthaller, NEPA Coordinator, Ketchikan Ranger District/Misty Fiords National Monument, 3031 Tongass Ave., Ketchikan, AK 99901 telephone (907) 228–4124.

SUPPLEMENTARY INFORMATION: Public participation will be an integral component of the study process and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments, and assistance from Federal, State, local and tribal agencies, individuals and organizations that may be interested in, or affected by, the proposed activities. The scoping process will include: (1) Identification of potential issues; (2) identification of issues to be analyzed in depth; and (3) elimination of insignificant issues or those which have been covered by a previous environmental review and (4) suggestions for possible alternatives.

Opportunities to provide both written and verbal comment and to provide feedback on the process will be made available. A series of public meetings will be scheduled and a scoping package sent to the project mailing list. This active scoping will begin with the publication of the NOI and continue through preparation of a draft Environmental Impact Statement (Draft EIS).

Based on results of scoping and the resource capabilities within the project area, alternatives including a ''no action'' alternative will be developed for the Draft Environmental Impact Statement (Draft EIS). The Draft EIS is projected to be filed with the Environmental Protection Agency (EPA) in late March 2000 or early April 2000. Subsistence hearings, as provided for in Title VIII, Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), will be planned, if needed, during the comment period on the Draft EIS. The Final EIS is anticipated by October 2000.

The comment period on the draft environmental impact statement will be a minimum of 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

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). Environmental objections that could have been raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2nd 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 them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments during scoping and comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Requesters should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 7 days.

Permits: Permits required for implementation may include the following:

1. U.S. Army Corp of Engineers

—Approval of discharge of dredged or fill material into the waters of the United States under Section 404 of the Clean Water Act;
—Approval of the construction of structures or work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899;

2. Environmental Protection Agency

—National Pollutant Discharge Elimination System (402) Permit;
—Review Spill Prevention Control and Countermeasure Plan;

3. State of Alaska, Department of Natural Resources

—Tideland Permit and Lease or Easement;

4. State of Alaska, Department of Environmental Conservation

—Solid Waste Disposal Permit;
—Certification of Compliance with Alaska Water Quality Standards (401 Certification)

Responsible Official

Thomas Puchlerz, Forest Supervisor, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901, is the responsible official. The responsible official will consider the comments, response, disclosure of environmental consequences, and applicable laws, regulations, and policies in making the decision and stating the rationale in the Record of Decision.

Dated: November 3, 1999.

Thomas Puchlerz,

Forest Supervisor.

[FR Doc. 99–30076 Filed 11–17–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Determination of the 1999 Fiscal Year Interest Rates on Rural Telephone Bank Loans

AGENCY: Rural Telephone Bank, USDA.

ACTION: Notice of 1999 fiscal year interest rates determination.

SUMMARY: In accordance with 7 CFR 1610.10, the Rural Telephone Bank (Bank) fiscal year 1999 cost of money rates have been established as follows: 6.01% and 5.54% for advances from the liquidating account and financing account, respectively (fiscal year is the period beginning October 1 and ending September 30).

Except for loans approved from October 1, 1987, through December 21, 1987, where borrowers elected to remain at interest rates set at loan approval, all loan advances made during fiscal year 1999 under Bank loans approved in fiscal years 1988 through 1991 shall bear interest at the rate of 6.01% (the liquidating account rate). All loan advances made during fiscal year 1999 under Bank loans approved during or after fiscal year 1992 shall bear interest at the rate of 5.54% (the financing account rate).

The calculation of the Bank's cost of money rates for fiscal year 1999 for the liquidating account and the financing account are provided in Tables 1 and 2. Since the calculated rates are greater than the minimum rate (5.00%) allowed under 7 U.S.C. § 948(b)(3)(A), the cost of money rates for the liquidating account and financing account are set at 6.01% and 5.54%, respectively. The methodology required to calculate the cost of money rates is established in 7 CFR 1610.10(c).

FOR FURTHER INFORMATION CONTACT: Jonathan P. Claffey, Deputy Assistant Administrator, Telecommunications Program, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1590, South Building, Washington, DC 20250, telephone number (202) 720–9556.

SUPPLEMENTARY INFORMATION: The Federal Credit Reform Act of 1990 (''Credit Reform'') (2 U.S.C. § 661a, *et seq.*) implemented a system to reform the budgetary accounting and management of Federal credit programs. Bank loans approved on or after October 1, 1991, are accounted for in a different manner than Bank loans approved prior to fiscal year 1992. As a result, the Bank must calculate two cost of money rates: (1) The cost of money rate for advances made from the liquidating account (advances made during fiscal year 1999 on loans approved prior to fiscal year 1992) and (2) the cost of money rate for advances made during fiscal year 1999 on loans approved on or after October 1, 1991 (otherwise referred to as loans from the financing account).

The cost of money rate methodology is the same for both accounts. It develops a weighted average rate for the

Bank's cost of money considering total fiscal year loan advances; the excess of fiscal year loan advances over amounts received in the fiscal year from the issuance of Class A, B, and C stocks, debentures and other obligations; and the costs to the Bank of obtaining funds from these sources.

During fiscal year 1999, the Bank was authorized to pay the following dividends: the dividend on Class A stock was 2.00% as established in amended section 406(c) of the Rural Electrification Act (RE Act); no dividends were payable on Class B stock as specified in 7 CFR 1610.10(c); and the dividend on Class C stock was established by the Bank at 5.50%.

Sources and Costs of Funds—Liquidating Account

In accordance with Section 406(a) of the RE Act, the Bank did not issue Class A stock in fiscal year 1999. Advances for the purchase of Class B stock and cash purchases for Class B stock were $843,911. Rescissions of loan funds advanced for Class B stock amounted to $316,910. Thus, the amount received by the Bank from the issuance of Class B stock, per 7 CFR 1610.10(c), was $527,001 ($843,911–$316,910). The amount received by the Bank in fiscal year 1999 from the issuance of Class C stock was $18,309.

The Bank did not issue debentures or any other obligations related to the liquidating account in fiscal year 1999. Consequently, no cost was incurred related to the issuance of debentures subject to 7 U.S.C. § 948(b)(3)(D).

The excess of fiscal year 1999 loan advances from the liquidating account over amounts received from issuance of stocks, debentures, and other obligations amounted to $17,251,208. The cost associated with this excess is the historical cost of money rate as defined in 7 U.S.C. § 948(b)(3)(D)(v). The calculation of the Bank's historical cost of money rate for advances from the liquidating account is also provided in Table 1. The methodology required to perform this calculation is described in 7 CFR 1610.10(c). The cost for money rates for fiscal years 1974 through 1987 are defined in section 408(b) of the RE Act, as amended by Pub. L. 100–203, and are listed in 7 CFR 1610.10(c) and Table 1 herein.

Sources and Costs of Funds—Financing Account

In accordance with Section 406(a) of the RE Act, the Bank did not issue Class A stock in fiscal year 1999. Advances for the purchase of Class B stock and cash purchases for Class B stock were $1,822,270. Since there were no rescissions of loan funds advanced for Class B stock, the amount received by the Bank from the issuance of Class B stock, per 7 CFR 1610.10(c), was $1,822,270. The Bank did not receive any amounts in fiscal year 1999 from the issuance of Class C stock.

During fiscal year 1999, issuance of debentures or any other obligations related to the financing account were $36,336,255 at an interest rate of 5.81%.

The excess of fiscal year 1999 loan advances from the financing account over amounts received from issuance of stocks, debentures, and other obligations amounted to $527,207. The cost associated with this excess is the historical cost of money rate as defined in 7 U.S.C. § 948(b)(3)(D)(v). The calculation of the Bank's historical cost of money rate for advances from the financing account is also provided in Table 2. The methodology required to perform this calculation is described in 7 CFR 1610.10(c).

Dated: November 4, 1999.

Christopher A. McLean,

Acting Governor, Rural Telephone Bank.

BILLING CODE 3410–15–P

TABLE 1

Rural Telephone Bank Cost of Money Rate - Liquidating Account:

FY 1999 Source of Bank Funds	(a) Amount	(b) Cost	(c) (a) x (b)	(c) / Advances
Issuance of Class A Stock	$ -	2.00%	$ -	0.0000%
Issuance of Class B Stock	$ 527,001	0.00%	$ -	0.0000%
Issuance of Class C Stock	$ 18,309	5.50%	$ 1,007	0.0057%
Issuance of Debentures and Other Obligations	$ -		$ -	0.0000%
Excess of Total Advances Over Issuances	$ 17,251,208	6.19%	$ 1,067,850	6.0003%
Total FY 1999 Advances	$ 17,796,518	CALCULATED COST OF MONEY RATE =		6.01%
		MINIMUM RATE ALLOWABLE =		5.00%

Rural Telephone Bank Historical Cost of Money Rate - Liquidating Account:

Fiscal Year	(a) Cost of Money	(b) Advances	(c) (a) X (b)	(c) / Total Advances
FY 1974	5.01%	$ 111,022,574	$ 5,562,231	0.235%
FY 1975	5.85%	$ 130,663,197	$ 7,643,797	0.323%
FY 1976	5.33%	$ 99,915,066	$ 5,325,473	0.225%
FY 1977	5.00%	$ 80,907,425	$ 4,045,371	0.171%
FY 1978	5.87%	$ 142,297,190	$ 8,352,845	0.353%
FY 1979	5.93%	$ 130,540,067	$ 7,741,026	0.327%
FY 1980	8.10%	$ 199,944,235	$ 16,195,483	0.684%
FY 1981	9.46%	$ 148,599,372	$ 14,057,501	0.594%
FY 1982	8.39%	$ 112,232,127	$ 9,416,275	0.398%
FY 1983	6.99%	$ 93,402,836	$ 6,528,858	0.276%
FY 1984	6.55%	$ 90,450,549	$ 5,924,511	0.250%
FY 1985	5.00%	$ 72,583,394	$ 3,629,170	0.153%
FY 1986	5.00%	$ 71,582,383	$ 3,579,119	0.151%
FY 1987	5.00%	$ 51,974,938	$ 2,598,747	0.110%
FY 1988	5.00%	$ 119,488,367	$ 5,974,418	0.252%
FY 1989	5.00%	$ 97,046,947	$ 4,852,347	0.205%
FY 1990	5.00%	$ 107,694,991	$ 5,384,750	0.227%
FY 1991	5.43%	$ 163,143,075	$ 8,858,669	0.374%
FY 1992	6.14%	$ 84,940,822	$ 5,215,366	0.220%
FY 1993	6.05%	$ 84,605,366	$ 5,118,625	0.216%
FY 1994	6.15%	$ 54,530,897	$ 3,353,650	0.142%
FY 1995	6.04%	$ 35,967,133	$ 2,172,415	0.092%
FY 1996	6.05%	$ 30,965,187	$ 1,873,394	0.079%
FY 1997	5.98%	$ 32,602,587	$ 1,949,635	0.082%
FY 1998	5.96%	$ 20,673,798	$ 1,232,158	0.052%
	TOTAL ADVANCES	$ 2,367,774,523	COST OF MONEY	6.19%

[FR Doc. 99–29865 Filed 11–17–99; 8:45 am]
BILLING CODE 3410–15–C

TABLE 2

Rural Telephone Bank Cost of Money Rate - Financing Account:

FY 1999 Source of Bank Funds	(a) Amount	(b) Cost	(c) (a) x (b)	(c) / Advances
Issuance of Class A Stock	$ -	2.00%	$ -	0.0000%
Issuance of Class B Stock	$ 1,822,270	0.00%	$ -	0.0000%
Issuance of Class C Stock	$ -	5.50%	$ -	0.0000%
Issuance of Debentures and Other Obligations	$ 36,336,255	5.81%	$ 2,111,136	5.4571%
Excess of Total Advances Over Issuances	$ 527,207	6.41%	$ 33,794	0.0874%
Total FY 1999 Advances	$ 38,685,732	CALCULATED COST OF MONEY RATE =		5.54%
		MINIMUM RATE ALLOWABLE =		5.00%

Rural Telephone Bank Historical Cost of Money Rate - Financing Account:

Fiscal Year	(a) Cost of Money	(b) Advances	(c) (a) X (b)	(c) / Total Advances
FY 1992	7.38%	$ 4,056,250	$ 299,351	0.127%
FY 1993	6.35%	$ 23,839,200	$ 1,513,789	0.643%
FY 1994	6.40%	$ 56,838,902	$ 3,637,690	1.546%
FY 1995	6.88%	$ 37,161,517	$ 2,556,712	1.087%
FY 1996	6.42%	$ 44,536,621	$ 2,859,251	1.215%
FY 1997	6.54%	$ 34,368,726	$ 2,247,715	0.955%
FY 1998	5.71%	$ 34,446,458	$ 1,966,893	0.836%
	TOTAL ADVANCES	$ 235,247,674	COST OF MONEY	6.41%

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on December 9, 1999 at the Jefferson County Firehall located at the corner of Adam and "J" Street off of Highway 97 in Madras, Oregon. A business meeting will begin at 9:30 am and finish at 4:30 pm. Agenda items include a Survey and Manage Species Update, a Response to a Northwest Plan Interpretation, Subcommittee Updates, ICBEMP Comment Process, Year 2000 Program of Work, and a Public Forum from 4:00 pm till 4:30 pm. All Deschutes Province Advisory Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Mollie Chaudet, Province Liaison, USDA, Bend-Ft. Rock Ranger District, 1230 N.E. 3rd., Bend, OR 97701, Phone (541) 383–4769.

Dated: November 8, 1999.

Sally Collins,

Forest Supervisor.

[FR Doc. 99–29965 Filed 11–17–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Office of Inspector General; Performance Review Board: Membership

The following individuals are eligible to serve on the Performance Review Board (PRB) in accordance with the Office of Inspector General's Senior Executive Service Performance Appraisal System:

Alan P. Balutis
Mary L. Casey
Judith J. Gordon
Peter L. McClintock

Denise Yaag,

Executive Secretary, Performance Review Board, Office of Inspector General.

[FR Doc. 99–30162 Filed 11–17–99; 8:45 am]

BILLING CODE 3510–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111299A]

Mid-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 Mid-Atlantic Fishery Management Council's Summer Flounder Monitoring Committee, Scup Monitoring Committee, and Black Sea Bass Monitoring Committee will hold a public meeting.

DATES: The meeting will be held on Monday, December 6, 1999, beginning at 10:00 a.m. with the Summer Flounder Monitoring Committee, followed by the Black Sea Bass Monitoring Committee and the Scup Monitoring Committee.

ADDRESSES: The meeting will be held at the Sheraton International Airport, 7032 Elm Road, Baltimore Washington International Airport, Baltimore, MD 21240, telephone 410–859–3300.

Council Address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, telephone 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to recommend the 2000 recreational management measures for summer flounder, scup, and black sea bass.

Although non-emergency issues not contained in this agenda may come before the Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, such issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least five days prior to the meeting date.

Dated: November 12, 1999.

Valerie Chambers,

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

[FR Doc. 99–30130 Filed 11–17–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

November 15, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 666–P, which is currently closed, is being increased for special carryforward, which will re-open the limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 59946, published on November 6, 1998.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 15, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 3, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on November 22, 1999, you are directed to increase the current limit for Category 666–P to 1,003,591 kilograms [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing:

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–30177 Filed 11–15–99; 4:07 pm]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1998; Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

COMMODITY FUTURES TRADING COMMISSION

Notice of The Twenty-Seventh Meeting of the Agricultural Advisory Committee

This is to give notice, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(a)(2), and Section 101–6.1015(b) of the regulations promulgated thereunder, 41 CFR 101–6.1015(b), that the public meeting of the Commodity Futures Trading Commission Agricultural Advisory Committee (''AAC'') formerly scheduled for November 9, 1999, will be held on December 8, 1999, in the first floor hearing room (Room 1000) of the Commission's Washington, DC headquarters, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. The meeting will begin at 1 p.m. and last until 4:30 p.m. The agenda will consist of the following:

Agenda

1. Welcoming Remarks
2. Discussion on Deregulatory Initiatives
   a. Contract Market Designation
   b. Exchange Rule Changes
3. Discussion on CFTC Reauthorization Issues
4. Briefing on Agricultural Trade Options Final Rules
5. Briefing on Exchange Issues
6. Other Business

The AAC was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on issues affecting agricultural producers, processors, lenders and other interested in or affected by the agricultural commodities markets, and to facilitate communications between the

Commission and the diverse agricultural and agriculture-related organizations represented on the Committee. The purposes and objectives of the AAC are more fully set forth in its charter.

The meeting is open to the public. The Chairman of the AAC, Commissioner David D. Spears, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the AAC should mail a copy of the statement prior to the meeting to the attention of: The Agricultural Advisory Committee, c/o Commissioner David D. Spears, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Members of the public who wish to make oral statements should also inform Commissioner Spears in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

For further information contact Jennifer A. Roe, Administrative Assistant to Commissioner Spears, at 202–418–5043, or Marcia K. Blase, Committee Management Officer, at 202–418–5138.

Issued by the Commission in Washington, DC, on November 15th, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–30096 Filed 11–17–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Department of Defense Acquisition University, DoD.

ACTION: Board of Visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at the Packard Conference Center, Building 184, Ft. Belvoir, Virginia on Wednesday December 1, 1999 from 0900 until 1500. The purpose of this meeting is to report back to the BoV on continuing items of interest. The agenda will also include a discussion on the most recent efforts to reorganize the University into unified structure.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Mr. John Michel at 703–845–6756.

Dated: November 12, 1999.

L.M. Bynum,

Alternate OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 99–30071 Filed 11–17–99; 8:45 am]

BILLING CODE 5001–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare a Joint Use Supplement to the Final Programmatic Environmental Impact Statement (EIS) for the Disposal of Kelly Air Force Base (AFB), Texas

The United States Air Force (Air Force) is issuing this notice to advise the public of its intent to prepare a joint use supplement to the May 1997, Final Programmatic EIS, Disposal of Kelly AFB in San Antonio, Texas (Joint Use Supplemental EIS). The Greater Kelly Development Corporation (GKDC) has requested that the Air Force authorize joint civil and military use of portions of the airfield facilities at Kelly AFB and permit regular civilian aircraft operations. The Joint Use Supplemental EIS will analyze potential environmental impacts from GKDC's proposal and alternatives and will be considered in making decisions about joint use that will be documented in the Air Force's Record of Decision. The GKDC, the City of San Antonio, and the Federal Aviation Administration have been invited to act as cooperating agencies in this process.

On December 7, 1999, starting at 6:00 p.m., a public scoping meeting will be held at John F. Kennedy High School, 1922 South General McMullen Highway, San Antonio, Texas. The scoping meeting will be a forum for public officials and the community to provide information and comments relative to environmental issues and concerns that need to be assessed and discussed in the Joint Use Supplemental EIS. During the meeting, the Air Force will discuss the proposal for joint use of portions of Kelly AFB, describe the process involved in preparing a supplemental EIS, and ask for input on joint use alternatives. The Air Force will consider all comments offered by any federal, state, or local government agency, as well as any individual or private entity. The cumulative impacts of a proposed Texas Air National Guard mission change environmental assessment will be incorporated into the Joint Use Supplemental EIS.

To ensure sufficient time to adequately consider public comments concerning joint use alternatives, the Air Force recommends that comments be presented at the earliest possible date. The formal coping process will end January 7, 2000. The Air Force will, however, accept additional comments any time during the process.

Please direct written comments or requests for further information concerning the Joint Use Supplemental EIS to Jonathan D. Farthing, HQ AFCEE/ECA, 3207 North Road, Brooks AFB, TX 78235–5363, 210–536–3787, or fax to 210–536–3890.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–30077 Filed 11–17–99; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare an Environmental Impact Statement/Environmental Impact Report (EIS/R) and Feasibility Report for the Upper Penitencia Creek, California, Flood Control Study

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The San Francisco District, U.S. Army corps of Engineers, together with its non-Federal sponsor, the Santa Clara Valley Water district, is conducting a feasibility study for flood control along Upper Penitencia Creek, Santa Clara County, California. Based on the results of the reconnaissance study the Corps has determined there is a Federal interest in two alternatives that would modify the floodplain, construct a bypass culvert, and in the alternative, floodproof some structures. These alternatives would provide net economic benefits while minimizing environmental impacts. The Corps of Engineers is the lead agency for this project under the National Environmental Policy Act (NEPA), and the Santa Clara Valley Water district (SCVWD) is the lead agency under the California Environmental Quality Act (CEQA). The EIS/R will enable the lead agencies to comply with the requirements of NEPA and CEQA.

FOR FURTHER INFORMATION CONTACT: Written comments and questions regarding the scoping process or preparation of the EIS/R should be directed to Mr. Bill DeJager at (415) 977–8670 or Mr. Gary Flickinger at (415) 977–8548 at the U.S. Army Corps of

Engineers, San Francisco District, 333 Market Street, 7th Floor, Planning Branch, San Francisco, CA 94105–2197.

SUPPLEMENTARY INFORMATION:

1. Authority

The feasibility study is being conducted under authority of the Flood Control Act of 18 August 1941, which authorized a preliminary examination and survey of the Coyote River (now Coyote Creek) and its tributaries. A reconnaissance study of flood control alternatives along Upper Penitencia Creek was completed in 1995. This study determined there is a Federal interest in a flood control project in the study area. A detailed (feasibility) study has subsequently been initiated with the SCVWD to support further Federal participation in the project.

2. Alternatives

Three basic alternatives, each with three subalternatives, were developed for the reconnaissance study. These alternatives included various combinations of modified floodplains, bypass channels, trapezoidal channels, and floodproofing. The feasibility study will examine a range of alternative methods of flood control.

3. Comments and Scoping Meetings

The Corps of Engineers is requesting public input during the EIS/R preparation for this project. All interested Federal, State, and local agencies, Indian tribes, private organizations, and individuals are invited to participate in the environmental scoping process established by Federal regulations. A scoping meeting will be held on December 1, 1999, from 7:00 PM to 9:00 PM, at the Education Center Lounge, East Side Union High School, 830 N. Capitol Ave., San Jose, California 95133. The purpose of the meeting is to determine the environmental issues of concern to the public that should be addressed by the EIS/R. A public comment period for the proposal will open on November 19, 1999, and will close on December 20, 1999. The public will have an additional opportunity to comment on proposed alternatives after the EIS/R is released to the public at a later date. This EIS scoping meeting will also serve as a scoping meeting for the purposes of CEQA.

4. Issues to be Considered

The EIS/R will examine environmental issues of public concern arising from the scoping process, and project impacts already known to the Corps. These impacts will include, but are not limited to: wildlife, fisheries, threatened and endangered species, vegetation, water quality, recreation and park development, aesthetics, transportation, cultural resources, public safety, and noise. The EIS/R will disclose the project's compliance with all applicable statues, rules, and regulations. Included will be coordination with the U.S. Fish and Wildlife Service (FWS) under the Fish and Wildlife Coordination Act, coordination with the FWS and the National Marine Fisheries Service under the Endangered Species Act, and coordination with the State of California under the Federal Clean Water Act and Clean Air Act.

Erik T. Blechinger,

Maj, En, Deputy Commander.

[FR Doc. 99–30159 Filed 11–17–99; 8:45 am]

BILLING CODE 3710–19–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–441–002]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

Take notice that on November 8, 1999, CNG Transmission Corporation (CNG) filed as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1999:

Sub. Second Revised Sheet No. 254A
Sub. Second Revised Sheet No. 260

CNG requests waiver of the notice requirements of Section 154.207 of the Commission's regulations, so that CNG's revised tariff sheets may become effective as proposed.

CNG states that the purpose of this filing is to comply with the October 25, 1999, letter order in this docket. Consistent with the order, CNG has revised Sheet Nos. 254A and 260 to reflect the gigacalorie measurements set forth in GISB Standard 2.3.9.

CNG states that copies of its letter of transmittal and enclosures are being served upon its customers and to interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/on line/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30102 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–5–001]

Colorado Interstate Gas Company; Notice of Tariff Filing

November 12, 1999.

Take notice that on November 8, 1999, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Tenth Revised Sheet No. 229 to be effective November 1, 1999.

CIG states that the purpose of this filing is to correct a spelling error and to be in full compliance with the order that issued October 27, 1999 in Docket No. RP00–5–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30106 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT00–3–000]

Destin Pipeline Company, L.L.C.; Notice of Proposed Changes to FERC Gas Tariff

November 12, 1999.

Take notice that on November 5, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing two non-conforming transportation service agreements and the following tariff sheet as part of Destin's FERC Gas Tariff, Original Volume No. 1, to be effective December 1, 1999.

First Revised Sheet No. 258

Destin states that this filing was made to submit rate Schedule FT–2 Service Agreements between Destin and Mobil Oil Exploration & Producing Southeast Inc. and between Destin and Phillips Petroleum Company which deviate from the form of Rate Schedule FT–2 Service Agreements in Destin's Tariff and to reference these agreements in Destin's Tariff

Destin states that copies of the filing will be served upon its shippers 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30098 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–509–001]

Granite State Gas Transmission, Inc.; Notice of Compliance Filing

November 12, 1999.

Take notice that on November 5, 1999, Granite State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed below for effectiveness on October 22, 1999:

Second Revised Sheet No. 305
Sub Second Revised Sheet No. 323

Granite State states that the purpose of this filing is to comply with the Letter Order issued in this proceeding on October 22, 1999.

According to Granite State, copies of the filing have been mailed to all affected customers and applicable state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30103 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–510–001]

Koch Gateway Pipeline Company; Notice of Compliance Filing

November 12, 1999.

Take notice that on November 8, 1999, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, to become effective October 22, 1999.

Substitute First Revised Sheet No. 1415

Koch's states that its filing is in compliance with the Commission's Order Accepting Tariff Sheets, subject to conditions, issued October 22, 1999, in Docket No. RP99–510. The proposed tariff changes specify the types of transportation discounts that may be offered to Koch's FT, IT, and NNS rate schedules without the burden of filing each discount contract with the Commission.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30104 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–2–001]

Overthrust Pipeline Company; Notice of Tariff Filing

November 12, 1999.

Take notice that on November 5, 1999, Overthrust Pipeline Company tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Substitute Sixth Revised Sheet No. 70, to be effective April 1, 2000.

On October 1, 1999, Overthrust filed tariff sheets pursuant to Section 4 of the Natural Gas Act, Part 154 of the Commission's regulations, to be effective November 1, 1999 (the October 1 filing). On October 28, 1999, the Commission issued an Order Accepting and Suspending Tariff Sheets, Subject to Refund and Conditions, and Establishing a Hearing in this proceeding. Ordering Paragraph A mandated that the tariff sheets become

effective April 1, 2000, and Ordering Paragraph C required that Overthrust file, within 30 days of the order issues date, a revised Sheet No. 70 to remove the language that eliminates the IT revenue crediting as of January 1, 2003. This filing is made to comply with the Commission's order.

Overthrust states that a copy of this filing has been served upon Overthrust's customers, the Wyoming Public Service Commission and the Utah Division of Public Utilities.

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 htt://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30105 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–3064–014, et al.]

EnerZ Corporation, et al.; Electric Rate and Corporate Regulation Filings

November 10, 1999.

Take notice that the following filings have been made with the Commission:

1. EnerZ Corporation, IEP Marketing, LLC, Energy Resource Management Corporation, and Enron Power Marketing, Inc.

[Docket Nos. ER96–3064–014, ER95–802–000, ER96–358–014, and ER94–24–032]

Take notice that on November 3, 1999 the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

2. Wicor Energy Services, Inc. and People's Electric Corporation

[Docket Nos. ER96–34–013, ER96–34–014, ER96–34–015, ER96–34–016, and ER98–3719–005]

Take notice that on October 29, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

3. FirstEnergy Trading Services, Inc.

[Docket No. ER99–2516–001]

Take notice that on October 29, 1999, FirstEnergy Trading Services, Inc. filed their quarterly report for the quarter ending September 30, 1999, for information only.

4. PanCanadian Energy Services Inc., LG&E Energy Marketing Inc., CNG Power Services Corporation, Citizens Power Sales, Sempra Energy Trading Corp., Koch Energy Trading, Inc., Energy Services, Inc., Mid American Natural Resources, Inc., ConAgra Energy Services, Inc., Coral Power, L.L.C., U. S. Power & Light, Inc., Duke/Louis Dreyfus, L.L.C., Duke Energy Marketing Corp., Enerserve, L.C., Energy Resource Management Corporation, SCANA Energy Marketing, Edison Source, CL Power Sales Six, L.L.C., Anker Power Services, Inc., OGE Energy Resources, Inc., Statoil Energy Services, Inc., Enron Energy Services, Inc., Hasflund Energy Trading, LLC, Pepco Services, Inc., ACN Power, Inc., Lakeside Energy Services, LLC, CP Power Sales Eleven, L.L.C., Duke Energy Trading and Marketing, L.L.C., Georgia Natural Gas Company, and Duke Energy Merchants, L.L.C.

[Docket Nos. ER90–168–043, ER94–1188–030, ER94–1554–023, ER94–1685–027, ER94–1691–026, ER95–218–019, ER95–1021–017, ER95–1423–011, ER95–1751–016, ER96–25–018, ER96–105–016, ER96–108–019, ER96–109–019, ER96–109–020, ER96–182–016, ER96–358–013, ER96–1086–014, ER96–2150–015, ER96–2652–037, ER97–3788–008, ER97–4345–011, ER97–4381–004, ER98–13–012, ER98–2535–002, ER98–3096–005, ER98–4685–001, ER98–4685–002, ER98–4685–003, ER99–505–003, ER99–894–004, ER99–2774–001, ER99–4126–001, and ER99–4485–001]

Take notice that on November 1, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

5. North American Electric Reliability Council

[Docket No. ER99–2997–002]

Take notice that on November 1, 1999, the North American Electric Reliability Council (NERC) filed a clean, non-red-lined version of the Transmission Loading Relief (TLR) amendments previously filed in the above-referenced docket and accepted by the Commission.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of New Mexico

[Docket No. ER00–416–000]

Take notice that on November 2, 1999, Public Service Company of New Mexico (PNM) submitted for filing the San Juan Project Participation Agreement (the Participation Agreement) between PNM, Tucson Electric Power Company (TEP), City of Farmington, New Mexico (Farmington), M–S–R Public Power Agency (M–S–R), Los Alamos County, New Mexico (Los Alamos), City of Anaheim, California (Anaheim), Utah Associated Municipal Power Systems (UAMPS), Southern California Public Power Authority (SCPPA) and Tri-State Generation and Transmission Association, Inc. (Tri-State). The Participation Agreement supersedes the Co-Tenancy Agreement and the San Juan Project Operating Agreement which presently control the ownership and operation of the San Juan Generating Station.

PNM requests that the Participation Agreement be accepted for filing effective as of the earliest feasible date and therefore requests a waiver of the Commission's notice requirements.

Copies of this filing have been served on each of TEP, Farmington, M–S–R, Los Alamos, Anaheim, UAMPS, SCPPA and Tri-State, as well as on the New Mexico Public Regulation Commission.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. PP&L Montana, LLC

[Docket No. ER00–417–000]

Take notice that on November 2, 1999, PP&L Montana, LLC submitted on its own behalf and that of its wholly-owned subsidiary, PP&L Colstrip II, LLC, a proposed Open Access Transmission Tariff.

The Applicants request an effective date of December 15, 1999, the anticipated date of a transaction closing in which they will acquire the transmission facilities covered by the proposed Tariff.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. El Paso Electric Company, Central Vermont Public Service Corporation, AmerGen Energy Company, L.L.C., Indeck-Pepperell Power Associates, Inc., Public Service Electric and Gas Company, AG Energy, L.P., et al., UAE Lowell Power LLC, Unitil Power Corp., Alliance for Cooperative Energy Services, Power Marketing LLC, Rocky Road Power, LLC, Dartmouth Power Associates Limited, Partnership, Dighton Power Associates Limited Partnership, and Yadkin, Inc.

[Docket Nos. ER00–419–000, ER00–420–000, ER00–423–000, ER00–424–000, ER00–427–000, ER00–428–000, ER00–429–000, ER00–430–000, ER00–433–000, ER00–438–000, ER00–444–000, ER00–445–000, and ER00–447–000]

Take notice that on November 1, 1999, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending September 30, 1999.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER00–448–000]

Take notice that on November2, 1999, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing a proposed Appendix—I to the Midwest ISO Agreement (Agreement). The Commission accepted and suspended the Agreement, subject to refund and other conditions, by its order in this proceeding issued September—16, 1998. *Midwest Independent Transmission System Operator, Inc.*, 84 FERC ¶ 61,230 (1998). The Agreement is designated as Midwest ISO Rate Schedule FERC No. 1.

Midwest ISO states that the purpose of the proposed Appendix—I is to create a framework for membership and operation of independent transmission companies (ITCs or transcos) within the ISO. The Midwest ISO proposes to make Appendix—I, a new appendix to the Agreement, effective on January 4, 2000.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Allegheny Enery, USGen New England, Inc., Fitchburg Gas and Electric Light Company, Sithe Mystic LLC, Fibertek Energy, LLC, and Northern Indiana Public Service Company

[Docket Nos. ER00–449–000, ER00–451–000, ER00–451–000, ER00–456–000, ER00–458–000 and ER00–460–000]

Take notice that on the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending September 30, 1999.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER00–450–000]

Take notice that on November 2, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 43 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Power offers generation services.

Allegheny Power requests a waiver of notice requirements to make service available as of November 1, 1999 to Commonwealth Energy Corporation d/b/a ELECTRICAMERICA.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Denver City Energy Associates, L.P.

[Docket No. ER00–551–000]

Take notice that on November 3, 1999, Denver City Energy Associates, L.P. filed their quarterly report for the quarter ending September 30, 1999.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Duke Energy Corporation

[Docket No. ER00–452–000]

Take notice that on November 2, 1999, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Edison Mission Marketing & Trading, Inc., for Firm Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective October 18, 1999.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Duke Energy Corporation

[Docket No. ER00–453–000]

Take notice that on November 2, 1999, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Edison Mission Marketing & Trading, Inc. for Non-Firm Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on October 18, 1999.

Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Delmarva Power & Light Company

[Docket No. ER00–455–000]

Take notice that November 2, 1999, Delmarva Power & Light Company (Delmarva) tendered for filing an executed umbrella service agreement with Enron Power Marketing, Inc. (Enron) under Delmarva's market rate sales tariff, FERC Electric Tariff, Second Revised Volume No. 14.

Delmarva requests an effective date of October 3, 1999.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Illinois Power Company

[Docket No. ER00–457–000]

Take notice that on November 2, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Edison Mission Energy will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of November 1, 1999.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. The Detroit Edison Company

[Docket No. ER00–459–000]

Take notice that on November 2, 1999, The Detroit Edison Company filed an amendment to Schedule 4 of Detroit Edison's open access transmission tariff and the joint open access transmission tariff of Consumers Energy Company and Detroit Edison.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Lowell Cogeneration Company and Limited Partnership

[Docket No. ER00–461–000]

Take notice that on November 2, 1999, Lowell Cogeneration Limited Partnership (Lowell) tendered for filing an amended rate schedule under various regulations of the Commission and for an order accepting Lowell's amended FERC Electric Rate Schedule No. 1 to be effective on the date of the filing.

Under its amended Rate Schedule No. 1, Lowell intends to sell ancillary services into the NEPOOL, PJM and NYISO ancillary services markets, and to reassign transmission capacity reserved for its own use.

Comment date: November 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Midwest Energy, Inc., SSC–LI, L.L.C., Entergy Services, Inc., Elwood Energy LLC

[Docket Nos. ER00–468–000, ER00–481–000, ER00–484–000, and ER00–485–000]

Take notice that on November 2, 1999, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending September 30, 1999.

Comment date: November 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30080 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–487–000, et al.]

Virginia Electric and Power Company, et al.; Electric Rate and Corporate Regulation Filings

November 12, 1999.

Take notice that the following filings have been made with the Commission:

1. Virginia Electric and Power Company

[Docket No. ER00–487–000]

Take notice that on November 4, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing the Service Agreement between Virginia Electric and Power Company and Old Mill Power Company. Under the Service Agreement, Virginia Power will provide services to Old Mill Power Company under the terms of the Company's Revised Market-Based Rate Tariff designated as FERC Electric Tariff (Second Revised Volume No. 4), which was accepted by order of the Commission dated August 13, 1998 in Docket No. ER98–3771–000.

Virginia Power requests an effective date of November 4, 1999.

Copies of the filing were served upon Old Mill Power Company, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. New York State Electric & Gas Corporation

[Docket No. ER00–486–000]

Take notice that on November 4, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, service agreements (the Service Agreements) under which NYSEG may provide capacity and/or energy to Virginia Electric and Power Company (Virginia Electric), H.Q. Energy Services (U.S.) Inc. (H.Q.), Central Maine Power Company (Central Maine), and Tops Markets, Inc. (Tops) in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 3.

NYSEG has requested waiver of the notice requirements so that the Service Agreements with H.Q. and Central Maine become effective as of November 5, 1999, the Service Agreement with Tops becomes effective on October 19, 1999, and the Service Agreement with Virginia Electric becomes effective on October 22, 1999.

NYSEG has served copies of the filing upon the New York State Public Service Commission, Virginia Electric, H.Q., Central Maine, and Tops.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Reliant Energy Indian River, LLC

[Docket No. ER00–483–000]

Take notice that on November 3, 1999, Reliant Energy Indian River, LLC (Reliant Indian River), tendered for filing a long-term service agreement under its market-based rate tariff.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. The United Illuminating Company

[Docket No. ER00–482–000]

Take notice that on November 3, 1999, The United Illuminating Company (UI), tendered for filing the Annual Facilities Charge set forth in UI's Service Agreement for Firm Point-to-Point Transmission Service (Service Agreement) with Bridgeport Energy, L.L.C., (Bridgeport Energy).

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Allegheny Power Service Corporation, on behalf of Monongahela Power Company; The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–480–000]

Take notice that on November 3, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 62 to add Conectiv Energy Supply, Inc., to Allegheny Power Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000.

The proposed effective date under the Service Agreement is November 2, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Company

[Docket No. ER00–479–000]

Take notice that on November 3, 1999, Florida Power & Light Company (FPL), tendered for filing Service Agreements with Entergy Power Marketing Corp., Coral Power, LLC and Electric Clearinghouse, Inc., for service pursuant to FPL's Market Based Rates Tariff.

FPL requests an effective date of August 9, 1999, for the Entergy Power Marketing Corp., Service Agreement, August 10, 1999 for the Coral Power, LLC Service Agreement and July 22, 1999 for the Electric Clearinghouse, Inc., Service Agreement.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Operator Corporation

[Docket No. ER00–478–000]

Take notice that on November 3, 1999, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1 to the Participating Generator Agreement between the ISO and Reliant Energy Ormond Beach, LLC, for acceptance by the Commission. The ISO states that Amendment No. 1 modifies Schedule 3, Section 10.2 (concerning notices) of the Participating Generator Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER00–477–000]

Take notice that on November 3, 1999, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 2 to the Participating Generator Agreement between the ISO and Reliant Energy Coolwater, LLC, for acceptance by the Commission. The ISO states that Amendment No. 2 modifies Schedule 3, Section 10.2 (concerning notices) of the Participating Generator Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER00–476–000]

Take notice that on November 3, 1999, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 2 to the Participating Generator Agreement between the ISO and Reliant Energy Ellwood, LLC, for acceptance by the Commission. The ISO states that Amendment No. 2 modifies Schedule 1, Sections 4.1 and 4.1.2 (concerning Ellwood Generating Station), and Schedule 3, Section 10.2 (concerning notices), of the Participating Generator Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER00–475–000]

Take notice that on November 3, 1999, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 2 to the Participating Generator Agreement between the ISO and Reliant Energy Etiwanda, LLC, for acceptance by the Commission. The ISO states that Amendment No. 2 modifies Schedule 1, Sections 4.1 and 4.1.2 (concerning Etiwanda Generating Station), and Schedule 3, Section 10.2 (concerning notices), of the Participating Generator Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER00–474–000]

Take notice that on November 3, 1999, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 2 to the Participating Generator Agreement between the ISO and Reliant Energy Mandalay, LLC, for acceptance by the Commission. The ISO states that Amendment No. 2 modifies Schedule 1, Sections 4.1 and 4.1.2 (concerning Mandalay Generating Station), and Schedule 3, Section 10.2 (concerning notices), of the Participating Generator Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER00–473–000]

Take notice that on November 3, 1999, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1 to the Meter Service Agreement between the ISO and Reliant Energy Ellwood, LLC, for acceptance by the Commission. The ISO states that Amendment No. 1 modifies Schedule 1, Section 3.3.2 (concerning meter information), and Schedule 5, Section 11.2 (concerning notice), of the Meter Service Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER00–472–000]

Take notice that on November 3, 1999, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1 to the Meter Service Agreement between the ISO and Reliant Energy Etiwanda, LLC, for acceptance by the Commission. The ISO states that Amendment No. 1 modifies Schedule 1, Section 3.3.2 (concerning meter information), and Schedule 5, Section 11.2 (concerning notice), of the Meter Service Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Operator Corporation

[Docket No. ER00–471–000]

Take notice that on November 3, 1999, the California Independent System Operator Corporation (ISO) tendered for filing Amendment No. 1 to the Meter Service Agreement between the ISO and Reliant Energy Ormond Beach, LLC, for acceptance by the Commission. The ISO states that Amendment No. 1 modifies Schedule 5, Section 11.2 (concerning notice) of the Meter Service Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. California Independent System Operator Corporation

[Docket No. ER00–470–000]

Take notice that on November 3, 1999, the California Independent System Operator Corporation (ISO) tendered for filing Amendment No. 1 to the Meter Service Agreement between the ISO and Reliant Energy Mandalay, LLC, for acceptance by the Commission. The ISO states that Amendment No. 1 modifies Schedule 1, Sections 3.3.2 (concerning meter information), and Schedule 5, Section 11.2 (concerning notice), of the Meter Service Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. California Independent System Operator Corporation

[Docket No. ER00–469–000]

Take notice that on November 3, 1999, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1 to the Meter Service Agreement between the ISO and Reliant Energy Coolwater, LLC, for acceptance by the Commission. The ISO states that Amendment No. 1 modifies Schedule 1, Section 3.3.2 (concerning meter information), and Schedule 5, Section 11.2 (concerning notice), of the Meter Service Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. PP&L, Inc.

[Docket No. ER00–467–000]

Take notice that on November 3, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated October 27, 1999 with Commonwealth Energy Corporation d/b/a electricAmerica, Inc. (CEC) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds CEC as an eligible customer under the Tariff.

PP&L requests an effective date of November 3, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to CEC and to the Pennsylvania Public Utility Commission.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Boston Edison Company

[Docket No. ER00–466–000]

Take notice that on November 3, 1999, Boston Edison Company (Edison), tendered for filing an Interconnection Agreement between Boston Edison Company and Cabot Power Corporation (Cabot) dated September 7, 1999. The agreement provides for the payment for, and the construction of transmission facilities necessary to connect Cabot's Island End Station in Everett, Massachusetts to Edison's 345kV ring bus at its Mystic Substation.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER00–465–000]

Take notice that on November 3, 1999, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), requested that the Commission permit the Midwest ISO to waive the contested aspect of the election of two seats on the Board of Directors as called for by Article Two, Section III(A)(3) of the Midwest ISO Agreement, as well as Section 4.3(b) of the Midwest ISO Bylaws. The waiver is a one-time waiver requested only for 1999. The Commission accepted and suspended the Midwest ISO Agreement, subject to refund and other conditions, by its Order in ER98–1438 issued September 16, 1998. Midwest Independent Transmission System Operator, Inc., 84 FERC ¶ 61,230 (1998). The Agreement is designated as Midwest ISO Rate Schedule FERC No. 1. Midwest ISO states that the purpose of the requested waiver is to assure continuity of leadership for the Midwest ISO as well as to avoid what it believes is an unnecessary expense.

Midwest ISO requests that the waiver become effective December 3, 1999.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Carolina Power & Light Company

[Docket No. ER00–464–000]

Take notice that on November 3, 1999, Carolina Power & Light Company (CP&L), tendered for filing an executed Service Agreement with South Carolina Electric & Gas Company under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. This Service Agreement supersedes the un-executed Agreement originally filed in Docket No. ER98–3385–000 and approved effective May 18, 1998.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Carolina Power & Light Company

[Docket No. ER00–463–000]

Take notice that on November 3, 1999, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service with Tampa Electric Company. Service to this Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

CP&L is requesting an effective date of October 8, 1999, for this Agreement with Tampa Electric.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Pacific Gas and Electric Company

[Docket No. ER00–462–000]

Take notice that on November 3, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing its annual update filing governing Reliability Must Run (RMR) services provided by various PG&E power plants to the California Independent System Operator Corporation (ISO). PG&E's filing includes an agreed-upon one-year extension of the RMR Agreements, and provides updates to various Schedules appended to the RMR Agreements related to Contract Service Limits, Target Available Hours, and Pre-paid Start-up Charges under the RMR Service Agreements. The underlying RMR Service Agreements were filed in an uncontested settlement on April 2, 1999, and were approved by the Commission in a letter order issued May 28, 1999, in Docket Nos. ER99–441–000, et al.

Copies of this filing have been served upon the ISO, the California Electricity Oversight Board, and the California Public Utilities Commission.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Broad River Energy LLC

[Docket No. ER00–39–000]

Take notice that on November 4, 1999, Broad River Energy LLC (Broad River), tendered for filing an amendment to its confidential filing made in this proceeding on October 5, 1999. The amendment consists of an organizational chart listing the direct upstream owners of Broad River. Broad River does not seek confidential treatment of the amendment, but continues to seek confidential treatment of its original filing made on October 5, 1999.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Reliant Energy Etiwanda, LLC

[Docket No. ER99–4398–000]

Take notice that on November 4, 1999, Reliant Energy Etiwanda, LLC (Reliant Etiwanda), tendered for filing an amendment to its filing in the above-captioned docket.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. California Power Exchange Corporation

[Docket No. ER99–933–001]

Take notice that on November 3, 1999, the California Power Exchange Corporation tendered for filing its refund report in compliance with the Commission's September 20, 1999, order in this proceeding.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Allegheny Power Service Corporation

[Docket No. ER99–397–001]

Take notice that on November 3, 1999, Allegheny Power Service Corporation (Allegheny Power), in compliance to the Commission's December 30, 1998 Order Allegheny Power tendered for filing a Power Supply Agreement Capacity Equalization Study in support of Amendment No. 6.

Comment date: November 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Western Resources, Inc.; Kansas Gas and Electric Company; Kansas City Power & Light Company; Westar Energy, Inc.

[Docket No. ES00–6–000]

Take notice that on November 4, 1999, Western Resources, Inc. (Western Resources), Kansas Gas and Electric Company (KGE), Kansas City Power & Light Company (KCPL), and Westar Energy, Inc. (Westar Energy), tendered for filing an application under Section 204 of the Federal Power Act requesting that the Commission, contingent upon, and effective on, the closing of the merger, issue an order (1) authorizing Westar Energy to assume a short-term security issuance authorization of $1.5 billion previously issued by the Commission for Western Resources and (2) terminating short-term security issuance authorizations previously issued by the Commission for KGE and KCPL. Westar Energy is a Kansas corporation and public utility that will be formed by a proposed merger between Western Resources, KGE, and KCPL. An application for approval by the Commission of that merger has been filed in Docket No. EC97–56–000.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. PSEG Nuclear LLC

[Docket No. EG00–2–000]

Take notice that on November 3, 1999, PSEG Nuclear LLC (PSEG Nuclear) supplemented its application for determination of exempt wholesale generator status with an order issued by the New Jersey Board of Public Utilities.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

29. PSED Fossil LLC

[Docket No. EG00–3–000]

Take notice that on November 3, 1999, PSEG Fossil LLC (PSEG Nuclear) supplemented its application for determination of exempt wholesale generator status with an order issued by the New Jersey Board of Public Utilities.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

30. FPL Energy Wisconsin Wind, LLC

[Docket No. EG00–4–000]

Take notice that on October 21, 1999, FPL Energy Wisconsin Wind, LLC filed the verification for their Application for Determination of Exempt Wholesale Generator Status.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

31. CMS International Operating Company

[Docket No. EG00–14–000]

Take notice that on November 4, 1999, CMS International Operating Company (Applicant), with its principal office at c/o maples and Calder, Ugland House, P.O. Box 309, South Church Street, George Town, Cayman Islands, Brith West Indies, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a limited liability company duly incorporated under the laws of the Cayman Islands, and will operate a 330 MW combined cycle thermal power plant located at the Takoradi Power Plant Complex near Takoradi at Aboadze in the Western Region of the Republic of Ghana (the Facility). Approximately 220 megawatts of the electric energy generated at the Facility will be sold to the Volta River Authority in the Republic of Ghana in accordance with the terms of a power purchase agreement between the Volta River Authority and Takoradi International Company. The balance of the electric energy generated at the Facility will be sold to either the Volta River Authority or to end users in the Republic of Ghana. In no event will any electric energy generated by the Facility be sold to consumers in the United States.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration to those that concern the adequacy or accuracy of the application.

32. Takoradi International Company

[Docket No. EG00–15–000]

Take notice that on November 4, 1999, Takoradi International Company (Applicant), with its principal office at c/o maples and Calder, Ugland House, P.O. Box 309, South Church Street, George Town, Cayman Islands, British West Indies, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a limited liability company duly incorporated under the laws of the Cayman Islands, and will own a 330 MW combined cycle thermal power plant located at the Takoradi Power Plant Complex near Takoradi at Aboadze in the Western Region of the Republic of Ghana (the Facility). Approximately 220 megawatts of the electric energy generated at the Facility will be sold to the Volta River Authority in the Republic of Ghana in accordance with the terms of a power purchase agreement. The balance of the electric energy generated at the Facility will be sold to either the Volta River Authority or to end users in the Republic of Ghana. In no event will any electric energy generated by the Facility be sold to consumers in the United States.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

33. Geysers Statutory Trust

[Docket No. EG00–16–000]

Take notice that on November 4, 1999, Geysers Trust (Geysers Trust) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status, pursuant to Part 365 of the Commission's Regulations.

Geysers Trust is a Connecticut statutory trust. Geysers Trust received an initial determination of EWG status in Docket No. EG99–120–000 by letter order dated May 7, 1999. Geysers Statutory Trust, 87 FERC ¶ 62, 159 (1999), with respect to holding legal title to and leasing to Geysers Power Company LLC, 15 geothermal power generation facilities located in Lake County and Sonoma County, California. The instant application reflects that Geysers Trust will be the owner/lessor of an additional geothermal power generation facility, having a generating capacity of 120 megawatts, located in Lake County, California.

Geysers Trust further states that copies of the application were served upon the Securities and Exchange Commission, and the California Public Utilities Commission.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

34. Steam Heat LLC

[Docket No. EG00–17–000]

Take notice that on November 4, 1999, Steam Heat LLC filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Steam Heat is a Delaware limited liability company. Steam Heat received an initial determination of EWG status in Docket No. EG99–121–000 by letter order dated May 7. 1999, Steam Heat LLC, 87 FERC ¶ 62,156 (1999), with respect to its current beneficial ownership of 15 geothermal power generation facilities located in Lake County and Sonoma County, California. The instant application reflects that Steam Heat will be the beneficial owner of an additional geothermal power generation facility, having a generating capacity of 120 megawatts, located in Lake County, California.

Steam Heat further states that copies of the application were served upon the Securities and Exchange Commission and the California Public Utilities Commission.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

35. Geysers Power Company, LLC

[Docket No. EG00–18–000]

Take notice that November 4, 1999, Geysers Power Company, LLC (Geysers Power) filed with the Federal Energy Regulatory Commission, an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Geysers Power is a Delaware limited liability company and an indirect wholly owned subsidiary of Calpine Corporation (Calpine). Geysers Power received an initial determination of EWG status in Docket No. EG99–109–000 by letter order dated April 28, 1999, Geysers Power Company, LLC, 87 FERC ¶ 62,115 (1999) with respect to its current leasing and operating of 15 geothermal power generation facilities located in Lake County and Sonoma County, California. The instant application reflects that Geysers Power will operate, generate, and sell power exclusively for resale from an additional geothermal power generation facility, having a generating capacity of 120 megawatts, located in Lake County, California.

Geysers Power further states that copies of the application were served upon the Securities and Exchange Commission and the California Public Utilities Commission.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

36. Okeechobee Generating Company, LLC

[Docket No. EG00–19–000]

Take notice that on November 4, 1999, Okeechobee Generating Company, LLC (Okeechobee), a limited liability corporation with its principal place of business at 7500 Old Georgetown Road, Bethesda, Maryland 20814, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Okeechobee was previously determined to be an EWG in *Okeechobee Generating Co.*, 88 FERC ¶ 62,177 (Letter Order issued August 24, 1999). The instant application reflects a change in the anticipated generating capacity of Okeechobee's ''eligible facility,'' based upon updated design and engineering, from a nominally rated 500 MW to a nominally rated approximately 550 MW facility. The application also provides that Okeechobee will either own or lease, and operate, the eligible facility and sell electricity exclusively at wholesale. The facility is expected to commence commercial operation in the spring 2003.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

37. PP&L Colstrip I, LLC

[Docket No. EG00–22–000]

Take notice that on November 3, 1999, PP&L Colstrip I, LLC (Applicant), 11350 Random Hills Road, Fairfax, Virginia 22030–6044, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant, a limited liability company organized under the laws of the State of Delaware, is acquiring interests held by Puget Sound Energy, Inc. in Units 1, 2, 3, and 4 of the Colstrip Generation Station located in Montana. The facilities will be used to make sales of electric energy exclusively at wholesale.

Copies of the application have been served upon the Montana Public Service Commission, the Pennsylvania Public Utility Commission, the Washington Utilities and Transportation Commission, and the Securities and Exchange Commission.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

Comment date: December 3, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

38. Tractebel Energy Marketing, Inc.; Kohler Co.; LS Power Marketing, LLC; Energy2, Inc.; Commonwealth Energy Corporation; Northern/AES Energy, LLC; and DTE Energy Marketing, Inc.

[Docket Nos. ER94–142–024; ER95–1018–007; ER96–1947–013; ER96–3086–010; ER97–4253–007; ER98–445–007; and ER99–3368–001]

Take notice that on November 2, 1999 the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

39. CL Power Sales One, L.L.C.; CL Power Sales Two, L.L.C.; CL Power Sales Three, L.L.C.; CL Power Sales Four, L.L.C.; and CL Power Sales Five, L.L.C.

[Docket Nos. ER95–892–046; ER95–892–047; and ER95–892–048]

Take notice that on November 1, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

40. The Montana Power Company

[Docket Nos. ER00–531–000 and EC99–36–001]

Take Notice that, on November 4, 1999, The Montana Power Company (Montana Power) and PP&L Montana, LLC (PPLM) (together, the Applicants) hereby jointly supplement, under Sections 203 and 205 of the Federal Power Act, their Joint Application for Approval of Disposition Of Jurisdictional Facilities and Approval of Related Agreements filed on February 11, 1999 (February 11th Application) and approved by the Commission on June 22, 1999. The Applicants state that since obtaining Commission authorization to consummate the divestiture transaction they have agreed to amend the Asset Purchase Agreement (APA) to provide that the Idaho Exchange Agreement and the Bonneville Power Administration (BPA) Exchange Agreement will not be transferred to PPLM as part of the transaction. The Applicants further state that the instant filing makes no changes to the February 11th Application which would present new issues regarding the transaction's effect on market power, rates or regulation. The Applicants request such additional authorization under Section 203 as the Commission may deem necessary with regard to the non-transfer of the BPA Exchange Agreement and the Idaho Exchange Agreement.

The Applicants state that the primary purpose of the instant filing is to ensure that, along with the authorized asset transfer, the appropriate rate schedules are assigned to PPLM and that, where needed, agency agreements are effective as of the anticipated closing date. PPLM requests that the Commission assign rate schedule designations for certain agreements that will be assigned to PPLM, as provided for under the terms of the APA, and delete certain other rate schedule designations that will not be assigned to PPLM as a result of Montana Power's retention of certain assets. In addition, Montana Power supplements its rate schedules for the Pacific Northwest Coordination Agreement and the Idaho Exchange Agreement to include agency agreements pursuant to which PPLM will act as agent for Montana Power for certain purposes under each of these agreements. Montana Power also files to cancel the BPA Exchange Agreement which was terminated upon the mutual agreement of BPA and Montana Power, the only two parties to the agreement, in conjunction with the divestiture transaction. Applicants request that the Commission act expeditiously on their requests made in the instant filing and grant waivers as appropriate so that the transaction may be closed in November as scheduled.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30097 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP97–315–000, et. al. and CP98–319–000, CP98–200–000, CP98–540–000]

Independence Pipeline Company, ANR Pipeline Company, National Fuel Gas Supply Corporation, and Transcontinental Gas Pipe Line Corporation; Notice of Availability of the Final Environmental Impact Statement for the Proposed Independence Pipeline and Market Link Expansion Projects

November 12, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) on natural gas pipeline facilities proposed by ANR Pipeline Company (ANR), Independence Pipeline Company (Independence), National Fuel Gas Supply Corporation (National Fuel), and Transcontinental Gas Pipe Line Corporation (Transco) in the above-referenced dockets. The application and other supplemental filings in this docket area available for viewing on the FERC Internet website (www.ferc.fed.us). Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet Website, click on the ''CIPS'' link, select Docket # from the CIPS menu, and follow the instructions .

The final EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed projects, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The final EIS also evaluates alternatives to the proposal, including alternatives.

The final EIS assesses the potential environmental effects of the construction and operation of the following facilities in Illinois, Indiana, Michigan, Ohio, Pennsylvania, and New Jersey.

ANR

- About 72.3 miles of high pressure pipeline looping in three segments, consisting of about 42.4 miles of 42-inch-diameter pipeline, and about 29.9 miles of 30-inch-diameter pipeline;
- 15,000 horsepower (hp) of additional compression at one existing compressor station, and minor modifications to two existing stations; and
- Six new internal tool or ''pig'' launchers along the new pipeline loops.

Indepdence

- About 397.4 miles of 36-inch-diameter high pressure pipeline;
- 60,00 hp of compression at three new compressor stations;
- Three new meter stations;
- Six taps to local distribution companies; and
- 28 mainline valves along the pipeline.

National Fuel

- Abandon, primary by removal, various segments of three existing pipelines within about 39.3 miles of right-of-way; and
- Minor modifications to remaining facilities along that section of right-of-way to maintain service to existing customers.

Transco

- About 152.8 miles of high-pressure pipeline looping, consisting of our segments totaling 63.2 miles of 36- and 42-inch-diameter pipeline in Pennsylvania, six segments totaling 83.3 miles of 36- and 42-inch-diameter pipeline in New Jersey, and 6.3 miles of 36-inch-diameter replacement in New Jersey;
- 62,400 hp of additional compression at three existing compressor stations, and replaced impeller at one existing compressor station;
- Modifications to three regulator stations; and
- One new pig launcher.

The purpose of the proposed projects is to transport up to 1 billion cubic feet per day of natural gas, principally from ANR's existing system (in the Chicago, Illinois area) to markets in the eastern United States.

Docket Nos. CP97–315–000, *et al.*

The final EIS will be used in the regulatory decision-making process at the FERC and may be presented as evidentiary material in formal hearings a the FERC. While the period for filing interventions in these cases have expired, motions to intervene out of time can be filed with the FERC in accordance with the Commission's Rules and Practice and Procedures, 18 Code of the Federal Regulations (CFR) 385.214(d). Further, anyone desiring to file a protest with the FERC should do so in accordance with 18 CFR 385.211.

A final EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

A limited number of copies are available from the Public Reference and Files Maintenance Branch identified above. In addition, the final EIS have been mailed to Federal, state, and local agencies; public interest groups; those individuals/groups who filed comments on the final EIS; affected landowners/individuals who requested a copy of the final EIS; libraries; newspaper; and parties to this proceeding.

Additional information about the proposed projects is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222. Access to the texts of formal documents issued by the Commission with regard to this docket, such as orders and notices, is also available on the FERC website using the ''CIPS'' link. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30081 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 420–009 Alaska]

Ketchikan Public Utilities; Notice of Availability of Draft Environmental Assessment

November 12, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Lockhart Hydroelectric Project, and has prepared a Draft Environmental Assessment (DEA). The project is located on Ketchikan Creek and Granite Basin Creek, near the City of Ketchikan, in Ketchikan Gateway Borough, Alaska. The project uses lands administered by the U.S. Forest Service in the Tongass National Forest. The DEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426.

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. for further information, contact Charles Hall, Environmental Coordinator, at (202) 219–2853.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30099 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Surrender of License and Soliciting Comments, Motions to Intervene, and Protests

November 12, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of License.

b. *Project No:* 4474–065.

c. *Date Filed:* September 24, 1999.

d. *Applicants:* The Borough of Cheswick, Pennsylvania and the Allegheny Valley North Council of Governments.

e. *Name of Project:* Allegheny River Lock & Dam No. 3.

f. *Location:* The project is located on the Allegheny River at Acmetonia, in Allegheny County, Pennsylvania at the U.S. Army Corps of Engineers' Allegheny River Lock and Dam No. 3.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Donald H. Clarke, Wilkinson Barker Knauer, LLP, 2300 N Street, NW, Suite 700, Washington, DC 20037.

i. *FERC Contact:* Any questions on this notice should be addressed to Dave Snyder at (202) 219–2385 or by e-mail at david.snyder@ferc.fed.us.

j. *Deadline for filing comments and or motions:* December 20, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Please include the Project Number (4474–065) on any comments or motions filed.

k. *Description of Filing:* The licensees state that due to market and finance conditions it is no longer feasible to construct the project. The licensees maintain that no construction has commenced.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the titles ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulation to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30100 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission

November 12, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major Unconstructed Project.

b. *Project No.:* P–11588–001.

c. *Date filed:* October 29, 1999.

d. *Applicant:* Alaska Power and Telephone Company.

e. *Name of Project:* Otter Creek Hydroelectric Project.

f. *Location:* On Kasidaya Creek, about 3 miles from the City of Skagway, on Taiya Inlet, in the First Judicial District of the State of Alaska. The project affects about 6.0 acres of Federal lands within the Tongass National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Alaska Power & Telephone Company, Robert S. Grimm, President, P.O. Box 3222, Port Townsend, WA 98368, (360) 385–1733.

i. *FERC Contact:* Gaylord W. Hoisington, E-mail—*gaylord.hoisington@ferc.fed.us.* or telephone (202) 219–2756.

j. *Brief Description of the Project:* The proposed project would consist of the following: (1) a 80-foot-long, 10-foot-high impoundment structure at approximately 550 feet above mean sea level (MSL); (2) a 0.18-acre reservoir with a total storage capacity of 0.92 acre-foot; (3) an intake at the impoundment structure; (4) an orifice to continuously release 5 cubic-feet-per-second (cfs) at the impoundment structure; (5) a 3,500 foot-long, 40-inch-diameter penstock; (6) a 60-foot-long, 80-foot-wide metal powerhouse structure to house a 3.0-megawatt Turgo turbin; (7) a 200-foot by 100-foot staging area around the powerhouse; (8) a 50-foot to 75-foot-long tailrace; (9) a pad mounted step-up transformer; (1) a 200-foot-long underground cable; (11) 3 helicopter pads; and (12) other appurtenances.

k. *Locations of the application:* a copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at *www.ferc.fed.us.* Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

l. With this notice, we are initiating consultation with the Alaska State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30101 Filed 11–17–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–6477–6]

RIN 2060–AI52

National Emission Standards for Hazardous Air Pollutants: Revision of Source Category List and Schedule for Standards Under Section 112 of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of revisions to the list of categories of major and area sources and revisions to the promulgation schedule for standards.

SUMMARY: This notice publishes revisions to the list of categories of major and area sources and revisions to the schedule for the promulgation of standards for sources of hazardous air pollutants (HAPs). Required under section 112(c) and (e) of the Clean Air Act (CAA), the source category list and schedule for standards constitute a significant part of EPA's agenda for

regulating stationary sources of air toxics emissions. The list and schedule were most recently published in the **Federal Register** on February 12, 1998 (63 FR 7155).

Today's notice meets the requirement in section 112(c)(1) to publish periodically, but at least once every 8 years, a list of all categories of sources reflecting revisions since the initial list was published. Several of the revisions identified in today's notice have previously been published in actions associated with proposing and promulgating emission standards for individual source categories, and public comment has been taken in the context of those actions. Some of the revisions in today's notice have not been reflected in any previous notices and are being made without public comment on the Administrator's own motion. Such revisions are deemed by EPA to be without need for public comment based on the nature of the actions. Today's notice also announces some anticipated actions.

EFFECTIVE DATE: November 18, 1999.

ADDRESSES: Docket No. A–90–49, containing supporting information used in development of this notice, is available for public inspection and copying between 8 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. The docket is located in EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, 401 M Street, SW., Washington, DC 20460, or by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Ms. Maria Noell, Emission Standards Division (MD–13), U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5607, facsimile number (919) 541–3470, electronic mail address ''noell.maria@epa.gov''.

SUPPLEMENTARY INFORMATION:

Docket

The docket for this action is A–90–49. The docket is an organized file of all the information submitted to or otherwise relied upon by the Agency in the development of this revised list of categories of sources and revised schedule for standards. The principal purpose of this docket is to allow interested parties to identify and locate documents that serve as a record of the process engaged in by the Agency to publish today's revision to the initial list and schedule. The docket is available for public inspection at the EPA's Air and Radiation Docket and Information Center, which is listed in the **ADDRESSES** section of this notice.

Technology Transfer Network

In addition to being available in the docket, an electronic copy of today's notice is also available through the Technology Transfer Network (TTN). Following signature, a copy of the notice will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules http://www.epa.gov/ttn/oarpg. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

I. What is the History of the Source Category List and Schedule?

The CAA amendments of 1990 (Pub. L. 101–549) require, under section 112, that EPA list all categories of major sources emitting HAPs and such categories of area sources warranting regulation, and promulgate national emission standards for HAPs (NESHAP) to control, reduce, or otherwise limit the emissions of HAPs from such categories of major and area sources. Pursuant to the various specific listing requirements in section 112(c), we published on July 16, 1992 (57 FR 31576), a list of 174 categories of major and area sources—referred to as the ''initial list''—for which we would develop emission standards. Following this listing, pursuant to requirements in section 112(e), on December 3, 1993 (58 FR 63941), we published a schedule for the promulgation of emission standards for each of the 174 listed source categories.

When we publish notices that affect actions relating to individual source categories, it is important to reflect the resultant changes on the list and schedule. On June 4, 1996 (61 FR 28197), we published a notice that referenced all previous listing and schedule changes and consolidated those actions, along with several new actions, into a revised source category list and schedule. We published a subsequent notice on February 12, 1998 (63 FR 7155), which again updated the list and schedule; and on May 17, 1999 (64 FR 26743), we published a notice which announced scheduling changes for promulgating standards. You should read these previous notices for information relating to development of the initial list and schedule and subsequent changes.

II. Why is EPA Issuing This Notice?

This notice announces all list and schedule changes, as well as proposed changes, that have occurred since we last updated the list on February 12, 1998 (63 FR 7155) and the schedule on May 17, 1999 (64 FR 26743). There are also a few anticipated future actions which are being announced in this notice; however, the proposed and anticipated actions are not reflected in Table 1 at the end of today's notice since these changes are tentative and are not being effected by this notice. We are announcing these possible future actions to give the reader the maximum notice of likely future actions. The list of changes, along with the affected source categories, are listed below:

A. Changes to Source Category Names
- Rubber Tire Manufacturing
- Plywood and Composite Wood Products
- Manufacturing of Nutritional Yeast
- Paint Stripping Operations
- Refractories Manufacturing
- Wood Building Products (Surface Coating)
- Ferroalloys Production: Silicomanganese and Ferromanganese
- Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants
- Reciprocating Internal Combustion Engines
- Combustion Turbines
- Rocket Testing Facilities

B. Correction to a Previous Notice
- Fumed Silica Production

C. Changes to the Promulgation Schedule
- Pulp and Paper Production
- Aerosol Can-Filling Facilities
- Antimony Oxides Manufacturing

D. Addition of Source Categories
- Cellulosic Sponge Manufacturing
- Brick and Structural Clay Products Manufacturing
- Ceramics Manufacturing
- Clay Minerals Processing
- Lightweight Aggregate Manufacturing
- Wet-Formed Fiberglass Mat Production

E. Deletion of Source Categories
- Aerosol Can-Filling Facilities
- Antimony Oxides Manufacturing

F. Reassignment of a Source Category to a Different Industry Group
- Rocket Testing Facilities
- Tetrahydrobenzaldehyde Production

G. Changes to the Scope of a Source Category
- Boat Manufacturing

H. Subsumptions of Source Categories
- Pesticide Active Ingredient Production
- Synthetic Organic Chemical Manufacturing

- Miscellaneous Organic Chemical Processes
- Miscellaneous Coating Processes
- Amino/Phenolic Resins Production
- Cellulose Ethers Production
- Miscellaneous Viscose Processes

The source category list and promulgation schedule, updated to include today's actions, as well as actions from previous notices, are presented in Table 1. Table 1 also includes **Federal Register** citations for notices related to the source categories (Table 1 omits proposal notices once a rule or rule amendment has been promulgated). Source categories for which revisions have been made in today's notice are marked in Table 1 for ease in discerning where revisions have been made.

For general descriptions of source categories listed in Table 1, the reader is referred to Docket No. A–90–49 (EPA–450/3–91–030, entitled ''Documentation for Developing the Initial Source Category List''), and the **Federal Register** notice for the first revision of the source category list and schedule (61 FR 28197; June 4, 1996). For subsequent changes to descriptions of source categories for which a rule has been promulgated, the reader is advised to consult Table 1 for the citation of the **Federal Register** notice which will include the amended definition and corresponding rule applicability.

III. What Are the Revisions EPA is Making to the Source Category List and Schedule?

The following sections describe revisions to the source category list since the February 12, 1998 notice and the schedule since the May 17, 1999 notice, as well as proposed and anticipated future actions.

A. Changes to Source Category Names

We are renaming the following source categories so that the names better describe the source category:

1. ''Tire Production'' is renamed ''Rubber Tire Manufacturing.''
2. ''Plywood/Particle Board Manufacturing'' is renamed ''Plywood and Composite Wood Products.''
3. ''Baker's Yeast Manufacturing'' is renamed ''Manufacturing of Nutritional Yeast'' to clarify the scope as well as distinguish it from the regulation of bakeries (63 FR 55812).
4. ''Paint Stripper Users'' is renamed ''Paint Stripping Operations.''
5. ''Chromium Refractories Production'' is renamed ''Refractories Manufacturing.'' Due to source testing that confirmed major sources of HAP emissions (i.e., greater than or equal to 10 tons per year (tpy) of a single HAP or 25 tpy aggregate HAPs) from several types of refractory manufacturing, we have determined that this source category should be expanded to include several types of refractory manufacturing.
6. ''Flat Wood Paneling (Surface Coating)'' is renamed ''Wood Building Products (Surface Coating).''
7. ''Ferroalloys Production'' is renamed ''Ferroalloys Production: Silicomanganese and Ferromanganese.'' We have determined that these are the only alloy types covered by the rule.
8. ''Steel Pickling—HCl Process'' is renamed ''Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants.'' We have decided, for informational purposes, that ''Hydrochloric Acid Regeneration Plants'' should be added to the title since the rule affects spent acid regeneration in addition to steel pickling processes.
9. ''Stationary Internal Combustion Engines'' is renamed ''Reciprocating Internal Combustion Engines.''
10. ''Stationary Turbines'' is renamed ''Combustion Turbines.''
11. ''Rocket Engine Test Firing'' is renamed ''Rocket Testing Facilities.''

B. Correction to a Previous Notice

This **Federal Register** notice announces one change to correct the name of the Fume Silica Production source category. This source category is one of the 174 source categories initially listed on July 16, 1992 (57 FR 31576). The name is being changed to correct a typographical error. The correct name of this source category is ''Fumed Silica Production.''

C. Changes to the Promulgation Schedule

In the December 3, 1993 notice (58 FR 63941), we scheduled the initially listed source categories for regulation such that 50 percent (87 of 174) would be promulgated by November 15, 1997. Consequently, to continue to satisfy the numerical and temporal requirements of CAA section 112(e)(1), any change that would delay the deadline for a source category scheduled for regulation by November 15, 1997, must be offset by a corresponding shifting of a source category from the November 15, 2000 regulatory timeframe to the November 15, 1997 timeframe.

1. Pulp and Paper Production

We are changing the schedule for Pulp and Paper Production, which we included in the initial source category schedule in December 1993, from November 15, 1997 to November 15, 2000. The Pulp and Paper Production maximum achievable control technology (MACT) standard (40 CFR part 63, subpart S), applicable to pulping, bleaching, and paper making operations, was promulgated on April 15, 1998. The MACT standard for chemical recovery combustion sources at kraft, soda, sulfite and stand-alone semichemical pulp mills (40 CFR part 63, subpart MM) was also proposed on April 15, 1998. To address comments received on the April 15, 1998 proposal, we anticipate the need to issue a supplemental notice to the proposal before we can promulgate the standard. Consequently, we are rescheduling the Pulp and Paper Production source category for the November 15, 2000 regulatory timeframe, which will allow us time to address issues raised by comments received on the April 15, 1998 proposal.

2. Aerosol Can-Filling Facilities and Antimony Oxides Manufacturing

To ensure that we meet the CAA section 112(e)(1) scheduling requirements, we are countering the Pulp and Paper Production source category scheduling change by moving two source categories, Aerosol Can-Filling Facilities and Antimony Oxides Manufacturing, forward to the November 15, 1997 regulatory timeframe. This move more than meets the statutory requirement of promulgation of 50 percent of the initially listed source categories by November 15, 1997. We are also delisting these two source categories in actions under subsection E of this section, ''Deletion of Source Categories.''

D. Addition of Source Categories

Pursuant to section 112(c)(5), the Administrator may at any time add categories to the initial source category list based on the same criteria used to develop the initial list. Section 112(c)(5) also states that the Administrator shall promulgate standards to regulate HAP emissions from these added categories and subcategories within 10 years after enactment of the CAA amendments of 1990 (*i.e.*, by November 15, 2000) or within 2 years after the date on which the category or subcategory was listed, whichever is later.

In response to new information, today's notice reflects the listing of Cellulosic Sponge Manufacturing as a source category because it contains facilities meeting the CAA section 112(a)(1) major source criteria. This source category includes facilities that manufacture cellulosic sponges using the viscose process. The HAPs are emitted from the xanthation,

regeneration/washing, and salt recovery processes. The HAPs that are emitted from these processes include carbon disulfide and carbonyl sulfide. Pursuant to section 112(c)(5), this category is scheduled for standards promulgation by November 16, 2001. You should refer to subsection H of this notice for a discussion of the anticipated subsumption of this source category into a broader cellulose source category.

With respect to the Clay Products source category, EPA anticipates replacing the existing source category with four new source categories. The Clay Products source category comprises four distinctly different types of processes and products which will form the bases of the new source categories. Those four anticipated source categories are: Brick and Structural Clay Products Manufacturing, Ceramics Manufacturing, Clay Minerals Processing, and Lightweight Aggregate Manufacturing. Each of these source categories has unique emissions characteristics, emissions controls, and economic considerations. We expect to propose and promulgate separate MACT standards for each of the anticipated four source categories. When each of the standards is proposed, that proposal will add the new source category to the source category list. The public will then have an opportunity to comment on adding these source categories in conjunction with the MACT proposal. Pursuant to section 112(c)(5), these source categories will be scheduled for promulgation by November 15, 2000, the same date that the original Clay Products source category was scheduled for promulgation.

Today's notice also involves one other anticipated action to add a source category named ''Wet-Formed Fiberglass Mat Production.'' During the development of the Asphalt Roofing Manufacturing and Asphalt Processing MACT standards, industry representatives alerted EPA about the wet-formed fiberglass mat manufacturing industry, and its relationship to the asphalt roofing production industry and companies. We determined that wet-formed fiberglass mat manufacturing facilities have the potential to be major sources. We have decided to develop a separate MACT standard for the wet-formed fiberglass mat industry because the production processes and pollutant emissions are different from the asphalt roofing manufacturing and the asphalt processing industries. We anticipate proposing a MACT standard for Wet-Formed Fiberglass Mat Production in late 1999. That MACT proposal will add the source category to the source category list, at which time the public will have an opportunity to comment on adding this source category. We will be scheduling this source category for MACT promulgation by 2 years after the date of listing of the source category, as specified in section 112(c)(5) of the CAA.

E. Deletion of Source Categories

The Administrator may, where appropriate, delete categories of sources on the Administrator's own motion or on petition. In today's notice, we are deleting two source categories, Aerosol Can-Filling Facilities and Antimony Oxide Manufacturing, on the Administrator's own motion. As discussed in the initial list notice (57 FR 31576), we included these categories on the list because at the time, we believed there were either major sources in each category, or sources collocated on the premises of major sources. As such, CAA section 112(c)(1) requires that we list these source categories. In today's notice, we are deleting these source categories because available data indicate that there are no major sources in either source category.

This section does not include categories of sources which are being removed from the list by way of subsumption into other listed categories. Subsumption is not a deletion, but rather an action to combine source categories on the list. See subsection H of this section for information on source categories being subsumed into other listed source categories.

1. Aerosol Can-Filling Facilities

The Aerosol Can-Filling Facilities source category was initially listed in July 1992 and was based on an industry survey performed by EPA in 1987 which indicated that several fillers emitted HAPs in excess of major source levels. The HAPs included methyl chloroform (also known as 1,1,1-trichloroethane), methylene chloride (also known as dichloromethane), tetrachloroethylene (also known as perchloroethylene), and trichloroethylene. Work on the rule development for aerosol can-filling began in 1997. Because the information that supported the initial listing was limited and more than 10 years old, new data was obtained.

A comprehensive list of both custom and captive fillers, which totaled 149 fillers, was obtained from industry trade associations. The EPA's Toxic Release Inventory (TRI) for 1997 was then accessed. Reports were obtained for 35 of the 149 fillers. We do not believe that the non-reporting fillers emit HAPs in appreciable quantities. A facility is not required to complete EPA Form R (Toxic Chemical Release Inventory Reporting Form) if it manufactures or produces less than 12.5 tpy or uses less than 5 tpy of any chemical or chemical category on the Superfund Amendments and Reauthorization Act (SARA) section 313 toxic chemicals list.

The HAPs reported included methyl chloroform, methylene chloride, methanol, methyl ethyl ketone, tetrachloroethylene, toluene, trichloroethylene, and xylene. Of the 35 reporting fillers, only one reported emitting HAPs at more than major source levels (10.3 tons of dichloromethane) in 1997. That filler was subsequently contacted to obtain a copy of its 1998 Form R. That report indicates that 7 tons of dichloromethane (the highest HAP emitted) and 14 tons of combined HAPs were emitted in 1998. The filler has since committed, through its Title V permit, to a federally enforceable requirement that caps HAP emissions to less than 10 tpy for any single HAP and 25 tpy for any combination of HAPs.

In summary, there are no major sources in this source category. Consequently, we are removing this category from the list of major source categories selected for regulation.

2. Antimony Oxides Manufacturing

The source category consists of four sources engaged in the production of antimony oxide, a white, crystaline powder used mainly as a flame retardant in plastics and textiles. Manufacturing processes include oxidation of antimony ingots or crude antimony oxide in kiln-type furnaces followed by radiative cooling and collection of refined product oxide in baghouses. The initial listing of Antimony Oxides Manufacturing as a major source category was based on the calculation which assumed that 1 percent of the annual production of antimony oxide in 1987 (20,700 metric tons) was released to the atmosphere.

Since the initial listing, we have visited all four sources and reviewed permit conditions to estimate emissions. In addition, two of the sources performed stack tests to quantify their actual emissions of antimony. Based on the above information, it is our conclusion that no antimony oxides manufacturing facility emits antimony compounds approaching major source levels. Our best estimate for the highest emitting source is less than 6 tpy. Estimates for the other three sources range from about 20 pounds per year to 3 tpy. Therefore, since there are no major sources in this category, we are removing it from the list.

F. Reassignment of a Source Category to a Different Industry Group

On the initial source category list, the Rocket Testing Facilities source category was categorized under the Miscellaneous Processes industry group. The Rocket Testing Facilities source category includes facilities that fire rocket engines to determine performance specifications or compliance with other functional standards. The category includes, but is not limited to, test firing of solid and liquid fuel rocket engines. Therefore, this source category more appropriately belongs under the Fuel Combustion industry group. The movement of this source category will have no effect on the promulgation date of the MACT standard.

Today's notice also updates the source category list to reflect the movement of the Tetrahydrobenzaldehyde Production source category from the Miscellaneous Processes industry group to the Production of Organic Chemicals industry group. You should refer to subsection H of this notice to learn more about the subsumption of this source category.

G. Changes to the Scope of a Source Category

Today's action serves to broaden the Boat Manufacturing source category to include boats that are constructed of aluminum. In the data gathering process for the Boat Manufacturing source category, we found that there was a similarity in some types of emission points between boats made of synthetic material and boats made of aluminum. In addition, data gathered for aluminum boat painting operations indicate that these operations would be addressed more appropriately in the Boat Manufacturing source category, rather than in the Miscellaneous Metal Parts Coating source category. Broadening the scope of the Boat Manufacturing source category to include the manufacturing of aluminum boats will not result in any change of schedule for this source category.

H. Subsumptions of Source Categories

Today's notice updates the source category list to reflect the subsumption of eleven previously listed source categories under the Agricultural Chemicals Production industry group into a single source category, and also broadens the scope of that category to include a number of other pesticide active ingredient (PAI) production operations that were not included on the initial source category list. For further information, you should refer to a June 23, 1999, notice (64 FR 33549), which promulgated the MACT standard for PAI production. The eleven source categories subsumed were: 4-Chloro-2-Methylphenoxyacetic Acid Production, 2,4–D Salts and Esters Production, 4,6-Dinitro-o-Cresol Production, Butadiene-Furfural Cotrimer (R–11) Production, Captafol Production, Captan Production, Chloroneb Production, Chlorothalonil Production, Dacthal Production, Sodium Pentachlorophenate Production, and Tordon (tm) Acid Production. In developing the proposed PAI MACT standard (61 FR 57602, November 10, 1997), we decided not to set MACT for each individual source category, but to aggregate them under the same source category. Data gathered from the PAI production industry indicated that the process equipment, emission characteristics, and applicable control technologies were sufficiently similar for the broad group of sources such that it was appropriate for EPA to regulate them under a single MACT standard.

Today's notice updates the source category list to reflect the subsumption of the Tetrahydrobenzaldehyde Production source category into the Synthetic Organic Chemical Manufacturing source category. For more information, you should refer to a May 12, 1998 notice (63 FR 26078), which promulgated amendments to the Synthetic Organic Chemical Manufacturing Industry NESHAP (commonly known as the Hazardous Organic NESHAP (HON)).

You should refer to a November 7, 1996 notice (61 FR 57602) and the February 12, 1998 source category notice (63 FR 7155), to learn about an anticipated listing action involving the subsumption of a number of source categories into one source category called the ''Miscellaneous Organic Chemical Processes'' source category. We are now considering combining the source categories into two new source categories instead of one. The two new source categories would be called the ''Miscellaneous Organic Chemical Processes'' source category and the ''Miscellaneous Coating Processes'' source category. The scope of the Miscellaneous Organic Chemical Processes source category would also be broadened to cover more organic chemical processes, in addition to the process already listed. Each of these source categories is scheduled for promulgation no later than November 15, 2000; thus, the two new source categories would also be scheduled for that regulatory timeframe. The proposal notices for those MACT standards will serve as the official action to combine and rename the new source categories. The public will have an opportunity to comment on actions as part of those MACT proposals.

We also refer the reader to a December 14, 1998 notice (63 FR 68832), which announced combining two source categories, Amino Resins Production source category and Phenolic Resins Production source category, into a single new source category called ''Amino/Phenolic Resins Production'' for purposes of efficiency in rulemaking.

Today's notice involves another anticipated action regarding the combining of the seven categories related to cellulose production into two source categories called, ''Cellulose Ethers Production'' and ''Miscellaneous Viscose Processes.'' We are considering the combining of Carboxymethylcellulose Production and Cellulose Ethers Production into the Cellulose Ethers Production. We are also considering the combining of four existing source categories into a new source category called, ''Miscellaneous Viscose Processes.'' This newly defined source category would subsume the Rayon Production source category, Cellulose Food Casing Manufacturing source category, Cellophane Production source category, and Cellulosic Sponge Manufacturing source category. Each of these source categories is scheduled for promulgation no later than November 15, 2000; thus these two newly defined source categories would also be scheduled for that regulatory timeframe. The proposal notices for those MACT standards will serve as the official actions to combine the source categories and to name the newly defined source categories. The public will have the opportunity to comment on those actions as part of the Miscellaneous Cellulose Production MACT proposal.

IV. Is This Action Subject to Judicial Review?

The CAA section 112(e)(3) states that the determination of priorities for promulgation of standards for the listed source categories is not a rulemaking and is not subject to judicial review, except that, failure to promulgate any standard pursuant to the schedule established under section 112(e) shall be subject to review under section 304 of the CAA. Section 112(e)(4) states that, notwithstanding section 307 of the Act, no action of the Administrator listing a source category or subcategory under section 112(c) shall be a final Agency action subject to judicial review, except that any such action may be reviewed under section 307 when the Administrator issues emission standards

for such pollutant or category. Therefore, today's notice is not subject to judicial review.

V. Is EPA Asking for Public Comment?

Prior to issuance of the initial source category list, we published a draft initial list for public comment (56 FR 28548, June 21, 1991). Although we were not required to take public comment on the initial source category list, we believed it was useful to solicit input on a number of issues related to the list. Indeed, in most instances, even where there is no statutory requirement to take comment, we solicit public comments on actions we are contemplating. Section 112(e)(3) required that we offer opportunity for public comments on the initial source category schedule, which we published as a draft in a September 24, 1992 notice and subsequently published in final form on December 3, 1993. We have decided, however, that it is unnecessary to solicit additional public comment on the revisions reflected in today's notice. Where we believe it is useful to solicit input on certain actions, we will offer interested parties an opportunity to provide comments on proposed individual MACT standards.

VI. Administrative Requirements

Today's notice is not a rule; it is essentially an information sharing activity which does not impose regulatory requirements or costs. Therefore, the requirements of Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks), Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments), Executive Order 13132 (Federalism), the Regulatory Flexibility Act, the National Technology Transfer and Advancement Act, and the Unfunded Mandates Reform Act do not apply to today's notice. Also, this notice does not contain any information collection requirements and, therefore, is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), a regulatory action determined to be ''significant'' is subject to OMB review and the requirements of the Executive Order. The Order defines ''significant'' regulatory action as one that is likely to lead to a rule that may either (1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and 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 the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB considers today's notice a ''significant regulatory action'' within the meaning of the Executive Order. For this reason, this action underwent review by the OMB.

Dated: November 12, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

TABLE 1.—CATEGORIES OF SOURCES OF HAZARDOUS AIR POLLUTANTS AND REGULATION PROMULGATION SCHEDULE BY INDUSTRY GROUP

[Revision date: November 18, 1999].

Industry Group Source Category [a]	Statutory promulgation date/**Federal Register** citation [b]
Fuel Combustion:	
Combustion Turbines	11/15/2000.
Engine Test Facilities	11/15/2000.
Industrial Boilers	11/15/2000.
Institutional/Commercial Boilers	11/15/2000.
Process Heaters	11/15/2000.
Reciprocating Internal Combustion Engines	11/15/2000.
Rocket Testing Facilities	11/15/2000.
Stationary Internal Combustion Engines	Renamed as of today.
Stationary Turbines	Renamed as of today.
Non-Ferrous Metals Processing:	
Lead Acid Battery Manufacturing	Deleted 61FR28197.
Primary Aluminum Production	11/15/1997, 62FR52383(F).
Primary Copper Smelting	11/15/2000, 63FR19582(P).
Primary Lead Smelting	11/15/1997, 64FR30194(F).
Primary Magnesium Refining	11/15/2000.
Secondary Aluminum Production	11/15/1997, 64FR6946(P).
Secondary Lead Smelting	11/15/1994, 60FR32587(F), 61FR27785(A), 61FR65334(A), 62FR32209(A), 63FR45007(A), 64FR4570(A).
Ferrous Metals Processing:	
Coke By-Product Plants	11/15/2000.
Coke Ovens: Charging, Top Side, and Door Leaks	12/31/1992, 58FR57898(F), 59FR01922(C).
Coke Ovens: Pushing, Quenching, and Battery Stacks	11/15/2000.
Ferroalloys Production	Renamed as of today.
Ferroalloys Production: Silicomanganese and Ferromanganese	11/15/1997, 64FR27450(F).
Integrated Iron and Steel Manufacturing	11/15/2000.
Iron Foundries	11/15/2000.
Non-Stainless Steel Manufacturing—Electric Arc Furnace (EAF) Operation.	Deleted, 61FR28197.
Stainless Steel Manufacturing—Electric Arc Furnace (EAF) Operation.	Deleted, 61FR28197.
Steel Foundries	11/15/2000.
Steel Pickling—HCl Process	Renamed as of today.
Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants.	11/15/1997, 64FR33202(F).

TABLE 1.—CATEGORIES OF SOURCES OF HAZARDOUS AIR POLLUTANTS AND REGULATION PROMULGATION SCHEDULE BY INDUSTRY GROUP—Continued

[Revision date: November 18, 1999].

Industry Group Source Category [a]	Statutory promulgation date/**Federal Register** citation [b]
Mineral Products Processing:	
Alumina Processing	11/15/2000.
Asphalt Concrete Manufacturing	11/15/2000.
Asphalt Processing	11/15/2000.
Asphalt Roofing Manufacturing	11/15/2000.
Asphalt/Coal Tar Application—Metal Pipes	11/15/2000.
Chromium Refractories Production	Renamed as of today.
Clay Products Manufacturing	11/15/2000.
Lime Manufacturing	11/15/2000.
Mineral Wool Production	11/15/1997, 64FR29490(F).
Portland Cement Manufacturing	11/15/1997, 64FR31897(F).
Refractories Manufacturing	11/15/2000.
Taconite Iron Ore Processing	11/15/2000.
Wool Fiberglass Manufacturing	11/15/1997, 64FR31695(F).
Petroleum and Natural Gas Production and Refining:	
Oil and Natural Gas Production	11/15/1997, 64FR32610(F).
Natural Gas Transmission and Storage	11/15/2000, 64FR32610(F).
Petroleum Refineries—Catalytic Cracking (Fluid and other) Units, Catalytic Reforming Units, and Sulfur Plant Units.	11/15/1997, 63FR78890(P).
Petroleum Refineries—Other Sources Not Distinctly Listed	11/15/1994, 60FR43244(F), 61FR07051(C), 61FR29876(C), 62FR07937(A).
Liquids Distribution:	
Gasoline Distribution (Stage 1)	11/15/1994, 59FR42788(N), 59FR64303(F), 60FR07627(C), 60FR32912(C), 60FR43244(A), 60FR57628(C), 60FR62991(S), 61FR07718(A), 61FR58547(N), 62FR09087(A).
Marine Vessel Loading Operations	11/15/1997, 60FR48399(F).
Organic Liquids Distribution (Non-Gasoline)	11/15/2000.
Surface Coating Processes:	
Aerospace Industries	11/15/1994, 60FR45956(F), 61FR04903(C), 61FR66227(C), 63FR15016(A), 63FR46525(A).
Auto and Light Duty Truck (Surface Coating)	11/15/2000.
Flat Wood Paneling (Surface Coating)	Renamed as of today.
Large Appliance (Surface Coating)	11/15/2000, Redefined scope as of today.
Magnetic Tapes (Surface Coating)	11/15/1994, 59FR64580(F).
Manufacture of Paints, Coatings, and Adhesives	11/15/2000.
Metal Can (Surface Coating)	11/15/2000.
Metal Coil (Surface Coating)	11/15/2000.
Metal Furniture (Surface Coating)	11/15/2000.
Miscellaneous Metal Parts and Products (Surface Coating)	11/15/2000.
Paper and Other Webs (Surface Coating)	11/15/2000.
Plastic Parts and Products (Surface Coating)	11/15/2000.
Printing, Coating, and Dyeing of Fabrics	11/15/2000.
Printing/Publishing (Surface Coating)	11/15/1994, 61FR27132(F).
Shipbuilding and Ship Repair (Surface Coating)	11/15/1994, 60FR64330(F), 61FR30814(A), 61FR66226(C).
Wood Building Products (Surface Coating)	11/15/2000.
Wood Furniture (Surface Coating)	11/15/1994, 60FR62930(F), 62FR30257(C), 62FR31361(A).
Waste Treatment and Disposal:	
Hazardous Waste Incineration	11/15/2000.
Municipal Landfills	11/15/2000.
Off-Site Waste and Recovery Operations	11/15/1994, 61FR34140(F), 64FR38950(a), 64FR38950(A).
Publicly Owned Treatment Works (POTW) Emissions [c]	11/15/1995, 63FR66084(P).
Sewage Sludge Incineration	11/15/2000.
Site Remediation	11/15/2000.
Solid Waste Treatment, Storage and Disposal Facilities (TSDF)	Renamed, 59FR51913.
Agricultural chemicals Production:	
Pesticide Active Ingredient Production	11/15/1997, 64FR33549(F).
4-chloro-2-Methylphenoxyacetic Acid Production	Subsumed as of today.
2,4-D Salts and Esters Production	Subsumed as of today.
4,6-Dinitro-o-cresol Production	Subsumed as of today.
Butadiene-Furfural cotrimer(R–11) Production [d]	Subsumed as of today.
captafol Production [d]	Subsumed as of today.
captan Production [d]	Subsumed as of today.
chloroneb Production	Subsumed as of today.
chlorothalonil Production [d]	Subsumed as of today.
Dacthal (tm) Production [d]	Subsumed as of today.
Sodium Pentachlorophenate Production	Subsumed as of today.
Tordon (tm) Acid Production [d]	Subsumed as of today.
Fibers Production Processes:	
Acrylic Fibers/Modacrylic Fibers Production	11/15/1997, 64FR34853(F).

TABLE 1.—CATEGORIES OF SOURCES OF HAZARDOUS AIR POLLUTANTS AND REGULATION PROMULGATION SCHEDULE BY INDUSTRY GROUP—Continued

[Revision date: November 18, 1999].

Industry Group Source Category [a]	Statutory promulgation date/**Federal Register** citation [b]
Rayon Production	11/15/2000.
Spandex Production	11/15/2000.
Food and Agriculture Processes:	
Baker's Yeast Manufacturing	Renamed as of today.
Manufacturing of Nutritional Yeast	11/15/2000, 63FR55812(P).
cellulose Food casing Manufacturing	11/15/2000.
Vegetable Oil Production	11/15/2000.
Pharmaceutical Production Processes:	
Pharmaceuticals Production [d]	11/15/1997, 63FR50280(F).
Polymers and Resins Production:	
Acetal Resins Production	11/15/1997 64FR34853(F).
Acrylonitrile-Butadiene-Styrene Production	11/15/1994, 61FR48208(F), 61FR54342(C), 61FR59849(N), 62FR01835(A), 62FR37720(A), 63FR9944(C), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Alkyd Resins Production	11/15/2000.
Amino Resins Production	11/15/1997, 63FR68832(P).
Boat Manufacturing	11/15/2000, Redefined scope as of today.
Butyl Rubber Production	11/15/1994, 61FR46906(F), 61FR59849(N), 62FR01835(A), 62FR12546(N), 62FR37720(A), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Carboxymethylcellulose Production	11/15/2000.
Cellophane Production	11/15/2000.
Cellulose Ethers Production	11/15/2000.
Epichlorohydrin Elastomers Production	11/15/1994, 61FR46906(F), 61FR59849(N), 62FR01835(A), 62FR12546(N), 62FR37720(A), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Epoxy Resins Production	11/15/1994, 60FR12670(F).
Ethylene-Propylene Rubber Production	11/15/1994, 61FR46906(F), 61FR59849(N), 62FR01835(A), 62FR12546(N), 62FR37720(A), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Flexible Polyurethane Foam Production	11/15/1997, 64FR34853(F), 62FR05074(C).
Hypalon (tm) Production [d]	11/15/1994, 61FR46906(F), 61FR59849(N), 62FR01835(A), 62FR12546(N), 62FR37720(A), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Maleic Anhydride Copolymers Production	11/15/2000.
Methylcellulose Production	11/15/2000.
Methyl Methacrylate-Acrylonitrile-Butadiene-Styrene Production [d]	11/15/1994, 61FR48208(F), 61FR54342(C), 61FR59849(N), 62FR01835(A), 62FR37720(A), 63FR9944(C), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Methyl Methacrylate-Butadiene-Styrene Terpolymers Production [d]	11/15/1994, 61FR48208(F), 61FR54342(C), 61FR59849(N), 62FR01835(A), 62FR37720(A), 63FR9944(C), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Neoprene Production	11/15/1994, 61FR46906(F), 61FR59849(N), 62FR01835(A), 62FR12546(N), 62FR37720(A), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Nitrile Butadiene Rubber Production	11/15/1994, 61FR46906(F), 61FR59849(N), 62FR01835(A), 62FR12546(N), 62FR37720(A), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Nitrile Resins Production	11/15/2000, 61FR48208(F), 61FR54342(C), 61FR59849(N), 62FR01835(A), 62FR37720(A), 63FR9944(C), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Non-Nylon Polyamides Production	11/15/1994, 60FR12670(F).
Nylon 6 Production	Deleted 63FR7155.
Phenolic Resins Production	63FR68832(P).
Polybutadiene Rubber Production [d]	11/15/1994, 61FR46906(F), 61FR59849(N), 62FR01835(A), 62FR12546(N). 62FR37720(A), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Polycarbonates Production [d]	11/15/1997, 64FR34853(F).
Polyester Resins Production	11/15/2000.
Polyether Polyols Production	11/15/1997, 64FR29420(F), 64FR31895(C).
Polyethylene Terephthalate Production	11/15/1994, 61FR48208(F), 61FR54342(C), 61FR59849(N), 62FR01835(A), 62FR30993(A), 62FR37720(A), 63FR9944(C), 63FR15312(A), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR30406(A), 64FR30456(N), 64FR35023(S), 64FR35107(a).

TABLE 1.—CATEGORIES OF SOURCES OF HAZARDOUS AIR POLLUTANTS AND REGULATION PROMULGATION SCHEDULE BY INDUSTRY GROUP—Continued

[Revision date: November 18, 1999].

Industry Group Source Category [a]	Statutory promulgation date/**Federal Register** citation [b]
Polymerized Vinylidene Chloride Production	11/15/2000.
Polymethyl Methacrylate Resins Production	11/15/2000.
Polystyrene Production	11/15/1994, 61FR48208(F), 61FR54342(C), 61FR59849(N), 62FR01835(A), 62FR37720(A), 63FR9944(C), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Polysulfide Rubber Production [d]	11/15/1994, 61FR46906(F), 61FR59849(N), 62FR01835(A), 62FR12546(N), 62FR37720(A), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Polyvinyl Acetate Emulsions Production	11/15/2000.
Polyvinyl Alcohol Production	11/15/2000.
Polyvinyl Butyral Production	11/15/2000.
Polyvinyl Chloride and Copolymers Production	11/15/2000.
Reinforced Plastic Composites Production	11/15/2000.
Styrene-Acrylonitrile Production	11/15/1994, 61FR48208(F), 61FR54342(C), 61FR59849(N), 62FR01835(A), 62FR37720(A), 63FR9944(C), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Styrene-Butadiene Rubber and Latex Production [d]	11/15/1994, 61FR46906(F), 61FR59849(N), 62FR01835(A), 62FR12546(N), 62FR37720(A), 63FR67879(N), 64FR11536(A), 64FR11555(a), 64FR11560(a), 64FR35023(S), 64FR35107(a).
Production of Inorganic Chemicals:	
Ammonium Sulfate Production—Caprolactam By-Product Plants	11/15/2000.
Antimony Oxides Manufacturing	11/15/1997, Promulgation rescheduled; deleted as of today.
Carbon Black Production	11/15/2000.
Chlorine Production	11/15/2000.
Chromium Chemicals Manufacturing	Deleted, 61FR28197.
Cyanide Chemicals Manufacturing	11/15/2000.
Cyanuric Chloride Production	Deleted 63FR7155.
Fumed Silica Production	11/15/2000 Corrected as of today.
Hydrochloric Acid Production	11/15/2000.
Hydrogen Cyanide Production	Subsumed 63FR7155.
Hydrogen Fluoride Production	11/15/1997, 64FR34853(F).
Phosphate Fertilizers Production	11/15/1997, 64FR31358(F).
Phosphoric Acid Manufacturing	11/15/1997, 64FR31358(F).
Quaternary Ammonium Compounds Production	Moved, 61FR28197.
Sodium Cyanide Production	Subsumed 63FR7155.
Uranium Hexafluoride Production	11/15/2000.
Production of Organic Chemicals:	
Ethylene Processes	11/15/2000.
Quaternary Ammonium Compounds Production	11/15/2000.
Synthetic Organic Chemical Manufacturing	11/15/1992, 59FR19402(F), 59FR29196(A), 59FR32339(N), 59FR48175(C), 59FR53359(S), 59FR54131(S), 60FR05320(A), 60FR18020(A), 60FR18026(A), 60FR63624(C), 61FR31435(A), 61FR07716(A), 61FR43544(N), 61FR64572(A), 62FR02722(A).
Tetrahydrobenzaldehyde Production	Subsumed as of today, 63FR26078(F).
Miscellaneous Processes:	
Aerosol Can-Filling Facilities	11/15/1997, Promulgation rescheduled; deleted as of today.
Benzyltrimethylammonium Chloride Production	11/15/2000.
Butadiene Dimers Production	Renamed 61FR28197.
Carbonyl Sulfide Production	11/15/2000.
Cellulosic Sponge Manufacturing	11/15/2000, Added as of today.
Chelating Agents Production	11/15/2000.
Chlorinated Paraffins Production [d]	11/15/2000.
Chromic Acid Anodizing	11/15/1994, 60FR04948(F), 60FR27598(C), 60FR33122(C), 61FR27785(A), 61FR04463(A), 62FR42918(A).
Commercial Dry Cleaning (Perchloroethylene)—Transfer Machines	11/15/1992 58FR49354(F), 58FR66287(A), 60FR64002(A), 61FR27785(A), 61FR49263(A).
Commercial Sterilization Facilities	11/15/1994, 59FR62585(F), 61FR27785(A).
Decorative Chromium Electroplating	11/15/1994, 60FR04948(F), 60FR27598(C), 60FR33122(C), 61FR27785(A), 61FR04463(A), 62FR42918(A).
Dodecanedioic Acid Production	Subsumed, 59FR19402.
Dry Cleaning (Petroleum Solvent)	11/15/2000.
Ethylidene Norbornene Production [d]	11/15/2000.
Explosives Production	11/15/2000.
Flexible Polyurethane Foam Fabrication Operations	11/15/2000.
Friction Products Manufacturing	11/15/2000.
Halogenated Solvent Cleaners	11/15/1994, 59FR61801(F), 59FR67750(C), 60FR29484(C).
Hard Chromium Electroplating	11/15/1994, 60FR04948(F), 60FR27598(C), 60FR33122(C), 61FR27785(A), 61FR04463(A), 62FR42918(A).

TABLE 1.—CATEGORIES OF SOURCES OF HAZARDOUS AIR POLLUTANTS AND REGULATION PROMULGATION SCHEDULE BY INDUSTRY GROUP—Continued

[Revision date: November 18, 1999].

Industry Group Source Category [a]	Statutory promulgation date/**Federal Register** citation [b]
Hydrazine Production	11/15/2000.
Industrial Cleaning (Perchloroethylene)—Dry-to-dry machines	11/15/1992, 58FR49354(F), 58FR66287(A), 60FR64002(A), 61FR27785(A), 61FR49263(A).
Industrial Dry Cleaning (Perchloroethylene)—Transfer Machines	11/15/1992, 58FR49354(F), 58FR66287(A), 60FR64002(A), 61FR27785(A), 61FR49263(A).
Industrial Process Cooling Towers	11/15/1994, 59FR46339(F).
Leather Tanning and Finishing Operations	11/15/2000.
OBPA/1,3-Diisocyanate Production [d]	11/15/2000.
Paint Stripper Users	Renamed as of today.
Paint Stripping Operations	11/15/2000.
Photographic Chemicals Production	11/15/2000.
Phthalate Plasticizers Production	11/15/2000.
Plywood and Composite Wood Products	11/15/2000.
Plywood/Particle Board Manufacturing	Renamed as of today.
Polyether Polyols Production	Moved, 61FR28197.
Pulp and Paper Production	11/15/2000, Promulgation rescheduled as of today, 63FR18504(F), 63FR18755(P), 63FR42238(C), 63FR49455(A), 63FR71385(A), 64FR17555(A).
Rocket Engine Test Firing	Moved and renamed as of today.
Rubber Chemicals Manufacturing	11/15/2000.
Rubber Tire Manufacturing	11/15/2000.
Semiconductor Manufacturing	11/15/2000.
Symmetrical Tetrachloropyridine Production [d]	11/15/2000.
Tetrahydrobenzaldehyde Production	Moved as of today.
Tire Production	Renamed as of today.
Wood Treatment	Deleted, 61FR28197.
Categories of Area Sources: [e]	
Asbestos Processing	Deleted 60FR61550.
Chromic Acid Anodizing	11/15/1994, 60FR04948(F), 60FR27598(C), 60FR33122(C), 61FR27785(A), 61FR04463(A), 62FR42918(A).
Commercial Dry Cleaning (Perchloroethylene)—Dry-to-Dry Machines.	11/15/1992, 58FR49354(F), 58FR66287(A), 60FR64002(A), 61FR27785(A), 61FR49263(A).
Commercial Dry Cleaning (Perchloroethylene)—Transfer Machines	11/15/1992, 58FR49354(F), 58FR66287(A), 60FR64002(A), 61FR27785(A), 61FR49263(A).
Commercial Sterilization Facilities	11/15/1994, 59FR62585(F), 61FR27785(A).
Decorative Chromium Electroplating	11/15/1994, 60FR04948(F), 60FR27598(C), 60FR33122(C), 61FR27785(A), 61FR04463(A), 62FR42918(A).
Halogenated Solvent Cleaners	11/15/1994, 59FR61801(F), 59FR67750(C), 60FR29484(C).
Hard Chromium Electroplating	11/15/1994, 60FR04948(F), 60FR27598(C), 60FR33122(C), 61FR27785(A), 61FR04463(A), 62FR42918(A).
Secondary Lead Smelting	11/15/1997, 60FR32587(F), 61FR27785(A), 61FR65334(A), 62FR32209(A).

[a] Only sources within any category located at a major source shall be subject to emission standards under CAA section 112 unless a finding is made of a threat of adverse effects to human health or the environment for the area sources in a category. All listed categories are exclusive of any specific operations or processes included under other categories that are listed separately.

[b] This schedule does not establish the order in which the rules for particular source categories will be proposed or promulgated. Rather, it requires that emissions standards pursuant to CAA section 112(d) for a given source category be promulgated by the specified date.

The markings in the ''Statutory Promulgation Date/**Federal Register** Citation'' column of Table 1 denote the following:

(A): final amendment to a final rulemaking action

(a): proposed amendment to a final rulemaking action

(C): correction (or clarification) published subsequent to a proposed or final rulemaking action

(F): final rulemaking action

(N): notice to announce general information, such as an Agency decision, availability of new data, administrative updates, etc.

(P): proposed rulemaking action

(R): reopening of a proposed action for public comment

(S): announcement of a stay, or partial stay, of the rule requirements

Moved: the source category is relocated to a more appropriate industry group

Subsumed: the source category is included within the definition of another listed category and therefore is no longer listed as a separate source category

Renamed: the title of this source category is changed to a more appropriate title

Deleted: the source category is removed from the source category list

[c] The Publicly Owned Treatment Works (POTW) Emissions source category had a statutory deadline for regulatory promulgation of November 15, 1995, as established by CAA section 112(e)(5). However, for purposes of determining the 18-month period applicable to the POTW source category under section 112(j)(2), the promulgation deadline was November 15, 1997. This latter date is consistent with the section 112(e) schedule for the promulgation of emissions standards, as published in the **Federal Register** on December 3, 1993 (58 FR 63941).

[d] Equipment handling specific chemicals for these categories or subsets of these categories is subject to a negotiated standard for equipment leaks contained in the Hazardous Organic NESHAP (HON), which was promulgated on April 22, 1994. The HON includes a negotiated standard for equipment leaks from the SOCMI category and 20 non-SOCMI categories (or subsets of these categories). The specific processes affected within the categories are listed in Section XX.X0(c) of the March 6, 1991 **Federal Register** notice (56 FR 9315).

[e] A finding of threat of adverse effects to human health or the environment was made for each category of area sources listed.

[FR Doc. 99–30153 Filed 11–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6477–4]

Nominations for Peer Reviewers for Toxicological Testing Initiative for Styrene Acrylonitrile Trimer

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for nominations.

SUMMARY: EPA's Office of Solid Waste and Emergency Response has retained the Eastern Research Group (ERG) to conduct a scientific peer review of the proposed toxicological testing initiative and associated experimental protocols for styrene acrylonitrile trimer (SAN_2), a contaminant at the Reich Farm Superfund site in Ocean County, New Jersey, which has migrated into the ground water. The peer review workshop is being organized to assist in conducting the most scientifically credible and relevant testing for carcinogenicity of the trimer, particularly during the perinatal period, and for chronic non-cancer health effects. It is tentatively scheduled to be held in late February or early March 2000, in Toms River, New Jersey, and will be open to members of the public as observers. It will be a one-day meeting and will be conducted in accordance with EPA's 1998 Peer Review Handbook. ERG is seeking nominations of highly qualified scientists with expertise in one or more of the following nine disciplines: general toxicology, carcinogenesis, developmental toxicology, neurotoxicity, pharmacokinetics, genetic toxicology, veterinary pathology, biostatistics, and analytical chemistry. ERG will select 10–13 objective peer reviewers based upon demonstrated expertise of the scientists and the need for balance in affiliation among the peer reviewers. ERG will consider potential conflicts of interest in screening nominees for suitability as peer reviewers. All nominations will be carefully considered, but the source of peer reviewer nominations will not be a factor in the selection of peer reviewers, and stakeholders are not guaranteed that any of their nominees will be selected. A second **Federal Register** document will be published about one month prior to the peer review workshop to provide the actual meeting date, location, and registration information.

DATES: Nominations for peer reviewers must be submitted December 20, 1999. A detailed resume for each nominated scientist should be included with the submission. The projected date for the peer review workshop is late February or early March 2000, depending on the availability of the peer reviewers.

ADDRESSES: Peer reviewer nominations should be sent to Ms Meg Vrablik at Eastern Research Group, 110 Hartwell Avenue, Lexington, MA 02421. Peer reviewer nominations may also be submitted by facsimile at 781–674–2906, or by E-mail at mvrablik@erg.com. The peer review workshop will be held in Toms River, New Jersey.

FOR FURTHER INFORMATION CONTACT: For technical and logistical inquires, contact Ms. Vrablik or Ms. Kate Schalk at Eastern Research Group, by telephone, at 781–674–7272; by facsimile, at 781–674–2906; or by E-mail, at mvrablik@erg.com.

SUPPLEMENTARY INFORMATION:

Background

Spent process streams from the manufacture of styrene acrylonitrile polymer by Union Carbide Corporation (UCC) were disposed of at the Reich Farm property in Ocean County, New Jersey. The waste contains SAN_2 trimer, a chemical mixture which has migrated from the Reich Farm property into groundwater. Levels of SAN_2 trimer measured in water drawn from groundwater wells have been in the parts per billion and lower. The site is on the National Priorities List (NPL) of hazardous waste sites, and remedial activities are currently underway.

Increased incidences of certain forms of cancer in children, specifically types of leukemia and neurological cancers, have been observed in Ocean County, Dover Township and Toms River. To develop scientific data on the toxicologic and carcinogenic potential of the SAN trimer and to address concerns of citizens in the area about the toxicity of this previously untested mixture, Union Carbide undertook an initial round of toxicology experiments, which consisted of genotoxicity studies, an acute toxicity study in rats and a 14-day repeated dose study in rats. The results from these studies are now available.

The Workgroup for the Toxicity Testing of the SAN_2 Trimer was formed to provide guidance to Union Carbide on the testing of the SAN_2 trimer. In late 1998 the National Toxicology Program (NTP) of the National Institute of Environmental Health Sciences joined the workgroup based upon its commitment to perform rodent carcinogenicity studies which include perinatal exposures. The current governmental agencies represented on the workgroup are the US Environmental Protection Agency, the Agency for Toxic Substances and Disease Registry, NTP, the New Jersey Department of Environmental Protection, and the New Jersey Department of Health and Senior Services. Representatives of Union Carbide Corporation and the consultant representing the Ocean County Department of Health also participate in the workgroup.

The workgroup has met four times since November 1998, evaluating the results of the studies previously performed by UCC, and reviewing additional studies proposed to be performed by the NTP and UCC. The Workgroup has developed a consensus testing strategy with associated experimental protocols. A key step in the finalization of this testing strategy will be an external peer review, in the form of a workshop, to be held in late February or early March 2000.

The peer review will focus on existing data pertaining to the toxicology of the SAN_2 trimer, the proposed additional studies and associated protocols, and the variability in composition of the different batches of SAN_2 trimer isolated to date from spent process streams. Following the peer review workshop, ERG will issue a report summarizing the workshop. The Workgroup for the Toxicity Testing of the SAN_2 Trimer will consider the results of the workshop prior to finalizing the testing initiative and experimental protocols.

Dated: November 8, 1999.

Timothy Fields, Jr.,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 99–30154 Filed 11–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34208; FRL–6394–7]

Methidathion and Oxydemethon-Methyl, Revised Pesticide Risk Assessments; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a public meeting to present the revised risk assessments for two organophosphate pesticides, methidathion and oxydemethon-methyl, to interested stakeholders. This public meeting, called a ''Technical Briefing,'' will provide an opportunity for stakeholders

to learn about the data, information, and methodologies that the Agency used in revising its risk assessments for methidathion and oxydemethon-methyl. In addition, representatives of the U.S. Department of Agriculture (USDA) will also provide ideas on possible risk management for methidathion and oxydemethon-methyl.

DATES: The technical briefing will be held on Wednesday, December 8, 1999, from 9 a.m. to 5 p.m.

ADDRESSES: The technical briefing will be held at the Holiday Inn Capital Plaza, 300 J St., Sacramento, CA ((916) 446–0100).

FOR FURTHER INFORMATION CONTACT: By mail: Karen Angulo, Special Review and Registration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on organophosphates, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document and 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/.

To access information about organophosphate pesticides, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/. In addition, there is a brief summary now available for both methidathion and oxydemethon-methyl revised risk assessments at http://www.epa.gov/pesticides/op/status.htm/, as well as in paper as part of the public version of the official record as described in Unit I.B.2.

2. *In person*. The Agency has established an official record for organophosphates methidathion and oxydemethon-methyl under docket control numbers OPP–34172A for methidathion and OPP–34167A for oxydemethon-methyl. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the 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.

II. What Action is the Agency Taking?

This document announces the Agency's intention to hold a technical briefing for the organophosphate pesticides, methidathion and oxydemethon-methyl. The Agency is presenting the revised risk assessments for methidathion and oxydemethon-methyl to interested stakeholders. This technical briefing is designed to provide stakeholders with an opportunity to become even more informed about an organophosphate's risk assessment. EPA will describe in detail the revised risk assessments: Including the major points (e.g., contributors to risk estimates); how public comment on the preliminary risk assessment affected the revised risk assessment; and the pesticide use information/data that was used in developing the revised risk assessment. Stakeholders will have an opportunity to ask clarifying questions. In addition, representatives of the USDA will provide ideas on possible risk management.

The technical briefing is part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998 as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate risk assessment and risk management decisions. EPA and USDA began implementing this pilot process in August 1998 in response to Vice President Gore's directive to increase transparency and opportunities for stakeholder consultation.

On the day of the technical briefing, in addition to making copies available at the meeting site, the Agency will also release for public viewing the methidathion and oxydemethon-methyl revised risk assessments and related documents to the Public Information and Records Integrity Branch and the OPP Internet web site that are described in Unit I.B.1. In addition, the Agency will issue a **Federal Register** notice to provide an opportunity for a 60-day public participation period during which the public may submit risk management and mitigation ideas, and recommendations and proposals for transition.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: November 9, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–29900 Filed 11–17–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34191; FRL–6092–3]

Pesticide Reregistration Performance Measures and Goals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's progress in meeting its performance measures and goals for pesticide reregistration during 1998. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires EPA to publish this information annually. The notice discusses the integration of tolerance reassessment with the reregistration process, and describes the status of various regulatory activities associated with reregistration and tolerance reassessment. The notice gives total numbers of chemicals and products reregistered, tolerances reassessed, Data Call-Ins issued, and products registered under the ''fast-track'' provisions of FIFRA. Finally, this notice contains the schedule for completion of activities for specific high priority chemicals.

DATES: This notice is not subject to a formal comment period. Nevertheless, EPA welcomes input from stakeholders and the general public. Written comments, identified by the docket number [OPP–34191], should be received on or before January 18, 2000.

ADDRESSES: Comments may be submitted by regular mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I of the ''SUPPLEMENTARY INFORMATION'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Carol P. Stangel, Environmental Protection Agency (7508C), 401 M St., SW., Washington, DC 20460, telephone: (703) 308–8007, e-mail: stangel.carol@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Important Information

A. Does this Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who are interested in the progress and status of EPA's pesticide reregistration and tolerance reassessment programs, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information or Copies of Support Documents?

1. *Electronically*. You may obtain electronic copies of this document and various support documents from the EPA Internet Home page at www.epa.gov. On the Home Page, select ''Laws and Regulations,'' and then look up the entry for this document under ''**Federal Register** -- Environmental Documents.'' You can also go directly to the **Federal Register** listings at www.epa.gov/fedrgstr.

To access information about pesticide reregistration, go directly to the Home Page for the Office of Pesticide Programs at www.epa.gov/pesticides and select ''Pesticide Reregistration'' under ''Select Topic From List,'' the pull-down menu at the top of the screen.

2. *In person*. The official record for this notice, as well as the public version, has been established under docket control number [OPP–34191] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments To?

You may submit comments through the mail, in person, or electronically:

1. *By mail*. Submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person*. Deliver written comments to Public Information and Records Integrity Branch, in Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

3. *Electronically*. Submit your comments and/or data electronically to opp-docket@epa.gov . Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP–36191]. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

D. How Should I Handle Information That I Believe Is Confidential?

You may claim information that you submit in response to this document as confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed, except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice.

II. Background

EPA must establish and publish annually in the **Federal Register** its performance measures and goals for pesticide reregistration, tolerance reassessment, and expedited registration, under section 4(l) of FIFRA, as amended by the Food Quality Protection Act of 1996 (FQPA). Specifically, such measures and goals are to include:

a. The status of reregistration;

b. The number of products reregistered, canceled, or amended;

c. The number and type of data requests or Data Call-In notices (DCIs) under section3(c)(2)(B) issued to support product reregistration by active ingredient;

d. Progress in reducing the number of unreviewed, required reregistration studies;

e. The aggregate status of tolerances reassessed;

f. The number of applications for registration submitted under subsection (k)(3),expedited processing and review of similar applications, that were approved or disapproved;

g. The future schedule for reregistrations; and

h. The projected year of completion of the reregistrations under section 4.

FIFRA, as amended in 1988, authorizes EPA to conduct a comprehensive pesticide reregistration program--a complete review of the human health and environmental effects of older pesticides originally registered prior to November 1, 1984. Those pesticides meeting today's scientific and regulatory standards may be declared ''eligible'' for reregistration. In order to be so designated, an older pesticide must have a substantially complete data base, and must be found not to cause unreasonable risks to human health or the environment when used in accordance with Agency approved label directions and precautions.

In addition, all pesticides with food uses must meet the safety standard of the Food Quality Protection Act (FQPA) of 1996. Under FQPA, EPA must make a determination that pesticide residues remaining in or on food are ''safe''; that is, ''that there is reasonable certainty

that no harm will result from aggregate exposure to the pesticide chemical residue'' from dietary and other sources. In determining allowable levels of pesticide residues in food, EPA must perform a more comprehensive assessment of each pesticide's risks, considering:

- Aggregate exposure (from food, drinking water, and residential uses);
- Cumulative effects from all pesticides sharing a common mechanism of toxicity;
- Possible increased susceptibility of infants and children; and
- Possible endocrine or estrogenic effects.

FQPA requires the reassessment of all existing tolerances (pesticide residue limits in food) and tolerance exemptions within 10 years, to ensure that they meet the safety standard of the law. EPA was directed to give priority to the review of those pesticides that appear to pose the greatest risk to public health, and to reassess 33% of the 9,721[1] existing tolerances and exemptions within 3 years (by August 3, 1999), 66% within 6 years (by August 3, 2002), and 100% in 10 years (by August 3, 2006).

EPA is meeting FQPA's tolerance reassessment requirements through reregistration and several other key program activities. Schedules have been coordinated and integrated so that, in the course of making reregistration eligibility decisions, the Agency also is completing much of tolerance reassessment within the time frames mandated by the new law. EPA has met the FQPA goal of reassessing the first 33% of all food tolerances by August 3, 1999. Among these first completed tolerance reassessments, over 66% are for pesticides identified as posing the greatest potential risks. EPA is focusing attention particularly on priority Group 1 pesticides; over half of the universe of tolerances to be reassessed are included in this category, including tolerances for the organophosphate pesticides (the Agency's highest priority for review), as well as the carbamates, organochlorines, and B_2(probable human) carcinogens. EPA's approach to tolerance reassessment under FQPA, including the three priority Groups, is described fully in the Agency's document entitled, ''Raw and Processed Food Schedule for Pesticide Tolerance Reassessment'' (62 FR 42020, August 4, 1997)(FRL–5734–6).

FQPA has added considerably more complexity to the process of reregistering pesticides. New statutory requirements to consider aggregate exposure and cumulative risk, along with implementing new processes to increase stakeholder involvement and ensure a reasonable period for transition to new pest control tools and practices, have made risk assessment more complex and have lengthened the ''front end'' portion of reregistration. Over the longer run, these changes will enhance protection of human health and the environment and should speed risk reductions. EPA is now conducting reregistration in conjunction with tolerance reassessment, which FQPA mandates be completed by 2006. Reregistration of pesticide active ingredients and products will be completed prior to the statutory deadline for completing tolerance reassessment. However, there are increasing indications that all elements of reregistration, especially those elements also necessary to complete tolerance reassessment, will not be completed for all active ingredients by 2002.

When the ongoing pesticide reregistration program is completed by the year 2006, registration review as mandated by section 3(g) of FIFRA (a new provision adopted as part of the FQPA) will be underway. EPA's goal under the new program is to review every pesticide registration on a 15–year cycle.

III. FQPA and Program Accountability

One of the hallmarks of FQPA is enhanced accountability. EPA has incurred several additional obligations under this law, including the requirement to publish annually a summary of the program's performance measures and goals for reregistration, tolerance reassessment, and expedited registration. The following sections describe EPA's progress in the areas specifically identified by FIFRA section 4(l).

A. Status of Reregistration

Through the reregistration program, EPA is reviewing current scientific data for older pesticides and requiring changes to improve their safety. Pesticides that have sufficient supporting human health and environmental effects data and do not pose unreasonable risks may be declared ''eligible'' for reregistration. EPA presents these findings in Reregistration Eligibility Decision (RED) documents. At the end of fiscal year 1998 (FY '98) (that is, as of September 30, 1998), the Agency had completed 184 REDs out of a universe of 612 cases, or groups of related pesticide active ingredients subject to reregistration. Eight of the 184 decisions were voluntary cancellations that were counted as REDs because significant progress had been made in developing RED documents for these pesticides by the time the requests for their cancellation were received. An additional 231 reregistration cases were voluntarily canceled before EPA invested significant resources in developing their REDs. A total of 415 reregistration cases (68%), therefore, had completed the reregistration eligibility decision making process by the end of the fiscal year, leaving 197 cases (32%) awaiting such decisions.

The 184 REDs completed by the end of FY '98 include 281 active ingredients and encompass almost 6,800 pesticide products. Eighty-two (82) of these REDs have food uses. Between August 3, 1996, the date when FQPA was enacted, and September 30, 1998, EPA completed 43 REDs, 29 with food uses. The Agency reassessed 638[2] tolerances for these post-FQPA REDs. [Note: Tolerances associated with the 53 food use REDs that were completed before FQPA was enacted will be revisited to ensure that they meet the safety standard of the new law, as set forth in the Agency's August 4, 1997, Schedule for Pesticide Tolerance Reassessment.]

Reducing pesticide risks is an important aspect of the reregistration program. In developing REDs, EPA works with pesticide registrants to develop voluntary measures or regulatory controls needed to effectively reduce risks of concern. Every RED includes some risk reduction measures. The options for reducing risks are extensive and include voluntary cancellation of pesticide products or deletion of uses; declaring certain uses ineligible or not yet eligible (and then proceeding with follow-up action to cancel the uses or require additional supporting data); restricting use of products to certified applicators; limiting the amount or frequency of use; improving use directions and precautions; adding more protective clothing and equipment requirements; requiring special packaging or engineering controls; requiring no-treatment buffer zones; employing ground water, surface water, or other

[1] Although the total number of tolerances existing on August 3, 1996, and subject to FQPA reassessment was initially reported as 9,728, the correct number based on the Agency's recently completed Tolerance Tracking System is 9,721.

[2] Numbers of tolerance reassessments in this report are obtained from EPA's recently completed Tolerance Reassessment Tracking System (TORTS). The Agency has increased confidence in numbers derived from this new system, after completing an intensive quality control check of the entire data base. Where discrepancies are found between old and new tolerance reassessment numbers, those from the new system should take precedence. EPA plans to use these numbers as the baseline for all future tolerance reassessment reports and analyses.

environmental and ecological safeguards; and other measures.

EPA has previously projected its goal in conducting the reregistration program is to complete 34 REDs in FY '99, 20 in FY 2000, and 30 in FY 2001. EPA also intends to reassess tolerances within time frames set forth in FQPA, building on the reassessment of 33% of the existing tolerances by August 3, 1999, giving priority to those food use pesticides that appear to pose the greatest risk. As noted above, the integration of these two programs has added complexity to the reregistration process for food use pesticides.

B. Product Reregistration; Numbers of Products Reregistered, Canceled, and Amended

At the end of the reregistration process, after a RED has been issued and a pesticide reregistration case has been declared eligible for reregistration, individual end-use pesticide products that contain pesticide active ingredients included in the case must still be reregistered. This concluding part of the reregistration process is called ''product reregistration.''

A variety of outcomes are possible for pesticide products going through this final phase of the reregistration process. Ideally, the registrant submits the required product-specific data and revised labeling, which are reviewed and accepted by EPA. At that point, the Agency reregisters the pesticide product. If, however, the product contains multiple active ingredients, the Agency instead issues an amendment to the product's registration, incorporating the labeling changes specified in the RED; a product with multiple active ingredients may not be fully reregistered until the last active ingredient in its formulation is eligible for reregistration. Alternatively, the pesticide producer, or registrant, may request a voluntary cancellation of their end-use product registration. In other situations, the Agency may temporarily suspend a product's registration if the registrant has not submitted required product specific studies within the time frames specified, or may cancel a product's registration because the registrant did not pay the required registration maintenance fee. During FY '98, 746 pesticide products reached one of these outcomes, as shown in the following table 1.

TABLE 1.— PRODUCT REREGISTRATION DECISIONS AND ACTIONS COMPLETED DURING FISCAL YEAR 1998

Products Reregistered	221
Products Amended	53
Products Canceled	337
Products Sent for Suspension	135
TOTAL	746

The status of the universe of 6,796 pesticide products subject to product reregistration based on completed REDs as of August 1999, is shown in table 2 below. This product reregistration status information should be considered a snapshot in time. As registrants and EPA make marketing and regulatory decisions in the future, the status of individual products may change and numbers in the following table 2 may fluctuate.

TABLE 2.— STATUS OF UNIVERSE OF PRODUCTS SUBJECT TO PRODUCT REREGISTRATION, AS OF AUGUST 1999

Products Reregistered	1,204
Products Amended	166
Products Canceled	2,408
Products Sent for Suspension	150
TOTAL PRODUCTS COMPLETED	3,928
Products with Decisions Pending	2,868
TOTAL PRODUCTS IN UNIVERSE	6,796

Currently, 2,868 products have product reregistration decisions pending. Some of these products are awaiting science reviews or decisions by EPA. Others are not yet ready for product reregistration decisions; they are associated with more recently completed REDs, and their product-specific data are not yet due to be submitted to, or reviewed by, the Agency. EPA's goal is to complete reregistration decisions for 750 products during fiscal year 1999, and to substantially reduce or eliminate the backlog of pending product reregistration decisions within the next several years.

C. Number and Type of DCIs Issued to Support Product Reregistration by Active Ingredient

The number and type of data requests or Data Call-In notices (DCIs) issued by EPA under FIFRA section 3(c)(2)(B) to support product reregistration for pesticide active ingredients included in fiscal year 1998 REDs are shown in the following table 3.

TABLE 3.—DATA CALL INS ISSUED TO SUPPORT PRODUCT REREGISTRATION FOR FY '98 REDS

Case No.	Case Name	Number of Products Covered in RED[1]	Number of Product Chemistry Studies Required[2]	Number of Acute Toxicology Studies Required[3]	Number of Efficacy Studies Required
0063	Alachlor	13	20	72 (12 not batched)	0
0025	Aluminum Phosphide	23	20	42(5 batches/2 not batched)	1
0025	Magnesium Phosphide	4	20	18 (1 batch/2 not batched)	1
2070	Bromoxynil	23	20	72 (5 batches/7 not batched)	0
0097	Chlorothalonil	210	20	828 (17 batches/121 not batched)	0
0002	DEET	232	20	300 (26 batches/24 not batched)	2

TABLE 3.—DATA CALL INS ISSUED TO SUPPORT PRODUCT REREGISTRATION FOR FY '98 REDS—Continued

Case No.	Case Name	Number of Products Covered in RED[1]	Number of Product Chemistry Studies Required[2]	Number of Acute Toxicology Studies Required[3]	Number of Efficacy Studies Required
0328	1,3-Dichloropropene	17	20	24 (4 batches)	0
0021	Dicofol	31	20	66 (3 batches/8 not batched)	10
2585	Hydramethylnon	30	20	24 (3 batches/1 not batched)	0
2335	Iprodione	40	17	72 (3 batches/9 not batched)	0
0028	Methomyl	31	20	54 (5 batches/4 not batched)	2
0177	Propachlor	8	20	30 (1 batch/4 not batched)	0
2675	Thiodicarb	30	20	60 (2 batches/8 not batched)	0

[1] The number of registered products containing a pesticide active ingredient can change over time. The product count that appears in the RED document may not be the same as the final count, which is prepared just before the RED document is mailed to registrants. This table reflects the final number of products associated with each RED, as they are being tracked for product reregistration.

[2] This column shows the number of product chemistry studies that are required for each product covered by the RED.

[3] In an effort to reduce the time, resources, and number of animals needed to fulfill acute toxicity data requirements, EPA ''batches'' products that can be considered similar from an acute toxicity standpoint. For example, one batch could contain five products. In this instance, if six acute toxicology studies were required, only six studies would be needed rather than 30 studies. Factors considered in the sorting process include each product's active and inert ingredients (e.g., identity, percent composition, and biological activity), type of formulation (e.g., emulsifiable concentrate, aerosol, wet table powder, granular, etc.), and labeling (e.g., signal word, use classification, precautionary labeling, etc.). The Agency does not describe batched products as ''substantially similar,'' because all products within a batch may not be considered chemically similar or have identical use patterns.

D. Progress in Reducing the Number of Unreviewed, Required Reregistration Studies

EPA is making good progress in reviewing scientific studies submitted by registrants in support of pesticides undergoing reregistration. Nearly 28,000 studies (27,728) have been received by the Agency through the reregistration program. Over 75% (20,857) of these studies either have been reviewed (19,583 or over 70%), or have been found to be extraneous (1,274 or almost 5%). (Extraneous studies is a term used to classify those studies that are not needed because the guideline or data requirement has been satisfied by other studies or has changed.) Less than 25% (6,871) of all studies received are ''awaiting review'' for future REDs, to complete the reregistration program. A more detailed account of the number and percent of studies received, reviewed, and awaiting review by reregistration list appears in table 4 below.

The proportion of studies awaiting review by EPA decreased slightly during the past year. At the end of 1997, almost 75% of all studies received in support of reregistration had been reviewed, compared to over 75% at the end of 1998. Thus, the reregistration study ''backlog'' remained fairly constant, but did decrease slightly during 1998.

TABLE 4.— REVIEW STATUS OF STUDIES SUBMITTED FOR PESTICIDE REREGISTRATION

List	Studies Reviewed + Extraneous	Studies Awaiting Review	Total Studies Received
List A	10,423 + 291 = 10,714 (81%)	2,571 (19%)	13,285
List B	5,720 + 661 = 6,381 (68%)	2,956 (32%)	9,337
List C	2,133 + 228 = 2,361 (70%)	1,013 (30%)	3,374
List D	1,307 + 94 = 1,401 (81%)	331 (19%)	1,732
TOTAL LISTS A - D	19,583 + 1,274 = 20,857 (75%)	6,871 (25%)	27,728

E. Aggregate Status of Tolerances Reassessed

EPA recently met the FQPA goal of reassessing 33% of all food tolerances by August 3, 1999, including many tolerances for pesticides identified as posing the greatest potential risks. As required by FQPA, the Agency announced its general schedule for tolerance reassessment in the **Federal Register** on August 4, 1997. This document identified three groups of pesticides to be reviewed; the grouping reflects EPA's overall scheduling priorities for tolerance reassessment. The Agency has given priority to Group 1 pesticides, particularly to the organophosphate pesticides (OPs).

1. *Tolerance reassessment and the organophosphates.* Because of the intense public interest in tolerance reassessment for the OPs, EPA and USDA created the Tolerance Reassessment Advisory Committee (TRAC) in 1998, to give advice on the best way to conduct the process, beginning with this class of pesticides. With guidance from TRAC, EPA is piloting an approach to tolerance reassessment that allows for much greater transparency and public involvement in developing both risk assessments and risk management decisions. Scientific analyses and risk assessments for the OPs have been made far more accessible to the public through a systematic notice and comment process, complemented by an Agency website (www.epa.gov/pesticides/op/), and supplemented by public meetings and technical briefings.

Through the ongoing public participation process for the OPs, EPA is obtaining additional health and environmental effects data, use data, and other information that is valuable in revising and completing our risk assessments. EPA expects to present its risk management proposals for the first several OPs, inviting public examination, discussion, and comment on both risk mitigation measures and possible transition strategies to alternative pest control approaches,

during FY '99. The Agency also is developing a method for calculating cumulative risk for the OPs as a group, and expects to issue its draft guidance on aggregating exposure by this fall for review and comment. A comprehensive guidance document on combining common mechanism of toxicity and aggregate exposure will be presented to the Scientific Advisory Panel by the end of the calendar year. Although all individual OP tolerances will not be reassessed in the first one-third, EPA is making significant progress with this group of chemicals and expects to complete the reassessments for all OP pesticides by the end of 2000.

2. *Fiscal Year 1998 accomplishments.* During FY '98, EPA reassessed 1,395 tolerances through the reregistration and registration programs and in conducting follow-up activities to revoke tolerances for pesticides that had been canceled previously, many as a result of reregistration. By the end of FY '98, the Agency was well on its way to meeting the first statutory tolerance reassessment deadline, as a cumulative total of 1,981 tolerances had been reassessed under FQPA since August 1996.

Many (809 or 58%) of EPA's 1,395 tolerance reassessment actions during FY '98 were tolerance revocation decisions, implemented through rule making. (Although the Agency made decisions to revoke these tolerances and signed final rule making to effect these decisions during FY '98, some of the rules were not published in the **Federal Register** until after the end of the fiscal year.) Other FY '98 reassessments occurred through reregistration/REDs (276) and through registration (310). Over 73 % of the FY '98 tolerance reassessments were for pesticides in priority Group 1 (1,023); others were for pesticides in Group 2 (202) and Group 3 (170). EPA reassessed 303 OP tolerances, 92 carbamate tolerances, and 350 carcinogen tolerances during FY '98. The Agency completed 224 tolerance reassessments for children's foods (i.e., foods among the top 20 raw agricultural commodities eaten by children age 1 to 6 years old, and among the top 20 commodities consumed by infants, according to a 1989–1991 survey.) 902 of the tolerances reassessed were for pesticide minor uses. Please see the following table 5 for a summary of these FY '98 accomplishments.

TABLE 5.—FISCAL YEAR 1998 TOLERANCE REASSESSMENT ACCOMPLISHMENTS

Sources of FY '98 Tolerance Reassessments.	
Reregistration/REDs	276
Registration	310
Tolerance Revocations	809
TOTAL	1,395
Numbers of Reassessments by Priority Group.	
Group 1	1,023 (73%)
Group 2	202 (15%)
Group 3	170 (12%)
TOTAL	1,395 (100%)
Special Types of Tolerances Reassessed.	
Organophosphates	303
Carbamates	92
Carcinogens	350
Kids Foods	224
Minor Uses	902
TOTAL	1,871

3. *Cumulative accomplishments.* EPA is conducting a variety of tolerance reassessment activities throughout the pesticide program that recently enabled the Agency to meet the FQPA goal of reassessing 33% of all food tolerances by August 3, 1999. As mentioned earlier, EPA's Tolerance Reassessment Tracking System (TORTS) is enabling the Agency to compile and consistently report on these tolerance reassessment accomplishments. The Agency has a high degree of confidence in this new data base, which was designed, created, and quality controlled internally, and is being operated in-house. Based on records regarding all 9,721 permanent tolerances subject to reassessment under FQPA, TORTS provides timely, detailed, and accurate reports highlighting many important aspects of the Agency's completed tolerance reassessments. Where discrepancies between old and new tolerance reassessment numbers are found, information from TORTS should take precedence. This system provides a solid baseline for all future Agency tolerance reassessment reports and analyses.

As of August 1999, of the 9,721 tolerances subject to reassessment, EPA has reassessed a net total of 3,290 tolerances. The Agency is accomplishing tolerance reassessment through the reregistration program, the registration program, and by revoking tolerances for pesticides that have been canceled (many as a result of reregistration). (Please see table 6).

TABLE 6.— TOLERANCE REASSESSMENTS COMPLETED POST-FQPA BY FISCAL YEAR, AS OF AUGUST 1999

Tolerances Reassessed Through	During Late FY '96	During FY '97	During FY '98	Total, End of FY '98	During FY '99,So Far	Total, August FY '99
Reregistration/REDs	25	337	276	638	253	891
Registration	0	221	310	531	324	855
Tolerance Revocations	3	0	809	812	513	1,325
Other Decisions	0	0	0	0	219	219
TOTAL TOLERANCES REASSESSED	28	558	1,395	1,981	1,309	3,290

i. *Reregistration/REDs.* EPA is using the reregistration program to accomplish much of the tolerance reassessment. As of August 1999, 891 tolerance reassessment decisions have been completed through reregistration. EPA has reviewed each of these existing tolerances and made the finding that there is a reasonable certainty of no harm, as required by FQPA. Many of the tolerances reassessed through REDs will remain the same while others are subject to modification, i.e., they may be raised, lowered, or revoked. Those that are being revoked are discussed further below. Although the Agency has reassessed all of these tolerances as part of reregistration consistent with FQPA, reached reassessment decisions, and issued formal REDs to document and announce its decisions, the rulemaking that will finally modify or revoke these tolerances has not yet been completed for all chemical cases.

ii. *Registration*. Like older pesticides, all new pesticide registrations must meet the safety standard of FQPA. Many of the registration applications EPA receives are for new uses of pesticides already registered for other uses. To reach a decision on a proposed new food use of an already registered pesticide, EPA must reassess the existing tolerances, as well as the proposed new tolerances, to make sure there is reasonable certainty that no harm will result to the public from aggregate exposure from all uses. As of August 1999, 855 tolerances have been reassessed as a result of the registration process. The Agency has specifically discouraged submission of applications and petitions for any new uses of the organophosphate pesticides, given the associated risk concerns.

iii. *Tolerance revocations*. EPA also has made decisions and has formally revoked, through rule making, a total of 1,325 tolerances. These revoked tolerances represent uses of many different pesticide active ingredients that were canceled in recent years, some due to the Agency's risk concerns; and many others voluntarily, based on lack of support for reregistration. By requiring the systematic updating of scientific data bases for older chemicals, EPA's reregistration program elicited registrant decisions to support or not support their chemicals. Registrants may have chosen not to support a specific use or an entire chemical for economic reasons, or in reaction to the Agency's risk concerns. Now that most unsupported pesticides and uses have been canceled, tolerances for residues also can be revoked; existing stocks of the chemicals are presumed to have been exhausted, and sufficient time will have elapsed for any treated food to clear channels of trade. These tolerance revocation actions are important; although many of the pesticides are no longer used in the United States, commodities treated with them could still have been imported before the revocations became effective.

iv. *Other reassessment decisions*. In addition to those described above, a total of 219 additional tolerance reassessment decisions have been made. These include 65 tolerances reassessed through the Plant Growth Regulator Rule (64 FR 31501, June 11, 1999) (FRL–6076–5); 80 organophosphate meat, milk, poultry, and egg tolerances determined to have no reasonable expectation of finite residue and therefore revoked on July 7, 1999; and 74 Inert Polymer Tolerances that were determined on July 20, 1999, to meet the terms and criteria of the Toxic Substances Control Act Polymer Exemption Rule (and so they also meet the FQPA safety standard).

F. Applications for Registration Requiring Expedited Processing Numbers Approved and Disapproved

By law, EPA must expedite its processing of certain types of applications for pesticide product registration, i.e., applications for end use products that would be identical or substantially similar to a currently registered product; amendments to current product registrations that do not require review of scientific data; and products for public health pesticide uses. During FY '98, EPA considered and approved the following numbers of applications for registration requiring expedited processing (also known as ''fast track'' applications):

Me-too product registrations/fast track: 496
Amendments/fast track: 3,054
Total: 3,550 applications processed by expedited means

Regarding numbers of applications disapproved, the Agency generally notifies the registrant of any deficiencies in the application that need to be corrected or addressed before the application can be approved. Applications may have been withdrawn after discussions with the Agency, but none were formally ''disapproved'' during FY '98.

On a financial accounting basis, EPA devoted approximately 30 full-time equivalents (FTEs) to reviewing and processing applications for me-too product registrations and fast-track label amendments. The Agency spent $2.4 million in direct costs (not including administrative expenses, computer systems, management overhead, and other indirect costs) during FY '98 on expedited processing and reviews.

G. Future Schedule for Reregistrations

EPA is now conducting its reregistration in conjunction with tolerance reassessment under FQPA. That law requires the Agency to reassess all existing tolerances over a 10 year period to ensure consistency with the new safety standard, and to consider pesticides that appear to pose the greatest risk first. The OP pesticides thus are the focal point of EPA's reregistration and tolerance reassessment programs at present (see List 1).

List 1.—The Organophosphate Pesticides

Acephate
Azinphos-methyl
Bensulide
Cadusafos*++
Chlorethoxyfos++
Chlorpyrifos
Chlorpyrifos-methyl++
Chlorthiophos**
Coumaphos+
Dialifor**
Diazinon
Dichlorvos (DDVP)
Dicrotophos
Dimethoate
Dioxathion**
Disulfoton
Ethion
Ethoprop
Ethyl parathion
Fenamiphos
Fenitrothion+
Fenthion
Fonofos**+
Isazophos**++
Isofenphos**+
Malathion
Methamidophos
Methidathion
Methyl parathion
Mevinphos**+
Monocrotophos**
Naled
Oxydemeton-methyl
Phorate
Phosalone**
Phosmet
Phosphamidon**+
Phostebupirim++
Pirimiphos-methyl
Profenofos
Propetamphos
Sulfotepp
Sulprofos**+
Temephos
Terbufos
Tetrachlorvinphos+
Tribufos (DEF)
Trichlorfon+

* Import tolerances only; no U.S. registrations.

** Canceled or proposed for cancellation; will be included in the organophosphate risk assessment if import tolerances remain after other tolerances are revoked.

+ Reregistration Eligibility Decision has been completed.

++ Registered post-'84 (not subject to reregistration).

EPA currently is reviewing each of the OP pesticides individually, and will conduct a cumulative assessment of all these pesticides together when the necessary methodology is complete. The Agency's pilot public participation process for the OPs features unprecedented pesticide information-sharing through the creation of public dockets (both electronic and in printed form), and several opportunities for public comment on each OP. Meanwhile, REDs for other types of pesticides are also in preparation. EPA expects to complete 8 to 10 REDs for the primarily non-OP RED candidates in List 2 below during the remainder of FY '99. In addition, several reregistration cases are in the process of being voluntarily canceled by their registrants.

These voluntary cancellations (and possibly others) will also count as FY '99 REDs (see List 3).

List 2.—Fiscal Year 1999 RED Candidates

Bendiocarb
Captan
EPTC
Folpet
Formetanate HCl
Lamprecide
Niclosamide
Pebulate
Sulfotepp (OP)*
TPTH

* EPA plans to complete a RED for the OP sulfotepp in FY '99, and will consider the pesticide again later in preparing a cumulative assessment for all the OP pesticides.

List 3.— Fiscal Year 1999 Voluntary Cancellations that Count as REDs, as of August 1999

Fonofos (OP)
Isofenphos (OP)
Oxythioquinox
Ryanodine
Vernolate

In prioritizing pesticides for reregistration eligibility review and tolerance reassessment, EPA continues to consider their potential risks, as reflected in the Agency's tolerance reassessment schedule published in the **Federal Register** on August 4, 1997. The Agency is giving highest priority to pesticides in Group 1 and is continuing to follow the schedule for reviewing clusters or waves of priority Group 1 pesticides, published in table 3 of our October 7, 1998, **Federal Register** Notice on Pesticide Reregistration Performance Measures and Goals for 1997 (63 FR 53895–53902) (FRL–6016–5). While focusing intensively on the organophosphates, the Agency also is making good progress in reviewing tolerances for other classes of pesticides in priority Group 1, including the carbamates, organochlorines, and probable B_2 carcinogens. EPA's current schedules for completing reregistration eligibility decisions (REDs) and tolerance reassessments for the carbamates, organochlorines, and carcinogens in Group 1 are presented in tables 7, 8, and 9 below.

TABLE 7.—SCHEDULE (ESTIMATED DATES BY FISCAL YEAR) FOR COMPLETING REDS AND TOLERANCE REASSESSMENTS FOR CARBAMATE PESTICIDES[1]

Chemical	RED	Tolerance Reassessment
Carbamates		
Asulam**	Completed*	2002*
Bendiocarb	1999	1999
Benomyl**	2000	2000
Carbaryl**	2000	2000
Carbofuran	2000	2000
Chlorpropham (CIPC)	Completed*	2002*
Desmedipham	Completed*	2002*
Formetanate HCl	1999	1999
Isopropyl Carbanilate (IPC or Propham)	(Canceled)	Completed
Methiocarb	Completed*	Completed*
Phenmedipham	2000	2000
Thiophanate methyl	2000	2000
Trimethacarb	(Canceled)	2001
Oxime Carbamates		
Aldicarb	2000	2000
Methomyl	Completed	Completed
Oxamyl	2000	2000
Thiodicarb**	Completed	Completed
Thiocarbamates		
Butylate	Completed*	2000*
Diallate	(Canceled)	Completed
EPTC	1999	1999
Molinate**	2000	2000
Pebulate	1999	1999
Thiobencarb	Completed	Completed
Vernolate	1999 (Canceled)	1999

[1] Triallate, which is both a carbamate and a carcinogen, is included in Table 9 below to avoid duplicate counting.

* RED completed before FQPA—needs FQPA reassessment.
** Is also a carcinogen.

TABLE 8.—SCHEDULE (ESTIMATED DATES BY FISCAL YEAR) FOR COMPLETING REDS AND TOLERANCE REASSESSMENTS FOR ORGANOCHLORINE PESTICIDES

Chemical	RED	Tolerance Reassessment
Dicofol *	Completed	Completed
Endosulfan	2000	2000
Lindane *	2000	2000
Methoxychlor	2001	2001

* Is also a carcinogen.

TABLE 9.—SCHEDULE (ESTIMATED DATES BY FISCAL YEAR) FOR COMPLETING REDS AND TOLERANCE REASSESSMENTS FOR CARCINOGENIC PESTICIDES IN GROUP 1

Chemical	RED	Tolerance Reassessment
Acetyldehyde	Completed	Completed
Acetochlor	(post-84)	2001**
Aciflourfen, Sodium salt	2000	2000
Alachlor	Completed	Completed
Amitraz	Completed *	2001
Amitrole	Completed	(no tolerances)
Atrazine	2000	2000
Cacodylic Acid	2000	2000
Captan	1999	1999
Chlorothalonil	Completed	Completed
Creosote	1999	(no tolerances)
Cyanazine	(Canceled effective 12/31/99)	2002
Cypermethrin	2001	Completed
Dacthal (DCPA)	Completed *	2002
Daminozide (Alar)	Completed	(no tolerances)
Diclofop-methyl	2000	2000
Difenoconazole	(post-84)	2003**
Ethalfluralin	Completed *	2002*
Ethylene Oxide	2001	2001
Folpet	1999	1999
Fomesafen	(post-84)	2002**
Heptachlor (non-food)	Completed	(no tolerances)
Hexythiazox	(post-84)	2002**
Imazalil	2000	2000
Iprodione	Completed	Completed
Lactofen	(post-84)	2000**
MGK Repellent 326	2002	(no tolerances)
Mancozeb	2000	2000
Maneb	2000	2000
Metam Sodium	2001	(no tolerances)
Metiram	2000	2000
Metolachlor	Completed *	2002*
Orthophenylphenol	2000	2000
Oryzalin	Completed *	2002*
Oxadiazon	2001	2001
Oxadixyl	(post-84)	2001**
Oxyfluorfen	2000	2000
Oxythioquinox	1999 (Canceled)	2000
Pentachloronitrobenzene (PCNB)	2001	2001
Pentachlorophenol (non-food)	1999	(no tolerances)
Permethrin	2001	2001
Procymidone	(Canceled)	2001 (import tolerance only)
Pronamide	Completed*	2001*
Propargite	2000	2000
Propazine	(Canceled)	2000
Propiconazole	2000	2000
Propylene Oxide	2000	2000
Simazine	2000	2000
Tebuconazole	(post-84)	Completed
Telone	Completed	(no tolerances)
Terbutryn	(Canceled)	2001
Terrazole	2000	2000
TPTH	1999	1999
Triadimefon	2001	2001

TABLE 9.—SCHEDULE (ESTIMATED DATES BY FISCAL YEAR) FOR COMPLETING REDS AND TOLERANCE REASSESSMENTS FOR CARCINOGENIC PESTICIDES IN GROUP 1—Continued

Chemical	RED	Tolerance Reassessment
Triadimenol	(post-84)	2001**
Triallate	2000	2000
Trifluralin	Completed *	2002*
Vinclozolin	1999	Completed

* RED completed before FQPA—needs FQPA reassessment.
** Registered after 1984. No RED needed; however, tolerances must be reassessed.

H. Projected Year of Completion of Reregistrations

EPA is now conducting reregistration in conjunction with tolerance reassessment, which FQPA mandates be completed by 2006. EPA plans to complete reregistration of pesticide active ingredients and products prior to the statutory deadline for completing tolerance reassessment.

List of Subjects

Environmental protection.

Dated: November 2, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides, and Toxic Substances.

[FR Doc. 99–30157 Filed 11–17–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6477–2]

Peach Metal Industries, Inc. Superfund Site, Byron, Peach County, Georgia, Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h) (1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) proposes to settle claims for response costs at the Peach Metal Industries, Inc. Site (''Site'') located in Byron, Peach County, Georgia. Briggs & Stratton Corporation (''B&S'') is liable for EPA costs under Section 107(a) of CERCLA, 42 U.S.C. 9607(a). EPA and B&S have reached an agreement wherein EPA will not pursue its past costs against B&S, provided that B&S seeks to dismiss its section 106(b) Petition for Reimbursement currently pending before the Environmental Appeals Board. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Ms. Batchelor at the above address on or before December 20, 1999.

Dated: November 4, 1999.

Anita Davis,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 99–30156 Filed 11–17–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 13, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. F&M National Corporation, Winchester, Virginia; to acquire 100 percent of the voting shares of The State Bank of the Alleghenies, Covington, Virginia.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Iowa State Financial Services Corporation, Fairfield, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Iowa State Bank & Trust Company, Fairfield, Iowa.

2. Iowa State Financial Services Corporation, Fairfield, Iowa; to merge with North Linn Corporation, Coggon, Iowa, and thereby indirectly acquire Linn County State Bank, Coggon, Iowa.

Board of Governors of the Federal Reserve System, November 12, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30070 Filed 11–17–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice.

SUMMARY: The FTC has submitted to the Office of Management and Budget

(OMB) for review and clearance under the Paperwork Reduction Act (PRA) information collection requests contained in its study of the marketing practices of the entertainment industry. The FTC proposes to seek information from members of the following industries: (1) Motion picture; (2) recording; and (3) video, personal computer, and coin operated games. To do this, the FTC first seeks OMB clearance and additional public comment regarding this notice, which is the second of two notices required by the PRA for information collection requests.

The FTC will also seek to obtain information through proposed consumer research. The FTC will forward a separate submission to OMB regarding that research, and publish a related notice in the **Federal Register** at that time.

DATES: Comments on the proposed information requests must be submitted on or before December 20, 1999.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following addresses: Edward Clarke, Senior Economist, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503, and to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, or by e-mail to <entstudy@ftc.gov>. The submissions should include the submitter's name, address, telephone number, and, if available, FAX number and e-mail address. All submissions should be captioned ''Entertainment Industry Study''—FTC File No. P994511.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information, such as requests for copies of the proposed collection of information (Supporting Statement and related attachments), should be addressed to Sally Forman Pitofsky, Attorney, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Telephone: (202) 326–3318, E-mail: <entstudy@ftc.gov>.

SUPPLEMENTARY INFORMATION: On August 25, 1999, the FTC published a **Federal Register** notice with a 60-day comment period soliciting comments from the public concerning the information collection requirements under the proposed study. See 64 FR 46392.

Comments Received

The FTC received three comments raising questions about the impact of the study on First Amendment rights, from Professor Erwin Chemerinsky of the University of Southern California, Philip D. Harvey of the Liberty Project, and Robert M. O'Neil, Director of the Thomas Jefferson Center for the Protection of Free Expression. In addition, the Interactive Digital Software Association (IDSA) filed a comment raising several other issues and concerns regarding the proposed study.

1. Comments Raising First Amendment Concerns

Professor Chemerinsky ''suggest[ed] that the FTC inquiry raises grave First Amendment concerns and * * * makes it highly unlikely that there is any practical utility to this inquiry.'' In this view, it is ''highly unlikely'' that ''restrictions on advertising of First Amendment protected material can be devised'' that would meet the standards set out in Constitutional jurisprudence. Mr. O'Neil stated that there is ''grave risk'' that the Commission's inquiry ''may chill entirely lawful non-deceptive marketing of lawful products—entertainment materials which (unlike most objects of marketing) enjoy First Amendment protection of their own'' and that ''the current study does not avoid potential free speech concerns by focusing on 'marketing practices' rather than on entertainment material which is the occasion or focus of marketing programs.'' Mr. Harvey stated that ''[a]lthough the current proceeding is merely an inquiry, the threat it undoubtedly poses of future governmental restrictions on both commercial and non-commercial speech will not only directly restrain protected commercial speech but also will begin to influence what underlying core expression is produced.''

From the outset in the study, the Commission has made clear that the purpose of the study is to evaluate whether and how members of the entertainment industry are marketing violent material to children and to assess the extent to which industry members adhere to the applicable self-regulatory systems that they have set for that marketing and advertising. The study of the ways that companies advertise and market their products falls squarely within the FTC's fact-finding authority under Section 6 of the Federal Trade Commission Act. *See* 15 U.S.C. 46(a). In addition, the Commission can readily assess the workings of the industries' self-regulatory systems without independently evaluating the content of the entertainment products involved, using only the ratings previously assigned to the products by the industry.

Moreover, the purpose of the study is not to enforce existing statutes or regulations. As noted by Chairman Robert Pitofsky in announcing the study, ''we are not embarking on a campaign of law enforcement. Our role is to study issues and report our findings to the President, Congress, and the American public. We expect that our end product will be a report, not a cluster of charges alleging law violations.'' [1] A Commission study of the way that companies advertise and market First Amendment-protected material can and will be conducted without implicating First Amendment concerns. *See generally Penthouse* v. *Meese*, 939 F.2d 1011, 1016 (D.C. Cir. 1991), *cert, denied*, 503 U.S. 950 (1992) (footnote omitted).

Finally, the report is expected to be useful for policymakers and the public, including parents, and may provide a basis for the industry to improve its self-regulatory efforts.

2. IDSA Comment

The Interactive Digital Software Association (IDSA) filed a comment raising several issues and concerns regarding the proposed study. Formed in 1994, the IDSA serves the business and public affairs needs of companies that publish video and computer games for consoles, personal computers, and the Internet. According to the IDSA, its member companies collectively account for approximately ninety per cent of the $5.5 billion in entertainment software sold in the U.S. in 1998.

First, IDSA describes several ''proactive steps'' the video and personal computer game industry has taken to ''address concerns about violent video games,'' including IDSA's Advertising Code of Conduct; IDSA's Entertainment Software Rating Board's (ESRB) program that rates websites promoting video games; ESRB programs with industry members to educate the public, particularly parents, about its rating systems; IDSA's current effort to encourage retailers not to rent or sell Mature-rated video games to children under 17 without parental permission; and ESRB's recent development of a new Advertising Review Council to

[1] Chairman Robert Pitofsky, ''The Influence of Violent Entertainment Material on Kids: What is to be Done?,'' speech before the National Association of Attorneys General, June 25, 1999, Nashville, Tennessee.

review content of advertisements for games.

The Commission welcomes these actions. As noted above, the purpose of the study is to examine how industry implements its own self-regulatory systems, such as those described in the IDSA comment. The report will highlight any significant changes or enhancements that any of the studied industries make in their self-regulatory systems.

Second, IDSA asks how the FTC will decide which video or computer games with violent content will be included in the review. The Commission will use the existing ratings systems to make that determination. Namely, the Commission will examine the advertising and marketing of electronic games that, due to their violent content, were: Rated Teen, Mature, or Adults Only under the ESRB system; rated with a violence level of ''2'' or above using the Recreational Software Advisory Council rating system; or, given a red label under the American Amusement Machine Association coin operated system.

Third, IDSA asks that the FTC not comment on the existing research on the impact of violence depicted in games on game players. While this request does not relate to the information that the Commission will seek from industry members, the Commission will consider IDSA's views in preparing the final report.

Fourth, IDSA states that neither the IDSA nor its members have the power to control the sales policies of retail establishments, and thus do not have the ability to restrict access to their games at the retail level. The Commission recognizes that there are limits on the ability of IDSA or individual game publishers to control retailers' sales policies. On their own, however, individual retailers have adopted policies to limit or restrict access, and IDSA and other industry groups are actively encouraging retailers to adopt such policies. The Commission intends to report on the existence and effectiveness of those efforts.

Fifth, IDSA asks that the Commission put out for public comment any survey instrument used to assess consumer attitudes toward and awareness of the ESRB, and that any such research only survey those who actually buy or play video games. Consistent with the requirements of the Paperwork Reduction Act, the survey instrument used to study consumer attitudes toward and awareness of the various rating systems will be made available to interested third parties upon request to Commission staff. Because the survey is intended to assess parents' views of the ratings systems, it will not be limited to those who play or buy video games, but will also include those whose children buy or play video games (as well as movies and music recordings).

Sixth, IDSA is concerned that the 450 person-hours estimated for compliance with the Commission's document requests will be too burdensome for some of IDSA's members. The Commission will carefully consider the burden its requests place on industry members, and will work with individual companies responding to those requests to minimize that burden wherever possible. Moreover, this burden figure constitutes the outer range of staff's burden estimate (*i.e.*, 225–450 hours per industry member), and will likely be less for smaller companies.

Description of the collection of information and proposed use: The FTC proposes to send information requests to approximately 60 to 75 members of the motion picture industry, the recording industry, and the video, personal computer, and coin operated game industry (''industry members'') to examine: (1) The voluntary systems used by industry members to rate or designate violent content in movies, recordings, and video or computer games; (2) how industry members market or advertise movies, recordings, and video or computer games rated or designated by industry as having violent content; and (3) whether industry members have policies or procedures to restrict access by children or teenagers under 18 to movies, recordings, and video or computer games rated or designated by industry as having violent content. The information sought will be obtained through interviews and document requests. The information will be sought on a voluntary basis, although the FTC has authority to compel production of this information under Section 6(b) of the FTC Act, 15 U.S.C. 46(b).

Estimated hours burden: Staff will conduct initial and follow-up interviews with individual industry members. The interviews should total no more than 8 hours for each industry member, for a maximum total of approximately 600 hours. In addition, staff will also ask each industry member to submit documents relating to the above subject areas. Because the members within each of the industries will necessarily vary in size, staff has provided a range of the estimated hours burden. This range is between 225 hours and 450 hours per member depending on the size of each. The total estimated burden of producing such documents per member is based on the following:

Organize document retrieval—25–50 hours
Identify requested information—100–200 hours
Retrieve responsive inforamtion—50–100 hours
Copy requested information—50–100 hours

Thus, the cumulative hours burden to produce documents sought will be between: 16,875 hours (225 hours × 75 members) to 33,750 hours (450 × 75 members).

Estimated cost burden: Staff has assumed that mid-management level personnel will handle the responses to interviews and has applied an average hourly wage of $150/hour for their labor. Thus, the total cost per member for the interviews should not exceed of $1,200 or $90,000 for the 75 respondents. The interviews are unlikely to require any capital expenditures.

It is not possible to calculate precisely the labor costs associated with this document production as they entail varying compensation levels of management and/or support staff among many companies of different sizes and in different industries. Individuals among some or all of those labor categories may be involved in the information collection process. Nonetheless, staff has assumed that mid-management level personnel will handle most of the tasks involved in gathering and producing responsive information, and has applied an average hourly wage of $150/hour for their labor. Staff also has applied an average hourly wage of $10 for the labor of clerical employees who will copy the responsive materials. Thus, the total labor cost per member should range between $26,750 and $53,500 per member depending on the size of each:

$26,750 (175 hours to assemble and review the production × $150 per hour + 50 hours for copying × $10 per hour) to $53,500 (350 hours to assemble and review the production × $150 per hour + 100 hours for copying × $10 per hour).

Accordingly the total labor costs for the 75 members should range between approximately $2 million to $4 million.

Staff estimates that the capital or other non-labor costs associated with the document requests are minimal. While the document requests may necessitate that industry members store copies of the requested information provided to the Commission, industry members should already have in place the means to do so. Industry members may have to purchase office supplies such as file folders, computer diskettes,

photocopier toner, or paper in order to comply with the Commission's information requests. Staff estimates that each industry member would spend $500 for such costs regarding the information requests, for a total additional non-labor cost burden of $37,500 ($500 × 75 members).

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 99–30165 Filed 11–17–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1891.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Application for the National Health Service Corps (NHSC) Scholarship Program (OMB No. 0915–0146): Extension

The National Health Service Corps (NHSC) Scholarship Program was established to help alleviate the geographic and specialty and other health practitioners in the United States. Under this program, health professions students are offered scholarships in return for service in a federally designated Health Professional Shortage Area (HPSA). The Scholarship Program provides the NHSC with the health professionals it requires to carry out its mission of providing primary health care to HPSA populations in areas of greatest need. Students are supported who are well qualified to participate in the NHSC Scholarship Program and who want to assist the NHSC in its mission, both during and after their period of obligated service. Scholars are selected for these competitive awards based on the information provided in the application and during the semistructured personal interview that is conducted by a team of two interviewers who use a structured scoring procedure. Awards are made to applicants that demonstrate a high potential for providing quality primary health care services.

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Application	3,000	1	1	3,000
Interview	900	1	1.67	1,503
Total	3,900			4,503

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: November 10, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–30083 Filed 11–17–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Employment Sites of Nursing Graduates Supported by the Professional Nurse Traineeship Program: New

Under Section 830 of Title VIII of the Public Health Service Act, Professional Nurse Traineeship (PNT) grants are awarded to eligible institutions for the support of students in advanced nursing education. Traineeships are then awarded by the institutions to individuals enrolled in graduate programs to prepare for practice as advanced practice nurses. These funds are distributed to institutions based on a formula that incorporates three statutory funding factors. The factor to be studied is the funding preference which is given to institutions that can demonstrate either a high rate of placing graduates in medically underserved communities (MUCs), or achieving a significant increase in the rate of placing graduates in such settings.

This study is intended to assess the influence of funding preference on program performance and to determine program success in placing PNT graduates in MUCs. Approximately 5,000 graduates who received Master's or Doctoral degrees in academic years 1996–1997 and 1997–1998, including 1,200 who received PNT funds but were not graduates of the schools receiving the preference, will be included in this survey. Data will be obtained on the graduates place of residence and place

of employment before, during and after their program of study. The study will examine various measures associated with the career paths chosen by these graduates and by comparing these measures within and between the two groups of graduates. Comparisons of employment sites of graduates in schools receiving the preference with those of graduates in schools not receiving the preference will indicate the significance of funding preference in promoting program objectives of increasing access to care in underserved communities. Information on both the nursing-specialty of graduates and their current employment setting will be analyzed for each of the two groups.

The estimated burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Nurses	4000	1	20 (in minutes)	1320
Ineligible nurses	37	1	5 (in minutes)	4
Total	4037			1324

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: November 10, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–30082 Filed 11–17–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Peptide Inhibitor of Cyclin Dependent Kinase 4 (cdk4) Derived from MyoD

BM Paterson, J Zhang (NCI).
Serial No. 60/139,934 filed 18 Jun 1999.
Licensing Contact: Susan S. Ricker; 301/496–7056 ext. 245; e-mail: sr156v@nih.gov.

This invention pertains to cell cycle regulation and the activity of the GI cyclin-dependent kinase 4 (CDK4). The invention describes a 15 amino acid peptide and variants thereof derived from MyoD, which is an inhibitor of the CDK4. CDK4 is one of a number of cyclin-dependent kinases which control progression through the cell cycle through their ability to phosphorylate particular substrates at the correct phase of the cell cycle. CDK4 has been shown to be involved in cell cycle control through its ability to regulate the activity of the retinoblastoma protein, pRb, an activator of genes essential for cell division.

Inhibitors of the cyclin-dependent kinases (CKIs), such as the peptides described in this invention, prevent cell cycle progression and induce cells to exit the cell cycle into the Go state. The peptides described in this invention prevent the phosphorylation of pRb by cdk4, an obligate step for entry into the cell cycle. Osteosarcomas and habdosarcomas are two types of tumors known to over-express pRb. The inhibitor described in this invention may be useful in treating these cancers or other diseases which have been specifically linked to over-expression of active pRb.

Background material related to this invention has been published [Zhang. J. *et al.* EMBO J 18(4): 926–33 (Feb. 15, 1999)].

Chromatographic Separation of Proteins by Ammonium Sulfate Precipitation

Yoichiro Ito (NHLBI)
Serial No. 09/263,609 filed 05 Mar. 99
Licensing Contact: John Fahner-Vihtelic; 301/496–7735 ext. 270; e-mail: jf36z@nih.gov

Recently, a field flow fractionation apparatus and method for the chromatographic separation of proteins have been developed. Unique in design, the fractionation apparatus contains two spiral channels, a reagent channel and a sample channel carved into two mating disks separated by a semi-permeable membrane. The primary advantage to this design is that it allows proteins passing through the sample channel to be fractioned according to their ability to precipitate out in the presence of an exponential ammonium sulfate concentration gradient in the reagent channel. Protein elution is achieved by repetitive precipitation, and takes place along the sample channel without the tedious manual labor required by conventional fractionation procedures. This method can also utilize other precipitation reagents such as NaCl, ethanol and polyethylene glycols. Applications would include purification of monoclonal antibodies (IgM and IgG) from a culture medium and ascitic fluid and affinity separation of recombinant enzymes from E. coli lysate. A working prototype is undergoing additional refinement.

Calcium Channel Compositions and Methods of Use Thereof

Michael I. Lerman *et al.* (NCI)
Serial No. 60/114,359 filed 30 Dec 1998
Licensing Contact: Susan S. Rucker; 301/496–7056 ext. 245; e-mail sr156v@nih.gov

The invention described in this patent application relates to the identification, isolation and cloning of a three cDNAs identified during a search of the short arm of chromosome 3 for a tumor suppressor gene (TSG) associated with lung, breast and other cancers. The cDNAs are alternate isoforms which encode a protein which functions as a

L-type voltage-dependent calcium channel. Type L-voltage dependent calcium channels represent one of five families of calcium channels, L, R, P, N, Q, which have been identified. Type L voltage-dependent calcium channels are found in a wide variety of tissues including the brain, muscle and the endocrine system.

The gene has been mapped to the short arm of chromosome 3 at 3p21.3. The gene, which corresponds to this cDNAs is an alpha2delta (α2δ) subunit, and has been shown to be deleted in lung and breast cancer. The scientists have demonstrated that the expression of this calcium channel has been shut off in lung cancer cells and hypothesize that this may lead to a malignant phenotype. Possible applications of this technology include its use in drug screening assays; its use as an early diagnostic marker and/or as a prognostic or treatment indicator; its use in gene therapy where defective cells would be reconstructed with the gene and as a therapeutic agent for clearing autoantibodies which develop toward the alpha2delta subunit in the disease Lambert-Eton myasthenia syndrome.

Hepatitus C Virus (HCV) Envelope Protein Modified for Expression on the Host Cell Surface and Use of DNA Constructs Encoding the Modified Protein as a Vaccine and of Host Cells Expressing the Protein in Diagnostic and Screening Assays

Xavier Forns, Suzanne U. Emerson, Jens Bukh, Robert H. Purcell (NIAID)
Serial No. 60/089,779 filed 18 Jun 1998
Licensing Contact: J. Peter Kim; 301/496–7056 ext. 264;
e-mail: jk41n@nih.gov

Hepatitis C virus (HCV) is a single stranded RNA virus responsible for the majority of non-A non-B hepatitis. Hepatitis C virus (HCV) has a worldwide distribution and is a major cause of liver cirrhosis and hepatocellular carcinoma in the U.S., Europe, and Japan. For this reason, development of a vaccine against hepatitis C is of great importance.

The present invention provides for hepatitis C virus (HCV) vaccines and diagnostic assays. The invention provides chimeric genes, expression vectors which comprise these chimeric genes, and DNA based vaccines which employ the expression vectors as immunogens to produce protective antibodies to HCV in a mammal. The invention further provides for diagnostic assays to screen sera for the presence of antibodies to HCV envelope proteins, as antigens in the screening of phage display combinatorial libraries, and as reagents to develop tissue culture systems suitable for testing anti-HCV envelope antibodies for neutralizing activity.

Human FRP and Fragments Thereof Including Methods for Using Them

US Rubin (NCI), PW Finch, SA Aaronson, and X He
Serial No. 09/087, 031 field 29 May 1998
Licensing Contact: Susan S. Rucker; 301/496–7056 ext 245; e-mail: sr156v@nih.gov

This application relates to signal transduction pathways and mechanisms. More particularly, the application describes the isolation, cloning of the cDNA encoding, and characterization of a human protein denoted ''Frizzled Related Protein'' or FRP. FRP, also known as sFRP–1, is a secreted protein which contains an N-terminal cysteine-rich domain (CRD) which is a similar to the CRDs of the frizzled family of membrane anchored Wnt receptors. sFRP–1 lacks any transmembrane region or cytoplasmic domain characteristic of molecules capable of transducing a signal within a cell but is preferentially distributed to the cell surface or matrix.

Wnt signaling has been implicated in the development of cancers and various organs. sFRP–1 has been demonstrated to antagonize Wnt signaling and therefore may function as an inhibitor of Wnt activity or otherwise modulate Wnt signaling. In addition, others have suggested that sFRP–1 plays a role in regulating apoptosis by sensitizing cells to apoptotic agents and modulating levels of β-catenin. The gene encoding sFRP–1 is found on the short arm of chromosome 8 at 8p11.1–12. RNA transcripts have been identified in multiple adult tissues such as the heart, kidney, ovary, prostate, testis, small intestine and colon but have not been detected in a number of other tissues.

In view of this sFRP–1 derived products may be useful in further study of sFRP–1—Wnt interactions, drug screening assays, the development of diagnostics for cancer or other conditions which are related to Wnt signaling, or may be developed as therapeutic agents themselves. Recombinant FRP, expression vectors containing FRP cDNA and cDNA containing the full length FRP coding sequence are available. Limited quantities of rabbit polyclonal antisera which specifically binds FRP is also available.

This work has appeared, in part, in Finch, PW, *et al.* PNAS 94(13): 6770–75 (June 24, 1997) and has been published as WO 98/54325 (Dec. 3, 1998).

Use of Lipoxygenase Inhibitors as Anti-Cancer Therapeutic and Intervention Agents

James L. Mulshine, Marti Jett (NCI)
Serial No. 08/704,569 filed 03 Dec 96
Licensing Contact: Girish Barua; 301/496–7056 ext. 263; email gb18t@nih.gov

We have reported that S-Lipoxygenase inhibitors can treat or prevent certain epithelial cancers such as lung cancer, breast cancer, and head and neck cancer. This is believed to occur from the interruption of the 5-lipoxygenase pathway which results in increased tumor cell apoptosis. We have demonstrated this effect for the growth factor-induced stimulation in several model systems so we propose this as a robust anti-promotional chemoprevention approach as well.

Suitable 5-lipoxygenase inhibitors useful for the methods of the present invention include 2-(12-Hydroxydodeca-5, 10-dinyl) 3,5,6-trimethyl-1,4benzoquinone and derivatives thereof; Nordihydroguiaretic acid and derivatives and 3-[1-(4-chlorobenzy)-3-t-butylthio-t-isopropyl-indol-2-yl] -2, 2-dimethylpropionic acid and derivatives thereof. Also intended to be encompassed by this are hydroxyurea derivatives as inhibitors of 5-lipoxygenase for use in the prevention and treatment of the cancers mentioned above.

Dated: November 9, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 99–30065 Filed 11–17–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Methods of Inhibiting Cancer Cells With ADNF III Antisense Oligonucleotides

I Gozes, R Zamostiano, E Gelber, A Pinhasov, M Bassan (all of Tel Aviv University), DE Brenneman (NICHD)
Serial No.: 09/364,609 filed 30 Jul 1999.
Licensing Contact: Susan S. Rucker; 301/496–7056 ext. 245; e-mail: sr156v@nih.gov.

This application describes methods of inhibiting the proliferation of cells using an antisense oligonucleotide derived from the polypeptide Activity Dependent Neurotrophic Factor III (ADNF III)/Activity Dependent Neuroprotective Protein (ADNP). Preferred antisense oligonucleotides are complementary to the 5′ region of ADNF III/ADNP. The ability of such antisense oligonucleotides to inhibit cell proliferation has been demonstrated in *in vitro* models such as the HT29 colon cancer cell line. Based on the location of ADNF III/ADNP on chromosome 20 at 20q13, a region which has been shown via CGH to be associated with breast, ovary, colon, head and neck, brain and pancreatic cancers, ADNF III/ADNP antisense molecules might also be expected to be useful in treating one or more of these cancers.

Orally Active Peptides That Prevent Cell Damage and Death

DE Brenneman, CY Spong (both of NICHD), I Gozes, A Pinhasov, E Giladi (all of Tel Aviv University)
Serial No.: 60/149,956 filed 18 Aug. 1999.
Licensing Contact: Susan S. Rucker; 301/496–7056 ext. 245; e-mail: sr156v@nih.gov.

This application describes two peptides which are orally active and which have been shown in *in vitro* assays to protect against neuronal cell death. In animal model systems for Alzheimer's disease and Fetal Alcohol Syndrome the peptide have also been demonstrated to be useful. The first peptide is D–SAL, a D-isomer of the peptide SAL (SALLRSIPA) derived from Activity Dependent Neurotrophic Factor I (ADNF I). The second peptide is D–NAP, a D-isomer of the peptide NAP (NAPVSIPQ) derived from a related protein Activity Dependent Neuroprotective Protein (ADNP)/Activity Dependent Neurotrophic Factor III (ADNF III). The peptides may be used alone or in combination. The peptides may be constructed solely of D-isomers of their amino acids or combinations of D and L amino acids. Other diseases involving neuronal cell death where D–SAL or D–NAP may be useful include Huntington's disease, epilepsy, Parkinson's disease and Tourette's syndrome.

Dated: November 9, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–30067 Filed 11–17–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting of Recombinant DNA Advisory Committee

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: December 8–10, 1999.

Time: December 8, 1999, 9 a.m. to 5 p.m.

Agenda: The Committee will discuss Proposed Actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496) and other matters to be considered by the Committee. The Proposed Actions to be discussed will follow this notice of meeting.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Time: December 9, 1999, 8:30 a.m. to 5:00 p.m.

Agenda: See paragraph above for Agenda.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Time: December 10, 1999, 8:30 a.m. to 5:00 p.m.

Agenda: See paragraph above for Agenda.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Debra W. Knorr, Deputy Director, Office of Biotechnology Activities, NIH, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, MD 20892–7010.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: November 1, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30066 Filed 11–17–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4442–N–14]

Notice of Proposed Information Collection for Public Comment: Notice of Funding Availability and Application Kit for the Hispanic-Serving Institutions Work Study Program (HSI–WSP)

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 18, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and be sent to: Reports Liaison Officer, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 708–1537, extension 5925. This is not a toll-free number. Copies of the proposed forms and other available documents to be submitted to OMB may be obtained from Ms. Karadbil.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected entities concerning the proposed information collection to: (1) Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed information collection; (3) Enhance the quality, utility, and clarity of information to be collected; and (4) Minimize the burden of collection of information on those who are to respond; including through the use of appropriate technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of the Proposal: Notice of Funding Availability and Application Kit for the Hispanic-Serving Institutions Work Study Program (HSI–WSP).

Description of the need for the information and proposed use: The information is being collected to select grantees in this statutorily-created competitive grant program. The information is also being used to monitor the performance of grantees to ensure that they meet statutory and program goals and requirements.

Members of the affected public: Certain Hispanic-serving institutions of higher education: 40 applicants and 15 grantees.

Estimation of the total number of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours of response: Information pursuant to submitting applications will be submitted once. Information pursuant to grantee monitoring requirements will be submitted once a year.

The following chart details the respondent burden on an annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Application	40	40	40	1,600
Annual Reports	15	30	6	180
Final Reports	15	15	8	120
Recordkeeping	15	15	5	75
Total				1,975

Status of proposed information collection: OMB approved an emergency paperwork clearance for this information collection and assigned it OMB Control No. 2528–0182, expiration date March 31, 2000.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 10, 1999.

Lawrence L. Thompson,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 99–30085 Filed 11–17–99; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Managers Forum

AGENCY: Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: This notice is published in accordance with section 10(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (1988) and 41 CFR 101–6.1015(b). The Department of the Interior hereby gives notice of a public meeting of the Alaska Land Managers Forum to be held on Friday, December 3, 1999, beginning at 9:00 a.m. It will take place at the Alaska Native Heritage Center, 8800 Heritage Center Drive, Anchorage, Alaska. This meeting will be held to receive and discuss work group reports on recreation and tourism, and announce winners of the 1999 awards program. The agenda will also include several briefing items.

FOR FURTHER INFORMATION CONTACT: Ronald B. McCoy at (907) 271–5485 or Sally Rue at (907) 465–4084.

Marilyn Heiman,

Special Assistant to the Secretary for Alaska, Department of the Interior, Office of the Secretary.

[FR Doc. 99–30093 Filed 11–17–99; 8:45 am]

BILLING CODE 4310–RP–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–016016

Applicant: George Carden Circus International, Inc, Springfield, MO.

The applicant requests a permit to export and re-import a captive born Asian elephant (*Elephas maximus*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–019212

Applicant: Triple S Game Farm, Edmond, OK.

The applicant requests a permit to import one captive-bred male Cabot's tragopan (*Tragopan caboti*) from Glen Howe, Ontario, Canada, for the purpose of propagation for the enhancement of the survival of the species.

PRT–014863

Applicant: Biotracking, Moscow, ID.

The applicant requests a permit to import 129 blood and serum samples of captive wood bison (*Bison bison athabascae*) from the Northwest Territories, Canada, for the purpose of enhancing the survival of the species.

PRT–019532

Applicant: Jerry L. Barth, Elsa, TX.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–019172

Applicant: Thomas R. Pledger, JR., Jupiter, FL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–019474

Applicant: Michael D. Justice, Boise, ID.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population, Northwest Territories, Canada for personal use

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with the application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the above address within 30 days of the date of publication of this notice.

Dated: November 15, 1999.

Kristen Nelson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–30166 Filed 11–17–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On September 22, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 183, Page 51333, that an application had been filed with the Fish and Wildlife Service by Dr. Darlene Ketten, Woods Hole Oceanographic Institute, Woods Hole, MA for a permit (PRT–017419) to import 3 heads of Dugong (*Dugong dugong*) from Australia for the purpose of scientific research. The Service incorrectly processed the request which was actually for 6 heads.

Notice is hereby given that on November 10, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: November 15, 1999.

Kristen Nelson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–30167 Filed 11–17–99; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of a currently approved information collection (OMB Control Number 1010–0041).

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on a proposal to extend the currently approved collection of information discussed below. We intend to submit this collection of information to the Office of Management and Budget (OMB) for approval. The Paperwork Reduction Act of 1995 (PRA) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Submit written comments by January 18, 2000.

ADDRESSES: Mail or hand carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, telephone (703) 787–1600. You may also contact Alexis London to obtain a copy of the collection of information at no cost.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart K, Production Rates (1010–0041).

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, gives the Secretary of the Interior (Secretary) the responsibility to preserve, protect, and develop oil and gas resources in the OCS, consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resource development with protection of the human, marine, and coastal environments; ensure the public a fair and equitable return on the

resources of the OCS; and preserve and maintain free enterprise competition.

Regulations at 30 CFR 250, subpart K, implement these statutory requirements. We use the information collected to determine if produced gas can be economically put to beneficial use, to analyze the risks of transporting the liquid hydrocarbons against the value of the resource, and to account for volumes of flared gas and burned liquid hydrocarbons. The MMS uses the information in its efforts to conserve natural resources, prevent waste, and protect correlative rights including the Government's royalty interest. Specifically, MMS uses the information to review records of burning liquid hydrocarbons and venting and flaring actions to ensure that they are not excessive; to determine maximum production and maximum efficient rates; to compare the volume of hydrogen sulfide (H_2S) flared and the sulphur dioxide (SO_2) emitted to the specified amounts in approved contingency plans; to monitor monthly atmospheric emissions of SO_2 for air quality; to review applications for downhole commingling to ensure that action does not result in undervalued royalties; and to ensure that operations are effective and result in optimum ultimate recovery.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 250.118. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: The frequency is on occasion or monthly.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: The currently approved annual reporting and recordkeeping burden for this collection is 13,650 hours, which averages 105 hours per respondent.

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified no cost burdens for this collection.

Comments

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments and our consultations with a representative sample of respondents, we will make any necessary adjustments to the burden in our submission to OMB. In calculating the burden, we assumed that respondents perform many of the requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

(1) We specifically solicit your comments on the following questions:

(a) Is the proposed collection of information necessary for us to properly perform our functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on respondents, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

(2) In addition, the PRA requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. We need to know if you have costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

MMS Information Collection Clearance Officer

Jo Ann Lauterbach, (202) 208–7744.

Dated: November 8, 1999.

Elmer P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 99–30078 Filed 11–17–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Central Gulf of Mexico, Oil and Gas Lease Sale 175

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of the proposed notice of sale.

Gulf of Mexico Outer Continental Shelf (OCS); Notice of Availability of the proposed Notice of Sale for proposed Oil and Gas Lease Sale 175 in the Central Gulf of Mexico. This Notice is published pursuant to 30 CFR 256.29(c) as a matter of information to the public.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides the affected States the opportunity to review the proposed Notice. The proposed Notice sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

The proposed Notice of Sale for Sale 175 and a ''Proposed Sale Notice Package'' containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 735–2519.

The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for March 15, 2000.

Dated: November 8, 1999.

Thomas R. Kitsos,

Acting Director, Minerals Management Service.

[FR Doc. 99–30095 Filed 11–17–99; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision, Final Environmental Impact Statement, Comprehensive Management and Use Plan; Oregon, California, Mormon Pioneer and Pony Express National Historic Trails

Introduction

The National Park Service has developed a Comprehensive Management Plan / Final Environmental Impact Statement for the Oregon, California, Mormon Pioneer and Pony

Express National Historic Trails. The Final Environmental Impact Statement presents alternatives and their environmental consequences for the administration and protection of resources, visitor use and interpretation, and agency cooperation among all the partners involved in this project.

The purpose of this Record of Decision is to document the selected alternative from those presented in the Final Environmental Impact Statement. The Record of Decision highlights information contained in the Final Environmental Impact Statement.

Background

In 1978 Congress authorized the Oregon and Mormon Pioneer National Historic Trails to commemorate these significant routes of travel and to promote their preservation, interpretation, public use, and appreciation. In 1992 it authorized the California and Pony Express National Historic Trails. The National Trails System Act required that comprehensive management and use plans be prepared. Plans for the Oregon and Mormon Pioneer were approved in 1981, but need to be updated to provide additional guidance on high-potential sites and segments, resource protection techniques, site certification, visitor use, interpretation, and cooperative management.

The Final Environmental Impact Statement is programmatic in that the proposal does not call for any undertaking or action that would result in ground disturbances. Any future development would require additional environmental compliance to be carried out as required by state and local regulations and the provisions of the National Environmental Policy Act (NEPA) and section 106 of the National Historic Preservation Act.

Selected Alternative

The National Park Service selected alternative 2, the proposed action as described in the Final Environmental Impact Statement for implementation.

Alternative 2 (enhanced conditions and a historic trails partnership) focuses on enhancing resource preservation and visitor use. To do so, it would be necessary to achieve the highest possible degree of cooperation among the partners, increase awareness of the need to work together, and communicate what is being planned and what is actually being done. The alternative calls for an improved visitor experience through integrated development and programming and a comprehensive strategy for resource protection, including an ambitious program to inventory and monitor resources that would bring together, in one location, information that is currently dispersed.

Some components of this plan signal new approaches to the management of historic trails. A geographic information system (GIS) has been used to map most of the routes and the locations of the high-potential sites and segments associated with the four trails. These data, in conjunction with the computerized data set of the trail resources generated during the planning process would become the starting point for a systematic and coordinated effort to use the Salt Lake City office as the central repository for all trail-related resource information.

Other Alternative Considered

An additional alternative has been considered in addition to the proposed action. Alternative 1 is a continuation of current management practices. It reflects the wide variability in the administration and management, resource protection strategies, and interpretation, visitor experience, and use that exist today. The alternative notes how resource protection, trail marking, and interpretation are ongoing processes and how increasing levels of cooperation and coordination are becoming more common among the various trail partners. However, coordination among the different trail-managing agencies, or even within the same agency is inconsistent. Furthermore, the various existing plans that these agencies have developed seldom address trail resources and measures for their protection and appropriate public use.

Basis for Decision

Alternative 2 is selected because it most fully satisfies the dual purposes of the National Trails System Act—to ''provide for the outdoor recreation needs of an expanding population,'' and ''to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the nation.'' The proposal focuses on attaining increased efficiency, closer communication, and more strategic resource protection. It fosters interagency cooperation that would result in greater resource protection and make for a much more efficient cost-conscious administration.

Environmentally Preferable Alternative

The environmentally preferable alternative is alternative 2. This alternative best protects and preserves historic, cultural and natural resource. The assessment of resource vulnerability, the resource monitoring program and the increased coordination among the trail partners will minimize any impacts from the increased visitation that might result from this alternative. Enhanced trail education programs and the resulting increase in public awareness will make visitors more sensitive to the significance and fragile nature of trail resources, in particular cultural landscapes. This in turn might have beneficial impacts on cultural landscapes, as visitors would be more likely to appreciate and respect resources.

Measures To Minimize Environmental Harm

The selected alternative establishes conceptual-level guidelines for administering resource protection and visitor experience. Potential impacts of implementation have been discussed for this level of analysis and all practicable means to avoid or minimize environmental harm have been identified. The Final Environmental Impact Statement is a programmatic document that will require additional planning and compliance if specific actions were to be implemented and would cause any ground disturbance. At that time, NPS will consult with the partner agencies and the public and will document compliance with all relevant federal, state, and local laws, regulations and policies. Through this process, all site-specific impacts will be identified and all practicable means to avoid or minimize environmental harm will be adopted.

Public and Interagency Involvement

Public involvement was extensive, including newsletters, public reviews, and public meetings. The Draft Environmental Impact Statement was available for a 60-day public review from August 21 to October 19, 1998. Close to 1,000 copies were distributed for review. Public meetings were held in later September and early October at nine locations throughout the west and were attended by approximately 180 people. Written comments were received from 32 federal, state, and local agencies. The Final Environmental Impact Statement has been revised in response to substantive comments on the draft document. In accordance with the Council on Environmental Quality Regulations for implementing NEPA, all written responses from public agencies are reprinted as part of the Final Environmental Impact Statement. Substantive comments from individuals were summarized and included in table format.

Conclusion

Considering each alternative and its environmental impacts, the public response, the purpose of the trails, and the administrative objectives, the National Park Service concludes that alternative 2 is the best course of action for preserving trail resources and for their interpretation and public enjoyment.

Address

Copies of the Record of Decision can be obtained from the following address: Superintendent, Long Distance Trails Office, 324 S. State Street, Suite 250, PO Box 45155, Salt Lake City, UT 84145–0155, Telephone (801) 539–4095.

Recommended:

Dated: November 10, 1999.

Jere L. Krakow,

Superintendent, Long Distance Trails Office.

Approved: November 10, 1999.

Michael D. Synder,

Director, Intermountain Region.

[FR Doc. 99–30113 Filed 11–17–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement for General Management Plan, Redwood National and State Parks, Humboldt and Del Norte Counties, California; Notice of Availability

Summary: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (Pub. L. 81–190 as amended), the National Park Service, Department of the Interior, has prepared a final Environmental Impact Statement (FEIS) assessing the potential impacts of adopting a General Management Plan (GMP) for Redwood National and State Parks. These parks comprise a 105,516-acre cooperative federal-state parklands area that preserves some of the last remaining stands of the world's tallest trees along 35 miles of scenic northwestern California coastline. The document identifies and evaluates the potential environmental consequences of a Proposed Action and three Alternatives; appropriate mitigation measures are also identified and evaluated. Once approved, the GMP will guide resource management and preservation, watershed protection, restoration, and other stewardship activities (as well interpretation, site planning and other operations) for the next 10–15 years.

This FEIS/GMP document also incorporates all the elements of an Environmental Impact Report/General Plan, which were prepared concurrently by the State of California's Department of Parks and Recreation. Although this comprehensive document results and benefits from a cooperative effort, each agency has slightly different requirements for completing the conservation planning and environmental impact analysis process.

Proposal and Alternatives

This document presents and analyzes four alternatives for joint management of the commingled Redwood National and State Parks. The concept under Alternative 1 (the proposed action) would be to emphasize the protection of the parks' resources and values (including proactive restoration where sensitive resources are at risk). A variety of opportunities for visitors to be inspired by cultural and natural values would be ensured. Under Alternative 2 (no action), existing management policies and resources protection, preservation, and restoration programs would be continued; some trail development and new campgrounds as described in previously approved plans for the area would also occur. Under Alternative 3 the agencies would emphasize resource restoration, protection, and preservation; the opportunities for public use and enjoyment of parklands would be limited to experiences consistent with a high degree of resource stewardship. Under Alternative 4 priority would be placed on providing a wide spectrum of appropriate visitor experiences, consistent with overarching stewardship obligations to protect parklands resources and values.

The degree of foreseeable impact varies according to each Alternative, and includes: major beneficial effects from watershed and estuary restoration; some short-term adverse effects from proposed facility development and visitor use activities; and substantial economic benefits from park visitation, operations, and construction in the Humboldt-Del Norte area. Both the Draft and Final documents evaluate the same Proposed Action and Alternatives. The environmental consequences of the Alternatives are fully documented in the FEIS. No significant adverse impacts are foreseen from the three action Alternatives, because each includes provisions to avoid or mitigate potentially significant impacts. However, the No-Action Alternative could result in significant long-term impacts to natural and cultural resources due to management and protection activities insufficient to keep pace with conditions and trends foreseen. Estimated costs to implement the Alternatives are presented and compared in the appendices.

Public Review

Public collaboration with various local and regional organizations and individuals was formally initiated with a Notice of intent published in the **Federal Register** on May 24, 1996. Public scoping meetings were held in Brookings, Oregon and Eureka, Orick, Klamath, and Crescent City, California during June, 1996. During this period a number of focus group meetings and workshops were held. Consultations were undertaken with the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the California State Historic Preservation Office. The Yurok Tribal Heritage Preservation Officer participated as an active consultant in the overall conservation planning and environmental analysis process (following a one-day scoping workshop undertaken with eight American Indian Tribes, Rancherias, and Nations). The Draft EIS/GMP was formally released July 9, 1998 for a 60 day public review (which was extended for 30 days through November 8, 1998). During the draft review period, four public meetings and numerous workshops and informal meetings were conducted in local communities. Approximately 600 written comments and preprinted signed forms were received.

SUPPLEMENTARY INFORMATION: For more information or to obtain a copy of the document, contact the Superintendents, Redwood National and State Parks, 1111 Second Street, Crescent City, CA 95531; or telephone 1–800–423–6101 or voice/TDD 707–464–6101; or via e-mail at redw__superintendent@nps.gov. The document will also be available at area libraries. the no-action period for the FEIS/GMP will extend for thirty (30) days after the Environmental Protection Agency's notification of the filing of the document is published in the **Federal Register.** Subsequently, the National Park Service will prepare a Record of Decision, which will also be duly noticed in the **Federal Register**. The official responsible for the NPS decision is the Regional Director, Pacific West Region; the responsibility for the State decision is vested with the California State Park and Recreation Commission in concert with the Depart of Parks and Recreation. The officials responsible for implementation are the Superintendents, Redwood National and State Parks.

Dated: November 9, 1999.

John J. Reynolds,

Regional Director, Pacific West Region.

[FR Doc. 99–30112 Filed 11–17–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Designation of Potential Wilderness as Wilderness, Point Reyes National Seashore

AGENCY: National Park Service, Interior

ACTION: Notice.

Public Law 94–567, approved October 20, 1976, designated 25,370 acres in Point Reyes National Seashore as Wilderness, and further identified 8,003 acres as potential wilderness additions in maps entitled ''Wilderness Plan, Point Reyes National Seashore'', numbered 612–90,000–B and dated September 1976. These maps showing the wilderness area and potential wilderness additions are on file at the headquarters of Point Reyes National Seashore, Point Reyes Station, California, 94956.

Section 3 of Public Law 94–567 provided a process whereby potential wilderness additions within the Point Reyes National Seashore would convert to designated wilderness upon publication in the **Federal Register** of a notice that all uses of the land, prohibited by the Wilderness Act (Pub. L. 88–577), have ceased.

The National Park Service has determined that all Wilderness Act prohibited activities on the following described designated potential wilderness additions have ceased. The lands are located in the Muddy Hollow, Abbotts Lagoon, and Limantour Area and are described on map 612–60, 189. Such lands are entirely in Federal ownership. Because such lands now fully comply with congressional direction in Section 3 of Public Law 94–567, this notice hereby effects the change in status of the lands in these areas to designated wilderness, totaling 1,752 acres, more or less. The map showing this change is on file at the headquarters of Point Reyes National Seashore, Point Reyes Station, California, 94956.

This notice hereby changes the total wilderness acreage within Point Reyes National Seashore to 27,122 acres. The potential wilderness additions remaining consist of 6,251 more or less. The remaining potential wilderness areas will remain as such until all uses conflicting with the provisions of the Wilderness Act have ceased.

Note that Congress in Public Law 99–68, approved on July, 1985, designated that the wilderness area of Point Reyes National Seashore, to be known as the ''Phillip Burton Wilderness.''

Dated: October 29, 1999.

Robert Stanton,

Director, National Park Service.

[FR Doc. 99–29779 Filed 11–17–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 9, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ({202} 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol. gov). To obtain documentation for ESA, MSHA, OHSA, and VETS contact Darrin King ({202} 219–5096 ext. 151 or by E-Mail to King-Darrin@dol. gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Shipyard Certification Records (29 CFR 1915.113(b)(1) and 1915.172(d)).

OMB Number: 1281–0220.

Frequency: On occasion; Quarterly; Annually.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 900.

Estimated Time Per Respondent: 3 to 20 minutes.

Total Burden Hours: 4461.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The Standard for shackles and hooks (29 CFR 1915.113(b)(1)) requires that all hooks for which no applicable manufacturer's recommendations are available shall be tested to twice their intended safe work load before they are initially put into use, and that the employer shall maintain a certification record. The standard for portable air receivers (29 CFR 1915.172(d)) requires that portable, unfired pressure vessels, not built to the code requirements of 1915.172(a), shall be examined quarterly by a competent person and that they be subjected yearly to a hydrostatic pressure test of one and one-half times the working pressure of the vessels. A certification record of these examinations and tests shall be maintained.

The information collection requirements contained in 29 CFR 1915.113(b)(1) and 29 CFR 1915.172(d) (shipyard certification records) ensures that employees properly inform employees about the condition of shackles and hooks, and portable air receivers and other unfired pressure vessels, in shipyards. The information collection requirements also verify that employers are in compliance with the standard. OSHA compliance officers may require employers to disclose the required certification records at the time of an inspection.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–30120 Filed 11–17–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Employment and Training Administration

Appointments to the Federal Committee on Registered Apprenticeship

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of appointment of members.

The Employment and Training Administration hereby announces the appointments of 24 members to fill vacancies on the Federal Committee on Registered Apprenticeship (FCRA), an advisory board to the Secretary. The FCRA which is authorized by Section 2 of the National Apprenticeship Act (29 U.S.C. 50) complies with the requirements of the Federal Advisory Committee Act (5 U.S.C., App.). The committee will be an effective instrument for providing assistance, advice, and counsel to the Secretary of Labor and the Assistant Secretary for the Employment and Training Administration in the development and implementation of administration policies and programs regarding apprenticeship.

Members are appointed for one year or two year terms. Eight members represent labor, eight members represent employers, and eight members represent the public. The National Association of State and Territorial Apprenticeship Directors and the National Association of Governmental Labor Officials will have representation within the public group of the Committee. The Secretary shall appoint one of the public members as Chairperson of the Advisory Committee. A representative of the U.S. Department of Education and a representative of the Department of Commerce will be invited to serve as non-voting ''ex-officio'' members of the Committee. The Assistant Secretary of Labor for Employment and Training shall be a member ex-officio. The Designated Federal Official for the FCRA is Mr. Anthony Swoope, Administrator of the Office of Apprenticeship, Training, Employer and Labor Services.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, Telephone: (202) 219–5921 (X–102) (this is not a toll-free number). FAX: (202) 219–5011.

SUPPLEMENTARY INFORMATION:

The following is a list of the Committee members by group:

Represent Employers

Mr. Robert W. Baird, National Director of Apprenticeship and Training, Independent Electrical Contractors, Inc., 2010–A Eisenhower Avenue, Alexandria, Virginia 22314

Mr. Noel C. Borck, Executive Vice President, National Erectors Association, Suite 202, 1501 Lee Highway, Arlington, Virginia 22209–1109

Mr. Louis J. Coletti, Chairman and Chief Executive Officer, Building Trades Employers Association, 12th Floor, 44 W. 28th Street, New York, New York 10001

Mr. Thomas M. Downs, Executive Vice President, CEO, National Association of Home Builders, Suite 600, 1090 Vermont Avenue, NW, Washington, DC 20005

Ms. Rebecca L. Glass, Executive Director, Barnett Child Care Program, Inc., 1524 Tenth Avenue, Huntington, West Virginia 25701

Ms. Barbara A. Green, Ph.D., Executive Director, Greater New York Hospital Foundation, Inc., 555 West 57th Street, New York, New York 10019

Mr. Henry G. Schultz, Vice President, Auto Alliance International, Inc., Mazda Motor Manufacturing, 1 Mazda Drive, Flat Rock, Michigan 48134–9498

Mr. James D. Van Erden, Director, Workforce Development, Goodwill Industries International, Inc., 9200 Rockville Pike, Bethesda, Maryland 20814

Represent Labor

Mr. Paul A. Anderson, Director of Apprenticeship, Benefits and Employment, Communications Workers of America, 501 Third Street, NW, Washington, DC 20001–2797

Mr. Mark H. Ayers, Director, Construction & Maintenance, International Brotherhood of Electrical Workers, 1125 15th St., NW, Washington, DC 20005

Mr. George H. Bliss, III, Director of Training, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada, 901 Massachusetts Avenue, NW, Washington, DC 20001

Mr. Douglas L. Hart, President of Service Employees, International Union Local 1, Suite 200, 940 West Adams Street, Chicago, Illinois 60607

Ms. Phyllis Isreal, Director, Apprenticeship & Training, Safety & Health, Building and Construction Trades Department: AFL–CIO, 4th Floor, 1155 Fifteenth Streets, NW, Washington, DC 20005–2707

Mr. Richard Karas, Director, Skilled Trades Department, United Auto Workers International Union, 8000 E. Jefferson Avenue, Detroit, Michigan 48214

Mr. Dudley Light, Executive Director, UBC Apprenticeship and Training Fund of North America, P.O. Box 95818, Las Vegas, Nevada 89193

Mr. Raymond J. Robertson, General Vice President, International Association of Bridge Structural and Ornamental Iron Workers, Suite 400, 1750 New York Avenue, NW, Washington, DC 20006

Represent Public

Mr. Mike Andrews, Executive Director, Alaska Human Resources Investment Council, Suite 1830, 550 West 7th Avenue, Anchorage, Alaska 99501

Ms. Linda Lyons Butler, President, Board of Directors, Tradeswomen of Purpose/Women in Non-Traditional Work, Inc., 2300 Alter Street, Philadelphia, Pennsylvania 19146

Mr. Thomas H. Hartnett, Meyer, Suozzi, English and Klein, PC, Suite 1810, 1 Commerce Plaza, Albany, New York 12260

Mr. Timothy F. Johnson, Director, Greater Toledo Urban League, Youth Build Program, 131–17th Street, Toledo, Ohio 43624

Mr. Arthur B. Shanks, Program Manager, Cypress Mandela/Women In Skilled Trades, Pre-Apprentice Training Center, 2229 Poplar Street, Oakland, California 94607

Mr. Stephen Simms, Director, Apprenticeship and Training Division, Bureau of Labor and Industry, Room 32, 800 N.E. Oregon Street, Portland, Oregon 97232

Mr. David Wehner, Deputy Commissioner, New York State Department of Labor, State Office Campus, Bldg. 12, Room 588, Albany, New York 12240

Ms. Mary M. Wiberg, Vocational Equity Administrator, State of Iowa, Department of Education, Grimes State Office Bldg., Des Moines, Iowa 50319–0146

Nominees were selected from employer or national employer associations; employees or national employees associations; religious, social welfare, academic, charitable organizations, community based organizations; national women's organizations, state or local government.

Signed at Washington, DC, this 12th day of November 1999.

Raymond L. Bramucci,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 99–30119 Filed 11–17–99; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Notice of Open Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

SUMMARY: Notice is hereby given that the Advisory Committee on Construction Safety and Health (ACCSH) will meet Dec. 9–10, 1999, at the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW, Washington, DC. This meeting is open to the public.

TIMES, DATES, ROOMS: ACCSH will meet at 8:45 a.m. to 4 p.m., Thursday, Dec. 9, and at 9 a.m. to Noon, Friday, Dec. 10, in room N–3437 A, B, & C. ACCSH work groups will meet December 6–8 and, if necessary, after Noon on Dec. 10.

SUPPLEMENTARY INFORMATION: For further information contact Theresa Berry, Office of Public Affairs, Room N–3647, telephone (202) 693–1999 at the Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Washington, DC 20210.

An official record of the meeting will be available for public inspection at the OSHA Docket Office, Room N–2625, telephone 202–693–2350. All ACCSH meetings and those of its work groups are open to the public. Individuals needing special accommodation should contact Theresa Berry no later than Dec. 1, 1999, at the above address.

ACCSH was established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

The agenda items include:

- Remarks by the Assistant Secretary for the Occupational Safety and Health Administration, Charles N. Jeffress.
- ACCSH Work Group Reports
- Reports from the Directorate of Construction:
- Policy updates
- Special presentations including:
  - Silica Update,
  - Highway Work Zone Safety
  - Hexavalent Chromium
  - Advance Notice of Proposed Rule Making—A review of the Process Safety Management Standard for *General Industry*

The following ACCSH Work Groups are scheduled to meet in the Frances Perkins Building:

Diversified Construction Workforce Initiatives—1–5 p.m., Monday, Dec. 6, in room C–5515 Conference Room C.

OSHA Form 170—8:30 a.m. to 12:30 p.m., Tuesday, Dec. 7, in room C–5320, Conference Room 6.

Musculoskeletal Disorders—1–4 p.m., Tuesday, Dec. 7, in room C–5320, Conference Room 6.

Data Collection—8:30 a.m. to 12:30 p.m., Wednesday, Dec. 8, in room C–5515 Conference Room 2.

Fall Protection—1–5 p.m., Wednesday, Dec. 8, in room C–5515 Conference Room 2.

Safety and Health Program Standard—9:00 a.m. to Noon, Wednesday, Dec. 8 in room C–5320 Conference Room 6.

Subpart N—Cranes—1–5 p.m., Wednesday, Dec. 8, in room C–5320 Conference Rm. 6.

For updated work group meeting information please check the ACCSH Web Page at *http://www.osha-slc.gov/doc/accsh/wkgrpmeeting.html* or contact Jim Boom in OSHA's Directorate of Construction at (202) 693–2020.

Interested persons may submit written data, views or comments, preferably with 20 copies, to Theresa Berry, at the address above. Submissions received prior to the meeting will be provided to ACCSH and will be included in the record of the meeting.

Interested persons may also request to make an oral presentation by notifying Theresa Berry before the meeting. The request must state the amount of time desired, the interest that the person represents, and a brief outline of the presentation. ACCSH may grant requests, as time permits, at the discretion of the Chair of ACCSH.

Signed at Washington, DC this 15th day of November, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–30175 Filed 11–17–99; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–144]

NASA Advisory Council (NAC), Aero-Space Technology Advisory Committee (ASTAC); Airframe Systems Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aero-Space Technology Advisory Committee, Airframe Systems Subcommittee meeting.

DATES: Tuesday, December 7, 1999, 8:30 a.m. to 5 p.m. and Wednesday, December 8, 1999, 8:30 a.m. to 5 p.m., and Thursday, December 9, 1999, 8:30 a.m. to 12:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Langley Research Center, Building 1219, Room 225, Hampton, VA 23681–0001.

FOR FURTHER INFORMATION CONTACT: Dr. Darrel Tenney, National Aeronautics and Space Administration, Langley Research Center, Hampton, VA 23681, 757/864–6033.

SUPPLEMENTARY INFORMATION: The meeting will be open to the Public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Inherently Reliable Systems.
- Super Lightweight Multi-Functional Systems Technology.
- Revolutionary Advanced Concepts Research and System Studies.
- Aerospace Systems Concept to Test.
- Advances through Cooperative Efforts.
- Noise Reduction.
- General Aviation/Small Aircraft Transportation System.
- Hyper-X.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: November 10, 1999.

Matthew M. Crouch

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–30107 Filed 11–17–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–145]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: Tuesday, December 14, 8:00 a.m. to 5:00 p.m.; and Wednesday, December 15, 9:00 a.m. to 2:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 9H40, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Dakon, Code Z, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0732.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Remarks on Performance Metrics
—NASA Performance Plan Evaluation
—International Space Station Probability Risk Analysis Update
—Mars Climate Orbiter Update
—Aeronautics Revitalization
—Integrated Space Transporation Plan
—Committee/TaskForce/Working Group Reports
—Discussion of Findings and Recommendations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: November 10, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–30108 Filed 11–17–99; 8:45 am]

BILLING CODE 7510–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–344]

PacifiCorp (Trojan Nuclear Plant); Order Approving Application Regarding Proposed Merger

I

Portland General Electric is authorized to act as agent for the joint owners of the Trojan Nuclear Plant and has exclusive responsibility and control over the physical construction, operation, maintenance, and decommissioning of the facility as reflected in Facility Operating License No. NPF–1. PacifiCorp, one of the joint owners, holds a 2.5 percent interest in Trojan. The other two owners of Trojan are Portland General Electric with a 67.5 percent interest and the Eugene Water and Electric Board with a 30 percent interest. The Nuclear Regulatory Commission issued Facility Operating License No. NPF–1 on November 21, 1975. The facility is located on the west bank of the Columbia River in Columbia County, Oregon, and is permanently shutdown and being decommissioned.

II

By an application dated May 24, 1999, PacifiCorp requested approval of an indirect transfer of the license for the Trojan Nuclear Plant, to the extent held by PacifiCorp, in connection with a proposed change in ownership of PacifiCorp. The application was supplemented September 20 and September 23, 1999 (collectively herein referred to as ''the application'').

PacifiCorp is a diversified energy company headquartered in Portland, Oregon. The requested approval of the indirect transfer relates to a proposed merger under which PacifiCorp would remain a domestic corporation but become an indirect wholly-owned subsidiary of ScottishPower plc, a public limited company incorporated under the laws of Scotland which owns and operates electric generation, transmission, and distribution facilities in Scotland, England, and Wales. ScottishPower plc will become a subsidiary of New ScottishPower plc, a public limited company also incorporated in Scotland, which will register as a public utility holding company. No direct transfer of the license will occur as a result of the proposed merger, as PacificCorp would continue to hold the license to the same extent it now holds the license. The other co-owners of Trojan are not involved in the proposed merger. No changes to decommissioning activities or to the license are being proposed in the application.

Approval of the indirect transfer was requested pursuant to 10 CFR 50.80. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on August 2, 1999 (64 FR 41972). No hearing requests were filed.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that the proposed merger will not affect the qualifications of PacifiCorp as a holder of Facility Operating License No. NPF–1, and that the indirect transfer of the license, to the extent affected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated November 10, 1999.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* That the application regarding the indirect license transfer referenced above is approved, subject to the following conditions:

1. No later than the time the proposed merger with ScottishPower is consummated, PacifiCorp shall establish and make operational a Special Nuclear Committee, as described in the application, having the composition, authority, responsibilities, and obligations specified in the application. No material changes with respect to the Special Nuclear Committee may be made without the prior written consent of the Director, Office of Nuclear Reactor Regulation. The foregoing provisions may be modified by the Commission upon application and for good cause shown.

2. The Special Nuclear Committee shall have the responsibility and exclusive authority to ensure, and shall ensure, that the business and activities of PacifiCorp with respect to the Trojan license are at all times conducted in a manner consistent with the protection of the public health and safety and common defense and security of the United States.

3. PacifiCorp shall provide the Director, Office of Nuclear Reactor Regulation, with a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from PacificCorp to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent of PacifiCorp's consolidated net utility plant, as recorded on PacifiCorp's books of account.

4. Should the proposed merger not be completed by October 30, 2000, this Order shall become null and void, provided, however, upon application and for good cause shown, such date may be extended.

IV

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated May 24, 1999, supplemental submissions dated September 20 and September 23, 1999, and the safety evaluation dated November 10, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington DC, and accessible electronically through the ADAMS Public Electronic Reading

Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 10th day of November 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–30109 Filed 11–18–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Power Reactor Decommissioning; Entombment; Workshop;

AGENCY: Nuclear Regulatory Commission.

ACTION: Announcement of workshop on power reactor entombment.

SUMMARY: The Nuclear Regulatory Commission will hold a workshop from 9:00 am–4:00 pm December 14–15, 1999, to discuss the feasibility of entombment as a reactor decommissioning option. The workshop will be held in the TWFN Auditorium of the Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, MD.

SUPPLEMENTARY INFORMATION: An information paper discussing the technical feasibility of entombment as a decommissioning option for power reactors was given to the Commission (SECY–99–187) on July 19, 1999. The information paper is available on the NRC public website and can be viewed at *www.nrc.gov/NRC/COMMISSION/SECYS/index.html.* The information paper provides the staff's assessment of the viability of the entombment option for decommissioning power reactors. The staff informed the Commission that, as a next step in considering entombment as a decommissioning option, they intend to conduct a workshop in the near future. The purpose of this workshop is to obtain public comment on the issues associated with considering entombment on an equal basis with other decommissioning alternatives. Issues that the NRC proposes to discuss include:

1. How meaningful are the assumptions in the PNNL report that institutional controls will be effective?

2. Does the PNNL analysis rely too much on long term engineering features that would be needed for entombment? What criteria would be used for approving a licensee's request for using the entombment option, and what quantitative values could be examined for establishing the high degree of contaminant isolation confidence that would be considered acceptable?

3. What financial provisions would be required to pay for the future expenses that could be expected during the time when restrictions for the entombment must be maintained?

4. How significant would the entombment option be on State resources if it were implemented?

5. If new legislation were required for disposing of the GTCC waste through the entombment option, is it worth pursuing? Is the current legislation consistent with what has been implemented by the NRC for LLW disposal of GTCC waste for case-specific circumstances, including considerations of eventual license termination? What is the role of DOE with respect to the GTCC waste considerations?

6. Is entombment consistent with the LLW Policy Act, which encourages centralized disposal and the encouragement of regional compacts, as well as economic incentives through exclusivity by only permitting disposal of LLW in a 10 CFR Part 61 licensed facility?

7. What is the opinion of the States on the entombment option? Is the possibility of ultimate or long term management by the State a concern?

8. Is there any indication of the number of licensees intending to use the entombment option?

The workshop agenda will be posted on the NRC Web site at *www.nrc.gov/RES/meetings.html* by November 19, 1999. Interested persons are invited to attend the meeting. Anyone interested in making a presentation at the workshop should contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Dr. Carl Feldman, Radiation Protection, Environmental Risk and Waste Management Branch, Division of Risk Analysis and Applications, Office of Nuclear Regulatory Research, Washington, D.C. 20555–0001, telephone (301) 415–6194.

Dated at Rockville, Maryland, this 12th day of November 1999.

For the Nuclear Regulatory Commission.

Cheryl A. Trottier,

Chief, Radiation Protection, Environmental Risk and Waste Management Branch, Division of Risk Analysis and Applications, Office of Nuclear Regulatory Research.

[FR Doc. 99–30111 Filed 11–17–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

National State Liaison Officers' Meeting

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will sponsor a national meeting on December 1 and 2, 1999 with the State Liaison Officers to discuss items of mutual regulatory interest. The State Liaison Officers are appointed by the Governors of the fifty States and the Commonwealth of Puerto Rico to provide a communication channel between the States and the NRC.

DATES: The public meeting will be held on Wednesday, December 1, 1999 from 8 a.m. to 5 p.m.; Thursday, December 2, 1999 from 8 a.m. to 12 noon.

ADDRESSES: The meeting is to be held at the NRC's Two White Flint North Building Auditorium, 11545 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Spiros C. Droggitis, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 415–2367, FAX (301) 415–3502; Internet (SCD@NRC.GOV).

SUPPLEMENTARY INFORMATION: Potential topics of discussion will include: the effect of the electric utility industry restructuring on nuclear power plant regulation; the new NRC reactor inspection and oversight program and the status of the pilot program; continued State involvement at nuclear power plants undergoing decommissioning and other nuclear power plant decommissioning issues; nuclear materials issues; external regulation of the U.S. Department of Energy; spent fuel storage and transportation issues, and other nuclear waste issues.

The meeting will be conducted in a manner that will expedite the orderly conduct of business. The following procedures apply to public attendance at the meeting:

1. Questions or statements from attendees other than State and NRC staff participants will be entertained as time permits; and

2. Seating for the public will be on a first-come, first-served basis.

Dated at Rockville, Maryland this 11th day of November, 1999.

For the Nuclear Regulatory Commission.

Paul H. Lohaus,

Director, Office of State Programs.

[FR Doc. 99–30110 Filed 11–17–99; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Privacy Act of 1974, System of Records

AGENCY: Postal Service.

ACTION: Notice of new system of records.

SUMMARY: The purposes of this document are to publish notice of a change in the title to grouping of records 030.000 Equal Employment Opportunity to read ''030.000 Equal Employment Opportunity/Alternative Dispute Resolution'' and to publish notice of a new Privacy Act system of records under that grouping, USPS 030.040, Equal Employment Opportunity/ Alternative Dispute Resolution-Roster of Alternative Dispute Resolution Providers. The change in title more accurately reflects the types of records covered by this group. The new system contains the names and addresses of alternative dispute resolution providers such as mediators, who express an interest by completing a survey regarding their dispute resolution experience.

DATES: Any interested party may submit written comments on the proposed new system of records. This proposal will become effective without further notice on December 28, 1999, unless comments received on or before that date result in a contrary determination.

ADDRESSES: Written comments on this proposal should be mailed or delivered to Administration and FOIA, United States Postal Service, 475 L'Enfant Plaza SW, Room 8141, Washington, DC 20260–5202. Copies of all written comments will be available at the above address for public inspection and photocopying between 8 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rubenia Carter (202) 268–4872.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing to use independent contractors to resolve disputes including, but not limited to, EEO and Merit Systems Protection Board administrative cases. A roster will be maintained by the Postal Service of prequalified providers to select from to handle disputes. To be placed on the roster, an applicant must first complete an Alternative Dispute Resolution (ADR) Provider Survey. The survey will be screened to determine if the applicant meets the minimum criteria for mediating Postal Service cases. The survey requires an applicant to provide his or her previous mediator, arbitrator or other dispute resolution experience, education, and other required information. A waiver of the minimum criteria may be given to applicants on a limited basis at the sole discretion of the Postal Service. Applicants who fail to meet the minimum criteria and are not granted a waiver are disqualified for mediating disputes.

Maintenance of these records is not expected to have a significant effect on individual privacy rights. Information kept is limited to the name and address and other information requested on the survey questionnaire. The information will be kept in a secured environment, with automated data processing (ADP) physical and administrative security and technical software applied to information on computer media. Computers and hard copy records are maintained in a secured environment. To the extent that the information may be shared with another federal agency, it is shared with the understanding that the information will be maintained and protected in accordance with the Privacy Act.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report on the following proposed system has been sent to Congress and to the Office of Management and Budget for their evaluation.

USPS 030.040

SYSTEM NAME:

Equal Employment Opportunity/ Alternative Dispute Resolution-Roster of Alternative Dispute Resolution Providers, 030.040.

SYSTEM LOCATION:

Law Department, Postal Service Headquarters, and field offices; area and district offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and organizations interested in providing Alternative Dispute Resolution (ADR) services to all disputes except those arising under Postal Service collective bargaining agreements.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

Name, address, telephone, and fax numbers of alternative dispute resolution providers; education, certification status, special qualifications; types of disputes mediated; partnering agreements; evaluation as a neutral; billing information; and any other correspondence relating to the individual performance or information contained on the survey.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401.

PURPOSE(S):

Used to determine an individual's qualifications to provide ADR services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

General routine use statements a, b, c, d, e, f, g, h, j, k, l, and m listed in the prefatory statement at the beginning of the Postal Service's published system notices apply to this system. Another routine use follows:

1. To another federal agency upon request who needs the names and/or addresses and other information about ADR providers to arrange for or manage ADR proceedings for that agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in locked file cabinets and computer files on magnetic tape or disk in automated office equipment.

RETRIEVABILITY:

By ADR provider's name.

SAFEGUARDS:

Paper records are kept in locked file cabinets; automated data are password-protected.

RETENTION AND DISPOSAL:

Files of active ADR providers: Cutoff file upon notification of decertification or removal. Destroy one year from date of cutoff. Files of rejected ADR providers: Cutoff file at end of year in which survey was received from prospective ADR provider. Maintain file for one year after cutoff date.

SYSTEM MANAGER(S) AND ADDRESS: EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, LAW DEPARTMENT, UNITED STATES POSTAL SERVICE, 475 L'ENFANT PLAZA SW, WASHINGTON DC 20260–1100

NOTIFICATION PROCEDURE:

Individuals wanting to know whether information about them is maintained in this system of records must address inquiries to the system manager. Inquiries must contain full name and address of the individual and date the survey was completed.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with notification procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification and Record Access Procedures above.

RECORDS SOURCE CATEGORIES:

Information is received from ADR provider completing survey.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 99–30069 Filed 11–17–99; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

2000 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 1999, is $118,691,628.59;
2. The September 30, 1999, balance of any new loans to the RUI Account, including accrued interest, is zero;
3. The system compensation base is $3,029,230,161.91 as of June 30, 1999;
4. The cumulative system unallocated charge balance is ($213,332,043.71) as of June 30, 1999;
5. The pooled credit ratio for calendar year 2000 is zero;
6. The pooled charged ratio for calendar year 2000 is zero;
7. The surcharge rate for calendar year 2000 is zero;
8. The monthly compensation base under section 1(i) of the Act is $1,005 for months in calendar year 2000;
9. The amount described in section 1(k) of the Act as ''2.5 times the monthly compensation base'' is $2,512.50 for base year (calendar year) 2000;
10. The amount described in section 2(c) of the Act as ''an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600'' is $1,298 for months in calendar year 2000;
11. The amount described in section 3 of the Act as ''2.5 times the monthly compensation base'' is $2,512.50 for base year (calendar year) 2000;
12. The amount described in section 4(a–2)(i)(A) of the Act as ''2.5 times the monthly compensation base'' is $2,512.50 with respect to disqualifications ending in calendar year 2000;
13. The maximum daily benefit rate under section 2(a)(3) of the Act is $48 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 2000.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 1999. The balance in notice (2) is based on data as of September 30, 1999. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 2000. The determinations made in notices (8) through (12) are effective January 1, 2000. The determination made in notice (13) is effective for registration periods beginning after June 30, 2000.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marla L. Huddleston, Bureau of the Actuary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092, telephone (312) 751–4779.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 1999, the computation of the calendar year 2000 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 2000, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 2000.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of $100 million or the amount that bears the same ratio to $100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than $100 million (as indexed), but at least $50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The system compensation base as of June 30, 1991 was $2,799,430,259.23. The system compensation base for June 30, 1999 was $3,029,230,161.91. The ratio of $3,029,230,161.91 to $2,799,430,259.23 is 1.08208810. Multiplying 1.08208810 by $100 million yields $108,208,810. Multiplying $50 million by 1.08208810 produces $54,104,405. The Account balance on June 30, 1999, was $118,691,628.59. Accordingly, the surcharge rate for calendar year 2000 is zero.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 2000 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A—37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 2000 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

The calendar year 2000 tier 1 tax base is $76,200. Subtracting $37,800 from $76,200 produces $38,400. Dividing $38,400 by $56,700 yields a ratio of 0.67724868. Adding one gives 1.67724868. Multiplying $600 by the amount 1.67724868 produces the amount of $1,006.35, which must then be rounded to $1,005. Accordingly, the monthly compensation base is determined to be $1,005 for months in calendar year 2000.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act

contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 2000 monthly compensation base of $1,005 produces $2,512.50. Accordingly, the amount determined under section 1(k) is $2,512.50 for calendar year 2000.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account. The calendar year 2000 monthly compensation base is $1,005. The ratio of $1,005 to $600 is 1.67500000. Multiplying 1.67500000 by $775 produces $1,298. Accordingly, the amount determined under section 2(c) is $1,298 for months in calendar year 2000.

Under section 3, an employee shall be a ''qualified employee'' if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 2000 monthly compensation base of $1,005 produces $2,512.50. Accordingly, the amount determined under section 3 is $2,512.50 for calendar year 2000.

Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends. Multiplying 2.5 by the calendar year 2000 monthly compensation base of $1,005 produces $2,512.50. Accordingly, the amount determined under section 4(a–2)(i)(A) is $2,512.50 for calendar year 2000.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 2000, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 1999 monthly compensation base is $970. Multiplying $970 by 0.05 yields $48.50, which must then be rounded down to $48. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 2000, is determined to be $48.

By Authority of the Board.

Dated: November 10, 1999.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 99–30075 Filed 11–17–99; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42126; File No. SR–Amex–99–40; SR–PCX–99–41; SR–CBOE–99–59]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC; Pacific Exchange, Inc.; and Chicago Board Options Exchange, Inc. Relating to Permanent Approval of the Elimination of Position and Exercise Limits for Flex Equity Options

November 10, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 5, 1999, October 13, 1999, and November 4, 1999, the American Stock Exchange LLC (''Amex''), Pacific Exchange, Inc. (''PCX'') and the Chicago Board Options Exchange, Inc. (''CBOE'') (collectively, the ''Exchanges'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The PCX filed an amendment to the proposed rule change on October 28, 1999.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchanges propose to make permanent their pilot programs to eliminate position and exercise limits for FLEX Equity options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organizations included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organizations have prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule filings is to approve permanently the Exchanges' pilot programs allowing for the elimination of position and exercise limits for FLEX Equity options. On September 9, 1997, the Commission approved separate proposals by the Exchanges to eliminate position and exercise limits for FLEX Equity options under a 2-year pilot program.[4] On September 9, 1999, the Commission approved an extension of the pilot programs for another 3 months.[5]

The Approval Order required the Exchanges to report to the Commission on the status of the programs so that the Commission could use this information to evaluate the consequences of the programs and to determine whether to approve the elimination of position and exercise limits for these products on a

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter to Richard Strasser, Commission, from Robert Pacileo, PCX, dated October 27, 1999 (''PCX Amendment No. 1''). PCX Amendment No. 1 clarifies that the rule filing is being filed pursuant to Section 19(b)(4) of the Exchange Act, not Section 19(b)(3).

[4] *See* Securities Exchange Act Release No. 39032 (September 9, 1997), 62 FR 48683 (September 16, 1997) (approving SR–CBOE–96–79, SR–Amex–96–19, and SR–PXC–97–09) (''Approval Order'').

[5] *See* Securities Exchange Act Release No. 41848 (September 9, 1999), 62 FR 50846 (September 20, 1999).

permanent basis. All of the Exchanges have submitted the requisite reports.[6] The Exchanges believe that their experiences with the pilot programs have been positive and therefore, request that the elimination of position and exercise limits for FLEX Equity options be approved on a permanent basis.

2. Basis

The Exchanges believe that the proposal is consistent with Section 6(b)[7] of the Act, in general, and Section 6(b)(5)[8] of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington , DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR–Amex–99–40; SR–PCX–99–41; and SR–CBOE–99–59 and should be submitted by December 9, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland.

Deputy Secretary.

[FR Doc. 99–30090 Filed 11–17–99; 8:45 am]

BILLING CODE 8010–01–M

[6] Amex, PCX and CBOE submitted their reports on May 28, 1999, September 30, 1999, and June 2, 1999, respectively.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42111; File No. SR–CBOE–99–15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc.; Updating the Exchange's Membership Rules

November 5, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 12, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The CBOE filed Amendment No. 1 to the proposal on July 15, 1999,[3] and Amendment No. 2 to the proposal on November 3, 1999.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to update the Exchange's membership rules. The text of the proposed rule change is set forth below. Proposed additions are in italics and proposed deletions are in brackets.

Chicago Board Options Exchange, Incorporated Rules

CHAPTER I—Definitions

RULE 1.1—Definitions

* * * * *

Lessor

(ff) The term ''lessor'' means the owner of a transferable membership that has been leased to an individual or organization in accordance with the provisions of Rule *3.17* [3.16(b)], and includes any successor in interest of such owner. [A lessor shall continue as a member of the Exchange, subject to all of the provisions of the Constitution and Rules, except that for the duration of the lease arrangements with respect to that leased membership, a lessor may not conduct a public securities business as described by the provisions of Rules 3.1 and the Rules referenced therein.]

Lessee

(gg) The term ''lessee'' means an individual or organization that has leased a transferable membership from the owner thereof in accordance with the provisions of Rule *3.17* [3.16(b)]. For the duration of the lease agreement, a lessee shall be deemed to be a member, subject to all of the provisions of the Constitution and Rules that are applicable to the owner of an Exchange membership, except that the provisions of *the Constitution and Rules* [Rule 3.12], which concern the ownership of membership, are not applicable to a lessee.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 makes numerous technical changes to the proposed rule language and corresponding changes in the Purpose section of the filing. *See* letter from Arthur B. Reinstein, Assistant General Counsel, CBOE, to Kenneth Rosen, Attorney, Division of Market Regulation (''Division''), SEC, dated July 14, 1999.

[4] Amendment No. 2 makes minor technical corrections to the text of the proposed rule and deletes section 8(h) from the Exchange's Option Trading Lease Pool Procedures. *See* letter from Arthur B. Reinstein, Assistant General Counsel, CBOE, to Yvonne Fraticelli, Special Counsel, Division, SEC, dated November 3, 1999.

Government Securities Options Permit Holder

(hh) *Deleted _____, 199__ (99–____).* [The term ''Government securities options permit holder'' means a qualified individual or organization with an approved nominee that has been issued a nonleasable, nontransferable temporary permit for effecting transactions in Government securities options designated by the Board. Each permit holder shall be subject to the provisions of the Constitution and Rules that are applicable to the owner of a regular Exchange membership, unless exempted from such provisions by the Board; provided, however, Rule 3.12, which concerns the ownership of membership, Rule 3.13, which concerns the purchase of membership, and Section 2.6 of the Constitution, which concerns voting and other rights and powers, shall not apply to a permit holder in his or its capacity as such.]

* * * * *

Nominee

(pp) The term ''nominee'' means an individual who is authorized by a member organization, in accordance with Rule 3.8, to [conduct business on the floor of the Exchange and to] represent such member organization in all matters relating to the Exchange. [As long as a nominee remains effective, the nominee shall be deemed to be a member, subject to the provisions of the Constitution and Rules of the Exchange.]

* * * * *

CHAPTER III—Membership

Public Securities Business

RULE 3.1. (a) Every individual member or member organization shall have as the principal purpose of its membership the conduct of a public securities business. No *individual* member or member organization shall own or have registered for it more memberships than are reasonably necessary to carry on [his or its] *that member's* Exchange activities.

(b) A member shall be deemed to have such a purpose if and so long as

(1) the member has qualified and acts in respect of its business on the Exchange in one or more of the following capacities: (i) a member *organization* approved to transact business with nonaffiliated public customers in accordance with Rule 9.1 [or]*; (ii) a member organization approved* to clear Exchange transactions of other members in accordance with the Rules of the Clearing Corporation; (ii*i*) a Market-Maker as defined in Rule 8.1; ([iii]*iv*) a Floor Broker as defined in Rule 6.70; ([iv]*v*) a Board Broker as defined in Rule 7.1; (v*i*) an order service firm as defined in Rule 6.77; [and]*or*

(2) [all transactions are in compliance with Section 11(a) of the Securities Exchange Act of 1934 as amended and the rules and regulations adopted thereunder; or

(3) the member is a lessor] *the member is a lessor; or*

(3) the member is an individual with a membership that has been registered for a member organization; or

(4) the member is a [general partner or executive officer or nominee of a member organization and his membership is registered for that] *nominee of a member* organization.

(c) No member [or member organization] shall utilize any scheme, device, arrangement, agreement, or understanding designed to circumvent or avoid, by reciprocal means or in any other manner, the provisions of this Rule [3.1].

Qualifications *and Membership Statuses* of Individual Members

RULE 3.2. *(a) A person must satisfy the following requirements in order to be an individual member:*

(i) the person must be at least 21 years of age;

(ii) the person must be registered as a broker or dealer pursuant to Section 15 of the Exchange Act or be associated with a member organization that is registered as a broker or dealer pursuant to Section 15 of the Exchange Act, except that an individual member who is approved to act solely as a lessor is not required to comply with this requirement; and

(iii) the person must meet the other qualification requirements for membership under the Constitution and Rules.

(b) The individual membership statuses that are approved by the Membership Committee (along with the primary Exchange Rule that provides for such approval if it is not Rule 3.9) include: (i) owner; (ii) lessor*; (iii) lessee*; (iv) Chicago Board of Trade exerciser*; (v) sole proprietor*; (vi) individual with a membership that has been registered for a member organization*; (vii) nominee of a member organization*; (viii) Market-Maker (Rule 8.2); (ix) Floor Broker (Rule 6.71); (x) member eligible to trade securities traded pursuant to Chapter XXX (Rule 30.2); and (xi) Trust Member (Rule 3.25). The individual permit statuses that are approved by the Membership Committee are IPC Permit Exerciser* (Rule 3.26) and Options Trading Permit holder* (Rule 3.27). Those individual membership statuses noted with an asterisk are also referred to in the Rules as membership capacity statuses.*

(c) Every individual member who is a lessee, a Chicago Board of Trade exerciser, or an owner (who is not a lessor) must have an authorized floor function. An individual member is deemed to have an authorized floor function if the member is approved by the Membership Committee to act as a Market-Maker and/or Floor Broker.

[Individual memberships may be owned by a natural person who is at least 21 years of age and who, except for a lessor, is registered as a broker or dealer pursuant to Section 15 of the Securities Exchange Act of 1934, as amended, or is associated with a registered broker or dealer, and who meets the qualifications for membership in accordance with these Rules.]

. . . Interpretations and Policies:

.01 Individual membership statuses that are approved by Exchange bodies other than the Membership Committee (along with the primary Exchange Rule that provides for such approval) include: (i) DPM Designee (Rule 8.81); (ii) FLEX Appointed Market-Maker for FLEX Index Options (Rule 24A.9); (iii) FLEX Qualified Market-Maker for FLEX Equity Options (Rule 24A.9); (iv) Lead Market-Maker in OEX or DJX options (Rule 8.15); and (v) Supplemental Market-Maker in OEX or DJX options (Rule 8.15).

Qualifications *and Membership Statuses* of Member Organizations

RULE 3.3. *(a) An organization must satisfy the following requirements in order to be a member organization:*

(i) the organization must be a corporation or partnership organized under the laws of one of the states of the United States;

(ii) the organization must be registered as a broker or dealer pursuant to Section 15 of the Exchange Act, except that an organization that is approved to act solely as a lessor is not required to comply with this requirement; and

(iii) the organization must meet the other qualification requirements for membership under the Constitution and Rules.

A corporation or partnership that is not organized under the laws of one of the states of the United States must satisfy the requirements set forth in Rule 3.4, in lieu of satisfying the requirements set forth in this paragraph (a), in order to be a member organization.

(b) The member organization membership statuses that are approved

by the Membership Committee (along with the primary Exchange Rule that provides for such approval if it is not Rule 3.9) include: (i) owner; (ii) lessor*; (iii) lessee*; (iv) member organization for which an individual member has registered his or her membership*; (v) member organization approved to transact business with the public* (Rule 9.1); (vi) Clearing Member; and (vii) order service firm* (Rule 6.77). The member organization permit statuses that are approved by the Membership Committee are IPC Permit Exerciser* (Rule 3.26) and Options Trading Permit holder* (Rule 3.27). Those individual membership statuses noted with an asterisk are also referred to in the Rules as membership capacity statuses.*

(c) A member organization that is a Clearing Member or an order service firm is required to possess at least one membership for which the organization is not a lessor.

(d) A member organization that desires to become a different type of business entity permitted under the Rules must apply for membership in the name of the new entity.

[(a) Memberships may be owned or leased by or registered for a corporation organized under the laws of one of the states of the United States or under other laws as the Board shall approve, or a partnership. The corporations or partnerships must be brokers or dealers registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended, except for corporations or partnerships that are lessors and that meet the qualifications for membership in accordance with these Rules.]

[(b) With respect to each membership owned or leased by a corporation or partnership, the membership organization must designate an individual nominee in accordance with Rule 3.8, and Article II, Section 2.3 of the Constitution.

(c) With respect to each membership registered for a corporation or partnership pursuant to Article II, Section 2.4 of the Constitution, the member organization shall be represented by the individual member who registered his/her membership for the organization.]

. . . Interpretations and Policies:

.01 For purposes of eligibility for membership, an entity organized as a [Limited Liability Company] *limited liability company* under the laws of one of the states of the United States [or under other such laws as the Board shall approve,] shall be deemed a corporation, *its members shall be deemed principal shareholders, and its members with management responsibility and its managers shall be deemed executive officers.*

.02 Member organization membership statuses that are approved by Exchange bodies other than the Membership Committee (along with the primary Exchange Rule that provides for such approval) include: Designated Primary Market-Maker (Rule 8.83).

Qualifications of Foreign Member Organizations

RULE 3.4. (a) An organization that is not organized under the laws of one of the states of the United States must satisfy the following requirements in order to be a member organization:

(i) the organization must be a corporation or partnership organized under the laws of a country other than the United States;

(ii) the organization must disclose to the Exchange all persons associated with the organization and all parents of the organization, through all tiers of ownership, until the ultimate individual beneficial owners of the organization are disclosed;

(iii) the organization must maintain in English and at a location in the United States the books and records of the organization that relate to its business on the Exchange;

(iv) the organization must maintain its financial records in accordance with United States accounting standards or foreign accounting standards that are found by the Exchange to be comparable to United States accounting standards;

(v) the organization must waive any secrecy laws in the domiciliary jurisdiction of the organization;

(vi) the organization must provide to the Exchange an opinion of legal counsel of the domiciliary jurisdiction of the organization which certifies that (A) there are no secrecy laws in that jurisdiction and that the organization has effectively waived any future such laws or (B) that the organization has effectively waived any current or future secrecy laws in that jurisdiction;

(vii) the organization must agree to submit to the jurisdiction of the federal courts of the United States and the courts of Illinois and to irrevocably waive, to the fullest extent permitted by law, any objection which the organization may have based on venue or forum non conveniens with respect to any action initiated in such courts;

(viii) the organization must appoint a process agent in Illinois to receive, on the behalf of the organization, process which may be served in any legal action or proceeding;

(ix) the organization must own its Exchange membership(s);

(x) the organization must be registered as a broker or dealer pursuant to Section 15 of the Exchange Act;

(xi) the organization must satisfy the foregoing requirements in a manner and form prescribed by the Exchange and must satisfy such additional requirements that the Exchange reasonably deems appropriate; and

(xii) the organization must meet the other qualification requirements for membership under the Constitution and Rules.

. . . Interpretations and Policies:

.01 For purposes of eligibility for membership, an entity organized as a limited liability company under the laws of a country other than the United States shall be deemed a corporation, its members shall be deemed principal shareholders, and its members with management responsibility and its managers shall be deemed executive officers.

Denial of and Conditions to Membership *and Association*

RULE [3.4] *3.5* (a) *The Membership Committee shall deny membership where an applicant has failed a required membership test.*

(b) The Membership Committee may deny (or may condition) membership or may prevent a person from becoming associated (or may condition an association) with a member for the same reasons that the Securities and Exchange Commission [(SEC)] may deny or revoke a broker-dealer registration and for those reasons required or allowed under the [Securities] Exchange Act [of 1934, each as amended from time to time].

[(b) The Membership Committee shall deny membership where an applicant has failed the required test, and such an applicant must wait 30 days before taking the examination a second time, 60 days if a second attempt is failed, and 120 days if a third or subsequent attempt is failed.]

(c) The Membership Committee also may deny (or may condition) membership or may prevent a person from becoming associated (or may condition an association) with a member when the applicant*:* [, directly or indirectly,]

[(1)]*(i)* [has a negative net worth,] *is a broker-dealer and (A) has a net worth (excluding personal assets) below $25,000 if the applicant is an individual, (B) has a net worth (excluding personal assets) below $50,000 if the applicant is an organization, (C)* has financial difficulties involving an amount that is more than [five percent] *5%* of the

applicant's net worth, or *(D)* has a pattern of failure to pay just debts*;* [(whether or not such debts have been the subject of a bankruptcy action);]

[(2)]*(ii)* is unable satisfactorily to demonstrate a capacity to adhere to all applicable Exchange, [SEC, Options Clearing Corporation] *Securities and Exchange Commission, Clearing Corporation,* and Federal Reserve Board policies, rules, and regulations, including those concerning record-keeping, reporting, finance, and trading procedures;

[(3)]*(iii)* would bring the Exchange into disrepute*;* or

[(4)]*(iv)* for such other cause as the Membership Committee reasonably may decide.

[(d) When an applicant is a subject of an investigation conducted by any self-regulatory organization or government agency and involving his fitness for membership, the Membership Committee need not act on his application until the matter has been resolved.]

([e]*d*) The Membership Committee may determine not to permit a member or person associated with a member to continue in membership or association with a member or may condition such continuance in membership or association, if the member or associated person*:*

(i) fails to meet any of the qualification requirements for membership or association after the membership or association has been approved[,]*;*

(ii) fails to meet any condition placed by the Membership Committee on such membership or association[,]*; or*

(iii) violates any agreement with the Exchange[,]. [or

(iv) becomes subject to a statutory disqualification under the Exchange Act.

(f) If a member, or person associated with a member, who becomes subject to a statutory disqualification under the Exchange Act, wants to continue in Exchange membership or association with a member, the member or associated person must, within 30 days of becoming subject to a statutory disqualification, submit an application to the Membership Committee seeking to continue in Exchange membership or association with a member notwithstanding the statutory disqualification. Failure to timely file such an application is a factor that may be taken into consideration by the Membership Committee in making determinations pursuant to Rule 3.4(e).]

(e) Any decision made by the Membership Committee pursuant to paragraph (a), (b), (c), or (d) of this Rule must be consistent with both the provisions of this Rule and the provisions of the Exchange Act.

([g]*f*) Any applicant who has been denied membership or association with a member or granted only conditional membership or association pursuant to [Rule 3.4(a), (b), or (c)] *paragraph (a), (b), or (c) of this Rule*, and any member or person associated with a member who is not permitted to continue in membership or association with a member or whose continuance in membership or association is conditioned pursuant to [Rule 3.4(e)] *paragraph (d) of this Rule*, may appeal the Membership Committee's decision under Chapter XIX. No determination of the Membership Committee to discontinue or condition a person's membership or association with a member pursuant to *paragraph (d) of this* Rule [3.4(e)] shall take effect until the review procedures under Chapter XIX have been exhausted or the time for review has expired.

Persons Associated with Member Organizations

RULE [3.5] *3.6.* (a) Persons associated with member organizations shall be bound by the Constitution and Rules of the Exchange and of the Clearing Corporation. The Exchange may bar a person from becoming or continuing to be associated with a member organization if such person does not agree in writing, [on a] *in a manner and* form prescribed by the Exchange, to furnish the Exchange with information with respect to such person's relationship and dealings with the member organization[s], and information reasonably related to such person's other securities business, as may be required by the Exchange, and to permit the examination of its books and records by the Exchange to verify the accuracy of any information so supplied.

(b) Each associated person of a member organization that is required to be disclosed on Exchange Act Form BD as a direct owner or executive officer (or, if the member organization is not required to be a registered broker-dealer, each associated person of the organization that would be required to be disclosed on Form BD as a direct owner or executive officer in the event that the organization was a registered broker-dealer) is required to submit to the Membership Department, pursuant to Rule 3.9, an application for approval to become associated with the member organization in that capacity. No person may become associated with a member organization in the capacity of a direct owner or executive officer that is (or would be) required to be disclosed on Form BD unless and until the Membership Committee approves that association.

[(b) Each member organization shall file with the Exchange and keep current a list and descriptive identification of those persons associated with the member organization who are its executive officers, directors, principal shareholders, general partners and limited partners. Such persons shall file with the Exchange a Uniform Application for Securities Industry Registration or Transfer (Form U–4).]

(c) A claim of any [person associated with a member organization described in the first sentence of paragraph (b) of this Rule against such organization] *associated person required to be approved by the Membership Committee pursuant to paragraph (b) of this Rule against the member organization with which that person is associated* shall be subordinate in right of payment [of] *to* customers and other members.

Certain Documents Required of [Applicants and] Members, *Applicants, and Associated Persons*

RULE [3.6] *3.7 (a) Each member and member applicant shall promptly file the following documents with the Membership Department:*

(i) each member organization and member organization applicant that is a corporation shall promptly file with the Membership Department a copy of the articles or certificate of incorporation of the organization, the by-laws of the organization, and all amendments to those documents;

(ii) each member organization and member organization applicant that is a partnership shall promptly file with the Membership Department a copy of any registration certificate of the organization, the partnership agreement of the organization, and all amendments to those documents;

(iii) each member organization and member organization applicant shall promptly file with the Membership Department any other documents relating to the registration, governance, capital structure, or ownership of the organization that are requested by the Exchange; and

(iv) each member and member applicant shall promptly file with the Membership Department any other documents requested by the Exchange that are reasonably related to that member's business on the Exchange or proposed business on the Exchange.

(b) Each member and member applicant shall promptly file with the Membership Department its business and residence addresses, an address

where notices may be served, and any changes to this information.

(c) Each member shall comply with the provisions of Exchange Act Section 17(f) and Exchange Act Rule 17f-2 respecting the fingerprinting of the member and its covered employees. Each member applicant and its covered employees shall also be fingerprinted in accordance with those provisions.

[(a) Although the Exchange may request additional information, at a minimum offering circulars, private placement memoranda, the partnership agreement and all amendments thereto, in the case of a member partnership, the articles of incorporation, by-laws and all amendments thereto, in the case of a member corporation, and any lease agreement to which a membership is subject pursuant to Rule 3.16(b), shall be filed with the Membership Department and shall be subject to review by the Exchange; however, no action or failure to act by the Exchange shall be construed to mean that the Exchange has in any way passed on the investment merits of or given approval to any such document.

(b) Every member shall file with the Membership Department and keep current an address where notices may be served.

(c) In a manner and form prescribed by the Exchange, every member and every executive officer, director, principal shareholder, general partner and limited partner of a member organization shall pledge to abide by the Constitution and Rules of the Exchange, as from time to time amended, and by all circulars, notices, directives or decisions adopted pursuant to or made in accordance with the Constitution and Rules.]

(d) Each member and member applicant that is a registered broker or dealer pursuant to Section 15 of the Exchange Act shall complete Exchange Act Form BD and keep its Form BD current by promptly completing any required amendments to its Form BD. Each member or applicant that is a registered broker-dealer shall also promptly file with the Membership Department, in a manner prescribed by the Exchange, its Form BD and all required amendments thereto. Each member and member applicant that is not required to be a registered broker-dealer shall, in a manner and form prescribed by the Exchange, promptly file with the Exchange a list and descriptive identification of those associated persons of the organization that have been, and that are applying to be, approved by the Membership Committee pursuant to Rule 3.6(b) and any changes to this information.

(e) In a manner and form prescribed by the Exchange, each member, member applicant, and associated person required to be approved by the Membership Committee pursuant to Rule 3.6(b) shall pledge to abide by the Constitution and Rules of the Exchange, as from time to time amended, and by all circulars, notices, directives, or decisions adopted pursuant to or made in accordance with the Constitution and Rules.

(f) All documents filed with the Membership Department by members, applicants, and associated persons shall be subject to review by the Exchange; however, no action or failure to act by the Exchange shall be construed to mean that the Exchange has in any way passed on the investment merits of the member, applicant, or associated person, or the adequacy of disclosure given to investors by the member, applicant, or associated person, or that the Exchange has in any other way given approval to any such document.

([d]*g*) [Members and member organizations] *Each member* shall keep and maintain a current copy of the Constitution and Rules in a readily accessible place. Member organizations that are approved to do business with the public pursuant to Rule 9.1 shall make the Constitution and Rules available for examination by customers.

. . . Interpretations and Policies

.01 For purposes of paragraph (a)(i) of this Rule, an entity organized as a limited liability company shall promptly file with the Membership Department a copy of the registration certificate of the organization, the operating agreement of the organization, and all amendments to those documents.

[Parents of Member Organizations

RULE 3.7. Deleted June 28, 1995 (95–21).]

Nominees *and Members Who Register Their Memberships for Member Organizations*

RULE 3.8. (a) Each member organization that is the owner of a membership for which the member organization will not be acting as a lessor and each member organization that is a lessee of a membership shall be subject to the following provisions:

(i) the member organization must designate an individual nominee to represent the organization with respect to that membership in all matters relating to the Exchange;

(ii) if the member organization is the owner or lessee of more than one such membership, the organization must designate a different individual to be the nominee for each of the memberships;

(iii) each nominee of a member organization designated pursuant to subparagraph (a)(i) of this Rule is required to have an authorized floor function, except that a nominee of a member organization that is approved solely to transact business with the public pursuant to Rule 9.1 is not required to comply with this requirement;

(iv) each nominee of a member organization designated pursuant to subparagraph (a)(i) of this Rule must be approved for membership in accordance with the Rules; and

(v) each nominee of a member organization designated pursuant to subparagraph (a)(i) of this Rule who is approved for membership shall be deemed to be an individual member.

(b) Each member organization that is the owner of a membership for which the member organization will be acting as a lessor shall be subject to the following provisions:

(i) the member organization must designate an individual nominee to represent the organization with respect to that membership in all matters relating to the Exchange;

(ii) if the member organization will be acting as a lessor for more than one membership, the organization must designate a single individual to act as the nominee with respect to all of those memberships;

(iii) the nominee of the member organization for the membership(s) with respect to which the organization will be acting as a lessor may not have an authorized floor function with respect to such membership(s);

(iv) the nominee of the member organization for the membership(s) with respect to which the organization will be acting as a lessor must satisfy all of the qualification requirements for membership, except for those requirements that are not applicable to lessors or that are applicable solely to members who will have an authorized floor function; and

(v) the nominee of the member organization for the membership(s) with respect to which the organization will be acting as a lessor shall be deemed to be an associated person of the organization and shall not be deemed to be an individual member by virtue of being approved to act as the nominee for such membership(s).

(c) Each individual member who owns a membership and each Chicago Board of Trade exerciser may apply to register his or her membership for a member organization. Upon approval of such an application, an individual who has

registered his or her membership for a member organization shall represent the organization in all matters relating to the Exchange in the same manner that a nominee represents a member organization. Each individual who registers his or her membership for a member organization must have an authorized floor function.

(d) A member organization represented by a nominee or by an individual who has registered his or her membership for the organization shall, in a manner and form prescribed by the Exchange:

(i) authorize that person to represent the organization with respect to all matters relating to the Exchange;

(ii) agree to be responsible for all obligations arising out of that person's representation of the member organization in all matters relating to the Exchange; and

(iii) agree to guarantee payment of all monetary disciplinary sanctions assessed against that person with respect to activity that takes place while the person is a nominee of the organization or has registered his or her membership for the organization.

The responsibility of the member organization pursuant to subparagraph (d)(ii) of this Rule shall include all obligations to the Exchange and all obligations to other members resulting from Exchange transactions or transactions in other securities made by the person on behalf of the member organization. A nominee shall not, solely by virtue of being a nominee of a member organization, have any personal liability to the Exchange or to any other member for Exchange transactions and other securities transactions made by the nominee on behalf of the member organization. Similarly, an individual shall not, solely by virtue of registering his or her membership for a member organization, have any personal liability to the Exchange or to any other member for Exchange transactions and other securities transactions made by the individual on behalf of the member organization.

(e) The following requirements shall apply to every nominee of a member organization and to every individual who has registered his or her membership for a member organization:

(i) the person must be materially involved in the daily operation of the Exchange business activities of the member organization for which the person is a nominee or has registered his or her membership;

(ii) the person may have authorized floor functions only on behalf of one member organization; and

(iii) the person may perform floor functions only on behalf of the member organization for which the person is approved by the Exchange to perform such functions and may not perform floor functions on the person's own behalf or on behalf of another member organization.

(f) Notwithstanding the provisions of subparagraph (e)(iii) of this Rule, a nominee or person who has registered his or her membership for a member organization may act as an independent Market-Maker and/or an independent Floor Broker if the following 4 requirements are satisfied:

(A) the person obtains the prior written approval to do so, in a manner and form prescribed by the Exchange, from the member organization for which the person is approved by the Exchange to perform floor functions;

(B) the member organization for which the person is approved by the Exchange to perform floor functions agrees, in a manner and form prescribed by the Exchange, to guarantee all obligations arising out of that person's activities as an independent Market-Maker and/or an independent Floor Broker;

(C) the person is registered as a broker or dealer pursuant to Section 15 of the Exchange Act; and

(D) the person obtains the prior approval to act in this capacity from the Membership Committee.

A person who is approved to act as an independent Market-Maker and/or an independent Floor Broker pursuant to this paragraph (f) shall be personally responsible for all obligations arising out of those activities, and the member organization for which the person is approved by the Exchange to perform floor functions shall guarantee these obligations.

(g) A member organization may designate one or more inactive nominees. An ''inactive nominee'' of a member organization is an individual who is eligible to become an effective nominee of that organization with respect to any membership for which the organization is either an owner (and not a lessor) or is a lessee. The following requirements shall apply to inactive nominees:

(i) to become an inactive nominee of a member organization, an individual must be approved for membership and become an effective nominee of the member organization, with authorized floor functions, within 90 days of the approval for membership;

(ii) an individual may be an inactive nominee of only one member organization;

(iii) an inactive nominee shall have no rights or privileges of membership and shall have no right of access to the trading floor of the Exchange, unless and until the inactive nominee becomes an effective member pursuant to Rule 3.10; and

(iv) if at any time an individual remains an inactive nominee for 6 consecutive months, the individual's eligibility for membership will be terminated and the individual must reapply for membership in order to again become eligible for inactive nominee status.

[(a)(1) Pursuant to Rule 3.3, every member organization that owns or leases a membership must authorize an individual nominee (''nominee''), as defined in Rule 1.1(pp), to represent the organization with respect to such membership in all matters relating to the Exchange.

(2) The member organization represented by a nominee shall guaranty all obligations arising out of such nominee's representation of the member organization in all matters relating to the Exchange. The guaranty shall include all obligations to the Exchange and all obligations to other members or member organizations resulting from Exchange transactions or transactions in other securities, including such transactions of the nominee as an independent Market-Maker and/or independent Floor Broker for the nominee's own account as authorized in Paragraph (a)(4)(C) of this Rule.

(3) The authorization and guaranty required in Paragraphs (a)(1) and (2) of this Rule shall be on a form or forms prescribed by the Exchange and filed with the Membership Department.

(4) The following requirements shall apply to all nominees:

(A) A nominee must be approved for membership in accordance with the Rules of the Exchange.

(B) A nominee may perform floor functions only on behalf of the member organization for which he is authorized.

(C) Notwithstanding the provisions of paragraph (B) above, a nominee, who is a registered broker/dealer, may trade as an independent Market-Maker and/or independent Floor Broker; provided that the nominee has the prior written approval of the member organization and the Exchange. Such approval shall be filed with the Membership Department.

(b)(1) A member organization may designate an individual as an ''inactive nominee''. The member organization shall pay a fee, as determined by the Board, for the privilege of maintaining the inactive nominee status.

(2) The following requirements shall apply to inactive nominees:

(A) To be eligible for inactive nominee status, an individual must be approved for membership in accordance with the Rules of the Exchange.

(B) An inactive nominee shall have no rights or privileges of membership and shall have no right of access to the trading floor of the Exchange, unless and until said inactive nominee becomes an effective member pursuant to Rule 3.10, and all applicable Exchange fees are paid.

(C) If an inactive nominee does not become an effective member within six (6) months of approval by the Membership Committee, or if at any time an individual remains an inactive nominee for six (6) consecutive months, the individual's eligibility for membership will be terminated. In order to again become eligible for membership or inactive nominee status, the individual must reapply for membership pursuant to Rule 3.9.]

. . . Interpretations and Policies:

.01 Nothing in paragraph (d) of this Rule is intended to define or limit (i) any obligations between a nominee of a member organization, or an individual who has registered his or her membership for a member organization, and the member organization itself, (ii) any responsibility such a person may have for obligations of a member organization by virtue of a contractual obligation or ownership relationship to the organization beyond merely being a nominee or individual who has registered his or her membership for the organization, or (iii) the ability of the Exchange to sanction or take other remedial action against such a person pursuant to other Exchange rules for rule violations or other activity for which remedial measures may be imposed.

Application Procedures and Approval or Disapproval

RULE 3.9. (a) *Any individual or organization desiring to become a member, any applicant or member desiring to act in one or more of the membership statuses set forth in Rule 3.2(b) or 3.3(b), any associated person required to be approved by the Membership Committee pursuant to Rule 3.6(b), and any member desiring to change the Clearing Member that guarantees the member's Exchange transactions shall submit an application to the Membership Department in a form and manner prescribed by the Exchange.*

(b) The Membership Committee shall establish for each type of [membership] application a submission deadline of up to 90 days prior to the date that such an application will be considered for approval. These submission deadlines shall be published in a regulatory circular. [A membership] *An* application must be submitted to the Membership Department in accordance with the applicable submission deadline in order to be eligible for consideration. [All application fees must be filed with the application. Application fees are not refundable.]

(c) Any required application fees must be filed with the application and are not refundable.

(d) Each applicant shall promptly update the application materials submitted to the Membership Department if any of the information provided in these materials becomes inaccurate or incomplete after the date of submission of the application to the Membership Department and prior to any approval of the application.

([b]e) Within a reasonable time following receipt of an application for membership, *an application to change membership capacity statuses set forth in Rule 3.2(b) or 3.3(b), or an application to change Clearing Members,* the name of the applicant *and the application request* shall be published in the Exchange Bulletin and posted on the Exchange Bulletin Board. *The Membership Committee shall determine for each type of the foregoing applications the required time period that the above information must be posted on the Exchange Bulletin Board, provided that in no event shall any such required posting period be less than 10 days. Notwithstanding the foregoing, the required posting period for a member's application to change Clearing Members shall be waived if the Clearing Member(s) that will no longer be guaranteeing the member's Exchange transactions consent to such waiver in a form and manner prescribed by the Exchange. The Membership Committee may also determine to implement a posting period requirement for other types of applications submitted pursuant to paragraph (a) of this Rule. The Membership Committee may shorten or waive a required posting period for an applicant if the Membership Committee determines that doing so is warranted due to extenuating circumstances.*

(f) The Membership Department shall investigate each applicant applying to be a member organization, each associated person required to be approved by the Membership Committee pursuant to Rule 3.6(b), and each applicant applying to be an individual member (with the exception of any individual member applicant who was an individual member within 6 months prior to the date of receipt of that applicant's membership application by the Membership Department). The Membership Department may also investigate any other person or organization that submits an application pursuant to paragraph (a) of this Rule.

[(c) Before an application is approved by the Membership Committee:

(1) Every individual applicant and, in the case of applicant organizations, all persons associated with the organization, shall be investigated by the Membership Department. The applicant shall file with the Membership Department any additional documents that may be required by the Exchange.

(2) An applicant seeking trading privileges shall have completed the requirements of Rule 6.71, Registration of Floor Brokers, or Rule 8.2, Registration of Market-Makers, including attending the New Member Orientation Program and taking the Floor Member Qualification Exam.

(3) The name of the applicant shall have been posted on the Exchange Bulletin Board for at least 10 days.

(d) An applicant must be approved by the Membership Committee to perform in at least one of the recognized capacities of a member as stated in Paragraph (b) of Rule 3.1.]

(g) Any person applying pursuant to paragraph (a) of this Rule to have an authorized floor function is required to have attended the Exchange's New Member Orientation Program and to have passed the Exchange's Floor Member Qualification Exam. Additionally, any person who has attended the New Member Orientation Program and taken and passed the Floor Member Qualification Exam and who then does not possess an authorized floor function for more than 1 year is required to re-attend the New Member Orientation Program and to re-pass the Floor Member Qualification Exam in order to once again become eligible to have an authorized floor function. A person must score 75% or better on the Floor Member Qualification Exam in order to pass the Exam. Any person who fails the Floor Member Qualification Exam must wait 30 days to re-take the Exam after failing the Exam for the first time, must wait 60 days to re-take the Exam after failing the Exam for the second time, and must wait 120 days to re-take the Exam after failing the Exam for a third or subsequent time. The Exchange may not waive any of the requirements set forth in this paragraph (g).

(h) The Membership Committee may approve an application submitted pursuant to paragraph (a) of this Rule only if any applicable posting period requirement pursuant to paragraph (e) of this Rule has been satisfied, any investigation pursuant to paragraph (f) of this Rule has been completed, and any applicable orientation and exam requirements pursuant to paragraph (g) of this Rule have been satisfied.

(i) Each applicant that submits an application pursuant to paragraph (a) of this Rule and each person associated with the applicant shall submit to the Membership Department any additional information requested by the Exchange in connection with the Exchange's review of the application and may be required to appear before the Membership Committee and/or a File Review Subcommittee of the Membership Committee for an in-person interview or interviews.

([e]*j*) Upon completion of the application process, the Membership Committee shall consider and vote on the approval or disapproval of the application, unless there is just cause for delay. *One such just cause for delay is when an applicant is the subject of an inquiry, investigation, or proceeding conducted by a self-regulatory organization or governmental authority that involves the applicant's fitness for membership. In such an instance, the Membership Committee need not act on any application submitted by that applicant until the matter has been resolved.* [Individual applicants and persons associated with applicant organizations may be required to appear in person before the Membership Committee or a subcommittee thereof. The Committee may also require any member or person associated with a member organization who may possess information relevant to the applicant's suitability for membership to provide information or testimony.]

([f]*k*) Approval of an application requires a vote of the majority of the members of the Membership Committee then in office. *Any applicant that is approved to be a member by the Membership Committee must be approved by the Membership Committee to perform in at least one of the recognized capacities of a member as stated in Rule 3.1(b).* Written notice of the action of the Membership Committee, specifying in the case of disapproval of an application the grounds therefor, shall be provided to the applicant.

([g]*l*) If the application process is not completed within [six (*6*)] 6 months of the [filing] *submission* of the application[form] and the appropriate fee(*s*), the application shall be deemed to be automatically withdrawn.

. . . Interpretations and Policies:

.01 Any member that submits an application pursuant to paragraph (a) of this Rule to change Clearing Members shall submit to the Membership Department along with the application a financial statement in a form prescribed by the Exchange which sets forth the member's assets and liabilities. The Membership Department shall provide a copy of this financial statement to the new Clearing Member designated in the application.

.02 The Membership Committee may disapprove the membership application of an organization if the Membership Committee determines that the name of the organization is confusingly similar to the name of an existing member organization. A member organization desiring to change the name of the organization shall submit an application to the Membership Department in a form and manner prescribed by the Exchange. As with member organization applicants, the Membership Committee may disapprove a name change requested by a member organization if the Membership Committee determines that the desired name is confusingly similar to the name of another member organization. For the purposes of this Interpretation and Policy .01, the name of an organization shall include both its official name and the name under which the organization conducts business.

Effectiveness of Membership [Applications] *or Approved Associated Person Status*

RULE 3.10. *(a) Each applicant for membership, for one of the membership statuses set forth in Rule 3.2(b) or 3.3(b), or for an approved associated person status pursuant to Rule 3.6(b) must become effective in that status within 90 days of the date of the applicant's approval for that status, except that an applicant to become a lessor may become effective in that status within 6 months of the date of the applicant's approval for that status.*

(b) An applicant for membership shall become an effective member upon (i) satisfying the applicable requirements to obtain a membership and (ii) release of a membership to that member by the Membership Department.

[Applicants must become effective members within 90 days of the date of approval by the Membership Committee; provided that applicants for inactive nominee status must become effective members within 6 months. Applicants shall become effective as follows:

(a) An applicant for membership pursuant to paragraph (b) of Article Fifth of the Certificate of Incorporation upon release by the Membership Department.

(b) An individual or organizational applicant for membership upon purchase of and payment for an Exchange membership and release by the Membership Department.

(c) A lessee applicant upon the transfer of a membership to his use pursuant to Rule 3.16 and release by the Membership Department.

(d) A nominee applicant shall become effective when the member organization notifies the Membership Department in writing that the nominee should become effective on a specific date on a specific membership.]

Notice of [Membership] Effectiveness *of Membership or Approved Associated Person Status*

RULE 3.11. *Promptly following the effectiveness of any membership, membership status pursuant to Rule 3.2(b) or 3.3(b), or associated person status pursuant to Rule 3.6(b), notice of such effectiveness shall be published in the Exchange Bulletin.*

[With respect to each membership that becomes effective in accordance with Rule 3.10, the Membership Department shall promptly mail a notice thereof to all members and shall post a copy of such notice on the bulletin board of the Exchange.]

[Ownership of] Membership *Rights and Restrictions on Their Transfer*

RULE 3.12. *(a) No rights shall be acquired by ownership of a regular membership except the right to an aliquot part of the net assets, if any, remaining after the payment of all debts and obligations of the Exchange in the event of its dissolution and winding up and, if the owner of the membership is in good standing, such rights as may be provided by the Constitution and Rules to members in good standing.*

(b) Except for the rights granted to the grantee of an Authorization to Sell a membership pursuant to Rule 3.14(d) and Rule 3.15(b):

(i) The Exchange shall not recognize any interest in the property or other rights represented by a membership except that of its owner as registered with the Exchange.

(ii) No recognition or effect shall be given by the Exchange to any agreement or to any instrument entered into or executed by a member or his legal representatives which purports to transfer or assign the interest of the

member in the member's membership, or in the proceeds or any part thereof, or which purports to create any lien or other right with respect thereto, or which purports in any manner to provide for the disposition of such proceeds to a creditor of such member, nor shall payment of such proceeds be made by the Exchange on the order of such member.

[No rights shall be acquired by ownership of a regular membership except the right to an aliquot part of the net assets, if any, remaining after the payment of all debts and obligations of the Exchange in the event of its dissolution and winding up and, if the owner of the membership is in good standing, such rights as may be provided by the Constitution and Rules to members in good standing. Special members shall have no interest in or any right to share in any distribution of the property and assets of the Exchange in the event of its dissolution and winding up.]

Purchase of Membership

RULE 3.13. (a) Newly Issued Memberships. [Newly issued memberships may be purchased by approved applicants, through the Membership Department, when and as made available by the Exchange. Memberships purchased under this Paragraph (a) shall be acquired and paid for within 10 days of the applicant's receipt of the Notice of Approval issued pursuant to Rule 3.8.] *When and as made available by the Exchange, newly issued memberships may be purchased, pursuant to procedures established by the Exchange, by those approved to be an owner or lessor.*

(b) Outstanding Memberships. Outstanding transferable memberships with respect to which notices of sale have been filed under Rule 3.14*(a)* may be purchased [by approved applicants,] through the Membership Department *and* in accordance with the following procedures *by those approved to be an owner or lessor.* [All bids from approved applicants] Each membership bid must be submitted in writing to the Membership Department [of the Exchange]. *Only those approved to be an owner or lessor may submit a bid and any such bid shall be canceled at such time that the bidder is no longer approved to be an owner or lessor. Provided that a bid is not canceled pursuant to the foregoing sentence, the bid shall remain in effect for 6 months unless written revocation of the bid is received by the Membership Department.* The Membership Department will file [all bids by class of membership] *each bid* according to the highest price and the earliest submission date. The highest bid with the earliest filing date will be posted on the Exchange [bulletin board] *Bulletin Board and published in the Exchange Bulletin.* [All bids remain in effect for six months unless written revocation thereof is received by the Membership Department.] When a bid filed in accordance with the *procedures of* this [P]*paragraph* (b) is matched with an offer filed in accordance with the [provisions] *procedures* of Rule 3.14(a), neither can be changed or withdrawn. [Memberships purchased under this Paragraph (b) shall be acquired and paid for within 90 days of the applicant's receipt of the Notice of Approval issued pursuant to Rule 3.8.]

(c) Payment. Not later than the second business day following the *acceptance of a bid pursuant to paragraph (a) of this Rule or the* matching of [the] *a* bid and offer *pursuant to paragraph (b) of this Rule,* the purchaser shall deliver to the Membership Department a certified or cashier's check made payable to the Exchange covering the purchase price of the membership.

Sale and Transfer of Membership

RULE 3.14. (a) Sale by Owner. The owner of a transferable membership [who] *that* desires to sell [his] *the* membership shall submit a written offer of sale to the Membership Department. *Each offer shall remain in effect for 6 months unless written revocation of the offer is received by the Membership Department.* The Membership Department will file [all such offers by class of membership] *each offer* according to the lowest price and the earliest submission date. The lowest offer with the earliest filing date will be posted on the Exchange [bulletin board] *Bulletin Board and published in the Exchange Bulletin.* [All offers remain in effect for six months unless written revocation thereof is received by the Membership Department. After] *When* an offer filed in accordance with the *procedures of this [P]*paragraph (a) is matched with a bid filed in accordance with the [provisions] *procedures* of Rule 3.13(b), neither can be changed or withdrawn. *The owner of a membership for which* [A member who has filed an offer of sale shall, so long as he] *an offer of sale has been matched with a bid shall, so long as the member* remains in good standing and until the purchase price *of the membership* has been paid, continue to have all of the rights [and privileges, and shall remain subject to all of the duties and obligations,], *privileges, duties, and obligations* of membership.

(b) Sale [or Cancellation] by Exchange. Whenever one or more of the following conditions exist with respect to a [transferable regular membership or a special] *member that is the owner or lessee of a transferable* membership, the Exchange may offer the membership for sale in accordance with Rule 3.14(a):

([1]*i*) An individual member has died or has been declared legally incompetent, and the *owner or the* legal representative of [such member] *the owner* has failed to consummate a transfer of the membership[(s)] within 6 months of the member's death or incompetence or within such extended time as may have been granted by the Exchange;

([2]*ii*) A member's good standing has been terminated, or has been suspended and has failed to be reinstated at the expiration of the period of suspension including any extension of such period [which] *that* may have been granted by the Exchange;

([3]*iii*) A member organization has been dissolved, formally or informally, and no transfer of its membership[(s)] has been accomplished within 6 months of the dissolution or within such extended time as may have been granted by the Exchange.

[Whenever one or more of such conditions exist with respect to a special membership and the Exchange determines not to offer such special membership for sale, the Exchange may cancel such special membership by filing a cancellation of special membership form with the Membership Department. Notice of each such cancellation shall be mailed to all members and shall be posted on the bulletin board of the Exchange. Following such cancellation, the individual or organization having its special membership cancelled shall cease to have any of the rights, privileges or obligations of membership.]

(c) Transfer by Owner. The owner of a transferable membership may transfer [such] *the* membership without adhering to the provisions contained in Rule 3.13(b) and [3.14(a)] *paragraph (a) of this Rule* so long as one of the following qualifying circumstances is applicable to and descriptive of the desired transfer and the transferee is approved [for membership in accordance with the Rules of the Exchange] *to be an owner or lessor:*

([1]*i*) The owner of a transferable membership (whether or not [such] *the* membership is registered for a member organization) requests the transfer of [such] *the* membership to [his] *the member's* spouse, brother, sister, parent, child, grandparent, or grandchild;

([2]*ii*) The owner of a transferable membership requests the transfer of [such] *the* membership to an organization which has succeeded, through statutory merger, exchange of stock, or acquisition of assets to the business of the transferor;

([3]*iii*) The owner of a transferable membership requests the transfer of [such] *the* membership to an organization in which the transferor will maintain [a substantial interest, that is,] an interest at least equal in value to the [cost or] *current* market price of the membership [whichever is lower]; or

([4]*iv*) The owner of a transferable membership requests the transfer of such membership to an individual or organization which is a partner or shareholder of the transferor as part or all of a liquidation distribution of the transferor.

[Notwithstanding the foregoing, transfers pursuant to this Paragraph (c) shall not become effective until there has been deposited with the Membership Department an amount equal to the last sale of a membership of the same class as the membership being transferred or an acceptable Letter of Guarantee from a Clearing Member for such amount, which amount shall be applied as though it were proceeds of the sale of a membership for the purposes of Rule 3.15.]

(d) Authorizations to Sell. The owner of a transferable membership may voluntarily grant to another Exchange member an Authorization to Sell the membership. Authorizations to Sell shall be subject to the following provisions:

(i) An Authorization to Sell shall be effective only if it has been executed on a form prescribed by the Exchange and filed with the Membership Department.

(ii) A membership owner may not grant an Authorization to Sell a particular membership to more than one member.

(iii) The grantee of an Authorization to Sell shall have all of the authority granted under the Constitution and Rules relating to the sale of the membership that would otherwise be vested in the membership owner, including the sole authority to determine whether and when to submit an offer to sell the membership in accordance with the provisions of paragraph (a) of this Rule. Notwithstanding the foregoing, a grantee of an Authorization to Sell must (A) notify the membership owner in writing at least 3 business days prior to exercising the grantee's right to sell the membership of any decision by the grantee to exercise that right and (B) provide the Membership Department with written verification in a form and manner prescribed by the Exchange that the required notice has been provided to the membership owner.

(iv) A membership owner that has granted an Authorization to Sell shall have no authority to direct the sale or transfer of the membership. An Authorization to Sell shall be irrevocable and may only be canceled if the grantee of the Authorization to Sell consents to its cancellation in a form and manner prescribed by the Exchange.

(v) When a membership owner has granted an Authorization to Sell a membership, the Exchange shall take direction solely from the grantee of the Authorization to Sell with respect to matters relating to the sale of the membership. Notwithstanding the foregoing, a membership owner and a grantee may have a written contract between them which sets forth the circumstances under which the grantee may exercise the grantee's authority to sell the membership, and any breaches of this written contract may be redressed through arbitration under Chapter XVIII of the Rules or through other means permitted by that Chapter. The membership owner and the grantee shall promptly file with the Membership Department a copy of any such contract and any amendments thereto.

(vi) In the event a grantee of an Authorization to Sell exercises the grantee's right to sell the membership by submitting an offer to sell the membership in accordance with the provisions of paragraph (a) of this Rule, the grantee may not be the purchaser of the membership and no bid submitted by the grantee pursuant to Rule 3.13(b) shall be matched with the offer to sell the membership unless the membership owner consents in a form and manner prescribed by the Exchange to having the grantee be the purchaser of the membership.

(vii) Following the receipt by the Membership Department of an Authorization to Sell that has been granted by a member, a cancellation of the Authorization to Sell, or a contract concerning the exercise of authority under the Authorization to Sell, the Membership Department shall provide a copy of the applicable document to any Clearing Member that guarantees the member's Exchange transactions.

(viii) The grant of an Authorization to Sell a membership shall include the grant of a security interest in any proceeds from the sale of the membership that the grantee of the Authorization to Sell is entitled to receive pursuant to Rule 3.15(b), and a properly executed Authorization to Sell form that has been filed with the Membership Department shall constitute a security agreement which grants the foregoing security interest to the grantee of the Authorization to Sell. The grantee of an Authorization to Sell may act to perfect the foregoing security interest under applicable law, which may include the filing of one or more UCC–1 Financing Statements. However, failure by a grantee of an Authorization to Sell to perfect the foregoing security interest under applicable law shall not affect the rights of the grantee under the Rules. In the event of a cancellation of an Authorization to Sell pursuant to paragraph (d)(iv) of this Rule, the grantee of the Authorization to Sell shall promptly file a Termination Statement with every filing authority where UCC–1 Financing Statements were filed with respect to the Authorization to Sell. The grantee of an Authorization to Sell shall promptly file with the Membership Department a file-stamped copy of any UCC filings made with respect to the Authorization to Sell.

Proceeds from Sale of Membership

RULE 3.15. *(a) In the event of a sale of a membership for which no Authorization to Sell has been granted, the Exchange shall remit the sale proceeds from the sale of the membership to the member whose membership was sold promptly following receipt of the sale proceeds by the Exchange pursuant to Rule 3.13(c).*

(b) In the event of a sale of a membership for which an Authorization to Sell has been granted:

(i) The grantee of the Authorization to Sell shall have 2 business days from the date of the sale to notify the Membership Department in writing of any claims the grantee has against the member whose membership was sold. Such claims shall be limited to claims that are related to the Exchange business activities of the member whose membership was sold.

(ii) For the purposes of this Rule, claims related to Exchange business activities shall include, but not be limited to, claims associated with Exchange transactions, securities or futures transactions other than on the Exchange that are related to Exchange transactions or positions resulting from Exchange transactions, loans or guarantees of loans for the purpose of purchasing an Exchange membership, and services provided in connection with any of the foregoing. Whether a claim is related to Exchange business activities shall be determined solely by the Exchange.

(iii) The written claims notification provided by the grantee of the Authorization to Sell shall be in a form prescribed by the Exchange and shall specify the amount and nature of the claims. Promptly following its receipt by the Membership Department, the Membership Department shall provide a copy of the written claims notification to the member whose membership was sold.

(iv) The member whose membership was sold shall have 5 business days from the date of the sale to either acknowledge or contest, in a form and manner prescribed by the Exchange, the claims set forth in the written claims notification. In the event the member whose membership was sold does not contest a claim in the written claims notification within the prescribed time period and in the manner prescribed by the Exchange for doing so, the claim shall be deemed to have been acknowledged by the member whose membership was sold.

(v) Promptly following the expiration of the 5 business day period under subparagraph (b)(ii) of this Rule:

(A) The Exchange shall remit to the grantee of the Authorization to Sell that portion of the sale proceeds applicable to claims in the written claims notification that were acknowledged by the member whose membership was sold.

(B) The Exchange shall escrow that portion of the remaining sale proceeds applicable to claims in the written claims notification that were contested by the member whose membership was sold.

(C) The Exchange shall remit to the member whose membership was sold any portion of the sale proceeds remaining after the provision for any payments and escrow under the above provisions.

(vi) Any portion of the sale proceeds applicable to contested claims that has been escrowed pursuant to this Rule shall remain in escrow until the grantee of the Authorization to Sell and the member whose membership was sold resolve the claims through arbitration under Chapter XVIII of the Rules or through other means permitted by that Chapter. Notwithstanding the foregoing, the Exchange may determine to release the escrowed portion of the sale proceeds to the member whose membership was sold in the event the Exchange determines that the grantee of the Authorization to Sell is not proceeding in good faith to resolve the contested claims. Escrowed sale proceeds shall bear interest at the prevailing money market rate determined by the Exchange. The interest on the escrowed sale proceeds shall be available to contribute toward the satisfaction of the contested claims.

(vii) Following the resolution of any contested claims for which sale proceeds have been escrowed pursuant to this Rule, the grantee of the Authorization to Sell and the member whose membership was sold shall notify the Membership Department in a form and manner prescribed by the Exchange of the resolution of the claims. Following receipt by the Membership Department of notification of the resolution of the contested claims, the Exchange shall promptly (A) remit to the grantee of the Authorization to Sell that portion of the escrowed sale proceeds and interest thereon to which the grantee is entitled pursuant to the resolution and (B) remit to the member whose membership was sold that portion of the escrowed sale proceeds and interest thereon to which the member whose membership was sold is entitled pursuant to the resolution.

[Upon any sale of a membership pursuant to Rule 3.14, the Exchange shall hold the proceeds of the sale for a period of 20 days from the date of posting notice of the sale in the Exchange Bulletin and on the Exchange bulletin board(s), during which period claims against the proceeds may be filed by members for payment in accordance with this Rule. As soon as practicable following such 20 day period, the proceeds shall be applied by the Exchange to the following purposes and in the following order of priority:

(a) The payment of such sums as the Board shall determine are or may become due to the Exchange from the member or from the member organization on whose behalf the membership was registered.

(b) The payment of such sums as the Board shall determine are or may become due to the Clearing Corporation from the member whose membership is transferred or from the member organization on whose behalf the membership was registered.

(c) The payment of such sums as the Board shall determine are due by such member or by the member organization on whose behalf the membership was registered to other members in payment of claims made by such other members arising directly as a result of (1) Exchange transactions, (2) transactions of such member in securities other than on the Exchange which are effected or carried in an account maintained by a clearing member or (3) loans or guarantees of loans to such member or member organization for the purpose of purchasing an Exchange membership or for any purpose other than the purchase of securities which loans were made or guaranteed by such other members. No claim asserted under this paragraph shall be considered by the Board nor shall any member asserting such a claim have any rights thereunder, unless a written statement of such claim shall have been filed with the Membership Department prior to the expiration of the 20-day period referred to in the first paragraph of this Rule. If the proceeds of the sale of a membership are insufficient to pay in full all claims allowed under this paragraph, payment shall be made pro rata upon all such allowed claims.

(d) If a claim is contingent or the amount that ultimately will be due thereon cannot, for any reason, be immediately ascertained or determined, the Board in its sole discretion may, out of the proceeds of the sale of the membership, reserve and retain for later distribution in accordance with the Rules such amount as it may deem appropriate, pending the determination of the amount due on such claim.

(e) After provision for the payment of the sums payable under paragraphs (a), (b) and (c) hereof and provision for the reserve, if any, under paragraph (d) hereof, there may, in the discretion of the Board, be deducted from the remaining proceeds and paid to the Exchange the amount of any unusual expenses incurred by the Exchange involving the disposition of such proceeds.

(f) The surplus, if any, of proceeds of the transfer of a membership, after provision for the above payments and the setting aside of the reserve under paragraph (d) hereof, shall be paid to the member whose membership is transferred, or to his or its legal representatives.

(g) No recognition or effect shall be given by the Exchange to any agreement or to any instrument entered into or executed by a member or his legal representatives which purports to transfer or assign the interest of such member in his or its membership, or in the proceeds or any part thereof, or which purports to create any lien or other right with respect thereto, or which purports in any manner to provide for the disposition of such proceeds to a creditor of such member, nor shall payment of such proceeds be made by the Exchange on the order of such member.]

. . . Interpretations and Policies:

[.01 Notwithstanding the language of paragraph (g) of the Rule and subject to the provisions in paragraphs (a) through (f) respecting disposition of proceeds of sale, the Exchange may recognize and

give effect to a valid instrument by which a member, in consideration of a loan or guarantee of a loan by another member for the purpose of purchasing a membership, has authorized the lending or guaranteeing member to sell that membership.]

.01[.02] It is the policy of the Exchange not to impose a transfer fee on the sale of an Exchange membership and not to remit to the [selling] member *whose membership was sold* any interest earned while the proceeds of the sale are held by the Exchange [pursuant to Rule 3.15], *except as provided in subparagraphs (b)(iv) and (b)(v) of this Rule with respect to escrowed sale proceeds.*

[.03 Where sums are or may become due to more than one Clearing Corporation, the priority set forth in paragraph (b) shall inure to the benefit of each such Clearing Corporation pro rata.]

Special Provisions Regarding *Chicago Board of Trade Exerciser* Memberships

RULE 3.16. (a) [Surrender of Memberships] *Termination of Nontransferable Memberships.* [Individuals or organizations owning nontransferable memberships acquired pursuant to paragraph] *A nontransferable membership acquired by a person pursuant to Paragraph* (b) of Article Fifth of the Certificate of Incorporation [or owning special memberships may surrender such memberships by giving notice thereof to the Membership Department, which shall terminate such membership] *shall terminate (i) upon receipt by the Membership Department of written notice from the person that the person is surrendering the membership or (ii) at such time that the person is no longer entitled to membership on the Exchange in accordance with Paragraph (b) of Article Fifth of the Certificate of Incorporation.* Notice of each such termination shall be [mailed to all members and shall be posted on the bulletin board of the Exchange] *published in the Exchange Bulletin.*

[(b) Leased Memberships. (i) The owner of a transferable regular membership in good standing may lease such membership to an individual or organization, provided the lessee is approved for membership in accordance with the Rules of the Exchange. Lease agreements, which must be approved by the Exchange in accordance with Rule 3.6, shall include provisions covering (A) the duration of the lease arrangement; (B) the consideration to be paid by the lessee; (C) the assignability of the respective interests of the lessee and lessor in such lease agreement; and (D) as between the parties, which party shall exercise the voting rights of the membership and which party shall provide the funds necessary to satisfy all applicable Exchange dues, fees and other charges. Any division of rights and responsibilities between lessor and lessee shall not affect the obligation of the lessor to pay all amounts due the Exchange.

(ii) The Lease of a regular membership or the reversion of a previously leased membership to the lessor upon termination of the lease agreement shall not become effective until there has been deposited with the Membership Department an amount equal to the last membership sale or an acceptable Letter of Guarantee from a Clearing Member for such amount, which amount shall be applied to claims of member creditors of the previous lessee which arose in the course of that previous lease arrangement or of the lessor as though it were proceeds of the sale of a membership for the purposes of Rule 3.15 hereof.

(iii) In the event the lessor of a membership effects a sale thereof pursuant to the provisions of Rule 3.14(a), claims may be made against the proceeds from the sale of such membership in accordance with Rule 3.15 by members having claims against either the lessee or the lessor, with priority given to claims made against the lessee.

(iv) Special memberships shall not be leasable.]

(*b*[c]) Board of Trade Exercisers. For the purpose of entitlement to membership on the Exchange in accordance with Paragraph (b) of Article Fifth of the Certificate of Incorporation of the Exchange (''Article Fifth(b)'') the term ''member of the Board of Trade of the City of Chicago'' (the ''CBOT''), as used in Article Fifth(b), is interpreted to mean an individual who is either an ''Eligible CBOT Full Member'' or an ''Eligible CBOT Full Member Delegate,'' as those terms are defined in the Agreement entered into on September 1, 1992 (the ''Agreement'') between the CBOT and the Exchange, and shall not mean any other person. In order to permit Eligible CBOT Full Members and Eligible CBOT Full Member Delegates to participate in an offer, distribution or redemption of the kind referred to in the last two sentences of Paragraph 3(a) of the Agreement, and solely for such purpose, the Exchange agrees to waive all membership dues, fees and other charges and all qualification requirements, other than those that may be imposed by law, that may be applicable to the application for membership on the Exchange of each Eligible CBOT Full Member and Eligible CBOT Full Member Delegate who wishes to exercise the Exercise Right during the period commencing on the date the Exchange gives notice to the CBOT pursuant to Paragraph 3(b) of the Agreement and ending on the date such individual participates in such offer, distribution or redemption (as the case may be); provided, however, that (i) no Exerciser Member (as defined in the Agreement) for whom dues, fees and other charges and qualification requirements are waived in accordance with the foregoing shall have any rights as a member of the Exchange other than to participate in such offer, distribution or redemption, and (ii) the membership on the Exchange of each such Exerciser Member shall terminate immediately following the time such individual participates in such offer, distribution or redemption.

Leased Memberships

RULE 3.17. (a) The owner of a transferable membership in good standing may lease the membership to an individual or organization, provided that the lessee is approved for membership in accordance with the Rules, the lease is made pursuant to a written lease agreement, and the lease is pre-approved by the Exchange. The Exchange shall bear no liability to a lessor or lessee in connection with the Exchange's review and approval of a lease agreement.

(b) A lessor of a membership shall not have any liability for claims against a lessee of that membership solely by virtue of being a lessor of the membership. Nothing in this paragraph (b) is intended to limit or define any responsibility a lessor may have for claims against a lessee by virtue of a contractual obligation or ownership relationship between the lessor and lessee beyond the lease of a membership from the lessor to the lessee.

(c) Each membership lease agreement must include such provisions as may be required by the Exchange and must also include provisions covering the following subjects: (i) the duration of the lease arrangement; (ii) the consideration to be paid by the lessee; (iii) the assignability of the respective interests of the lessee and lessor in the lease agreement; (iv) as between the parties, which party shall exercise the voting rights of the membership; and (v) as between the parties, which party shall provide the funds necessary to satisfy all applicable Exchange dues, fees, and other charges.

(d) The lessee under a lease shall promptly file the lease agreement and any amendments thereto with the

Membership Department and shall promptly notify the Membership Department of any termination of the lease before the termination becomes effective.

(e) In the event a lessor sells or transfers a membership while it is being leased to a lessee, the purchaser or transferee of the membership shall be required to lease the membership to the lessee pursuant to the terms of the lessee's existing lease agreement with the lessor for a period of 20 business days following the date the membership is transferred to the purchaser or transferee. The purchaser or transferee may satisfy this requirement by making arrangements with another membership owner to permit the lessee to lease a membership from that membership owner for the required time period pursuant to the terms of the lessee's existing lease agreement. The lessee may waive the requirements of this paragraph (e) in a form and manner prescribed by the Exchange. It shall be a violation of this Rule for a lessor to circumvent the requirements of this paragraph (e) by improperly terminating a membership lease prior to the sale or transfer of the membership for the purpose of avoiding the applicability of the requirements of this paragraph (e). If the Exchange determines that such a circumvention has taken place, the Exchange may impose the requirements of this paragraph (e) upon the purchaser or transferee of the membership and/or take disciplinary action against the lessor pursuant to Chapter XVII of the Rules.

(f) In the event a lessor sells or transfers a membership while it is being leased to a lessee, the lessor shall remit to the purchaser or transferee of the membership no later than the date the membership is transferred to the purchaser or transferee any amounts paid to the lessor by the lessee under the lease agreement for any portion of the lease period, up to 20 business days from the transfer date, during which the lessor will no longer be leasing the membership to the lessee. The lessor shall also remit to the lessee by the transfer date any amounts paid to the lessor by the lessee under the lease agreement for any portion of the lease period beyond 20 business days from the transfer date. Notwithstanding the foregoing, in the event the lessee waives the requirements of paragraph (e) of this Rule, the lessor shall remit to the lessee by the transfer date all amounts paid to the lessor by the lessee under the lease agreement for any portion of the lease period during which the lessor will no longer be leasing the membership to the lessee.

Members and Associated Persons Who Are or Become Subject to a Statutory Disqualification

RULE 3.18. (a) The Exchange may determine in accordance with the provisions of this Rule not to permit a member or associated person of a member to continue in membership or association with a member, or to condition such continuance in membership or association, if the member or associated person is or becomes subject to a statutory disqualification under the Exchange Act.

(b) If a member or associated person of a member who is or becomes subject to a statutory disqualification under the Exchange Act wants to continue in Exchange membership or association with a member, the member or associated person must, within 10 days of becoming subject to a statutory disqualification, submit an application to the Membership Department, in a form and manner prescribed by the Exchange, seeking to continue in membership or association with a member notwithstanding the statutory disqualification. The application shall be accompanied by copies of all documents that are contained in the record of the underlying proceeding that triggered the statutory disqualification.

(c) Following the receipt of an application submitted pursuant to paragraph (b) of this Rule, or in the event the Exchange becomes aware that a member or associated person of a member is subject to a statutory disqualification and has failed to submit an application pursuant to paragraph (b) of this Rule within the required time period, the Chairperson of the Membership Committee shall appoint a panel composed of the Membership Committee Chairperson and two other members of the Membership Committee to conduct a hearing concerning the matter pursuant to paragraph (f) of this Rule. In the case of recusal of the Membership Committee Chairperson, the Chairperson shall appoint another member of the Membership Committee to serve on the panel in place of the Membership Committee Chairperson.

(d) Any person who is the subject of a proceeding under this Rule is entitled to be accompanied, represented, and advised by counsel at all stages of the proceeding.

(e) Any person who is the subject of a proceeding under this Rule and any member or associated person of a member shall promptly submit any information requested by the Membership Department or hearing panel in connection with the proceeding.

(f) The hearing panel shall hold a hearing to determine whether to permit the member or associated person of a member who is the subject of a proceeding under this Rule to continue in membership or association with a member, and if so, whether to condition such continuance in membership or association. The hearing shall be held 14 or more days following the receipt of an application, or the initiation of a proceeding, pursuant to paragraph (c) of this Rule. The Exchange shall notify the subject of the proceeding in writing of the date, time, and location of the hearing. Both the subject of the proceeding and Exchange staff will be afforded an opportunity to present relevant information, arguments, and witnesses during the hearing. The hearing panel shall regulate the conduct of the hearing, and formal rules of evidence shall not apply. The subject of the proceeding shall be required to attend the hearing, and the Membership Department or hearing panel may require any member or associated person of a member to testify at the hearing. A verbatim record of the hearing shall be kept.

(g) Following the hearing, the hearing panel shall present its recommended decision to the Membership Committee, which may ratify or amend the decision. Failure to timely file an application pursuant to paragraph (b) of this Rule is a factor that may be taken into consideration in rendering the decision. The decision shall be in writing and set forth the basis for the decision. The decision shall be promptly provided to the subject of the proceeding under this Rule and to the Executive Committee. The Executive Committee may determine within 7 days after the issuance of the Membership Committee's decision to order review of the decision. If the Executive Committee does not order review of the Membership Committee's decision, the Membership Committee's decision shall become the final decision of the Exchange.

(h) If the Executive Committee orders review of the Membership Committee's decision, the review shall be conducted by the Executive Committee or a panel thereof composed of at least 3 members of the Executive Committee, whose decision must be ratified by the Executive Committee. Unless the Executive Committee shall decide to open the record for the introduction of additional information or argument, any determination to order review of the Membership Committee's decision and any review of the decision shall be

based solely on the record of the proceeding. The decision of the Executive Committee shall be in writing, shall be promptly provided to the subject of the proceeding, and shall be the final decision of the Exchange.

(i) No determination of the Membership Committee to discontinue or condition a person's membership or association with a member pursuant to this Rule shall take effect until the review procedures under paragraph (h) of this Rule have been exhausted or the time for review has expired.

. . . Interpretations and Policies:

.01 The Exchange may waive the provisions of this Rule when a proceeding is pending before another self-regulatory organization to determine whether to permit an associated person of a member to continue in membership or association with the member notwithstanding a statutory disqualification. In the event the Exchange determines to waive the provisions of this Rule with respect to an associated person, the Department of Financial and Sales Practice Compliance shall determine whether the Exchange will concur in any Exchange Act Rule 19h–1 filing made by another self-regulatory organization with respect to the associated person.

.02 If an associated person of a member is or becomes subject to a statutory disqualification under the Exchange Act, the member shall immediately provide written notice to the Membership Department of the name of the associated person, the person's capacity with the member, and the nature of the statutory disqualification.

[Death, Retirement, Withdrawal and Resignation] *Termination from Membership*

RULE [3.17] *3.19. The membership status of a member shall automatically terminate at such time that the member does not possess a membership through ownership, lease, or registration of a membership to the member. The membership of a member organization shall also automatically terminate at such time that the member organization has no nominee or person who has registered his or her membership for the member organization. Notwithstanding the foregoing, if the Exchange determines that there are extenuating circumstances, the Exchange may permit a member to retain the member's membership status for such period of time as the Exchange deems reasonably necessary to enable the member to obtain a membership, a substitute nominee, or a substitute person to register his or her membership for the member, as applicable.*

[Upon the death, retirement, withdrawal or resignation from a member organization of an individual member whose membership is registered for the organization, of a nominee, or of the general partner—leaving the organization without a membership or without a nominee, or without a general partner—the Exchange may permit the organization to continue to act as a member in good standing for such period as the Exchange deems reasonably necessary to enable the organization to acquire a membership, to obtain approval of a substitute nominee, or to admit a new general partner, as applicable.]

Dissolution and Liquidation of Member Organizations

RULE [3.18] *3.20.* Every member organization shall promptly [notify] *provide written notice to* the Department of Financial and *Sales Practice* Compliance [in writing upon the] and to the Membership Department of any adoption of a plan of liquidation or dissolution *of the member organization and of any actual liquidation or dissolution of the member organization.* Upon receipt of such *a* notice, the member may be suspended in accordance with Chapter XVI of the Rules.

Obligations of Terminating Members

RULE [3.19] *3.21. Each terminating member shall promptly (i) return to the Exchange all Exchange badges, including trading and access badges, that were issued to the member by the Exchange with respect to that member's terminating membership status, (ii) make any outstanding filings required under Exchange rules, and (iii) pay any outstanding dues, fees, assessments, charges, fines, or other amounts due to the Exchange, the Securities and Exchange Commission, or the Securities Investor Protection Corporation.*

[Every member who sells or transfers his membership pursuant to the provisions of this Chapter must be current in all filings and payments of dues, fees and charges relating to that membership, including filing fees and charges required by the Securities and Exchange Commission and the Securities Investor Protection Corporation. If a member fails to make all such filings, or to pay all such dues, fees and charges, or to turn in his trading badge and membership certificate, the Exchange may, notwithstanding the other applicable provisions of this Chapter, withhold distribution of the proceeds of sale of said membership, or delay the effectiveness of the membership of the transferee, until such time as any such failures have been remedied.

Government Securities Options Permits

RULE 3.20 Permits issued for effecting transactions pursuant to Exchange Rules and policies in Government securities options settled by physical delivery shall be effective for one year and shall be renewable annually for a maximum duration of four years from the date of issuance. Permits which are not renewed shall be retired and shall not be reissued by the Exchange. Permits not issued by December 31, 1984 shall be withdrawn.

Privileges and Responsibilities of Permit Holders

RULE 3.21. (a) Privileges. Government securities options permits issued by the Exchange shall entitle the holders to:

(i) be admitted to the Floor of the Exchange during business days;

(ii) enter into principal transactions as a Market-Maker in Government securities options during the prescribed business hours and days;

(iii) purchase a regular membership during the last month of the three-year permit period in accordance with procedures established by the Exchange;

(iv) such other privileges as may subsequently be granted by the Board. Permit holders, however, shall have no right to petition or to vote at Exchange meetings or elections and shall have no interest in Exchange assets.

(b) Nontransferability. The foregoing privileges may not be transferred or assigned; however, an organization with an approved permit-holder nominee may, upon approval of the Exchange, substitute another permit-holder nominee.

(c) Dues and Fees. Fees for the first fifty (50) permits issued shall be ten-thousand dollars ($10,000) per year. Permit holders shall not be charged Exchange dues, but each permit holder and applicant for a permit shall be subject to all other fees and charges established by the Board.

. . . Interpretation and Policies:

.01 The Board has entitled permit holders to enter into agency transactions as Floor Brokers in Government securities options during the prescribed business hours and days.

Procedures for Government Securities Options Permit Issuance]

RULE 3.22. *Reserved.* [Permits may be issued to qualified applicants who are either individuals or organizations with an approved nominee meeting the same

qualifications as an individual permit holder. The Membership Committee shall select the applicants who appear most qualified based on demonstrated knowledge of and experience in the securities and related industries, adequacy of financial resources and successful completion of a proficiency examination.

Additional Government Security Options Permits

RULE 3.22A. The Exchange may issue up to 20 three-year permits for effecting transactions in Government security options settled by physical delivery, since no new permits may be issued under Rule 3.20. All of these permits shall expire three years after September 14, 1987. These additional permits shall have the same terms as the old permits with the following exceptions. There is no right to purchase a regular membership. No member or member organization may hold more than two permits. A member who is a sole proprietor may employ a nominee to use a permit, with the approval of the Membership Committee. The Membership Committee may withdraw, temporarily or permanently, some or all unused permits.]

Integrated Billing System

RULE 3.23. Every member must designate a [clearing member for the payment of his] *Clearing Member for the payment of the member's* Exchange invoices by means of the Exchange's integrated billing system (''IBS''). The designated [clearing member] *Clearing Member* shall pay to the Exchange on a timely basis any amount that is not disputed pursuant to IBS procedures by the member who is directly involved. Such payments shall be drafted by the Exchange against the designated [clearing member's] *Clearing Member's* account at the Clearing Corporation;. *The* [the] Clearing Corporation shall have no liability in connection with its forwarding to the Exchange each month a check representing the total amount that the Exchange advises the Clearing Corporation is owed to the Exchange.

Member Death Benefit

RULE 3.24. (a) Upon the death of an individual who is eligible for the Member Death Benefit, the Exchange shall pay the Member Death Benefit to the beneficiary designated by such individual in a filing made with the Membership Department in a *form and* manner prescribed by the Exchange.

(b) The following individuals shall be eligible for the Member Death Benefit:

(i) any individual who is an active member at the time of his or her death; and

(ii) any individual who (i) was an active member within 90 days prior to the date of his or her death and (ii) was an active member during at least 274 out of the 365 days preceding the date of his or her last termination from active member status.

(c) For the purposes of this Rule, the term ''active member'' shall mean any natural person who is a nominee of a member organization, a [CBT] *Chicago Board of Trade* exerciser, a lessee of an Exchange membership, or an owner of an Exchange membership that is not being leased to a lessee.

(d) In no event shall more than one Member Death Benefit be paid by reason of the death of an individual who is eligible to receive the Member Death Benefit.

(e) The Member Death Benefit shall be $50,000.

(f) In the event that the Exchange pays a Member Death Benefit, the Exchange shall assess each active member at the time of the assessment an amount equal to $50,000 divided by the number of active members at the time of the assessment.

Transfer of Individual Membership in Trust

RULE 3.25. An individual member in good standing *who owns a membership* may transfer [his] *the* membership in trust, subject to each of the following conditions:

(a) Subject to paragraph (b) [below] *of this Rule,* the member transferring [his] *a* membership in trust (the ''Trust Member''), during [his] *the member's* lifetime, shall be the sole trustee and sole beneficiary of the trust. The Trust Member shall remain personally responsible for all obligations and liabilities associated with the membership and its use, and the membership shall remain subject to all of the Rules of the Exchange.

(b) The *trust must be a living trust. The* terms of the trust shall provide that in the event the Trust Member dies, is declared legally incompetent, or is in any condition that substantially impairs [his] *the Trust Member's* ability to transact ordinary business (is ''disabled''), as certified in a written opinion furnished to the Exchange by the Trust Member's physician who has personally examined or treated [him] the Trust Member, a legally qualified individual or institution may be appointed as successor trustee for the sole purpose of transferring the membership in accordance with the Rules [of the Exchange, including the requirements of Rule 3.15], subject to the right of the Exchange to offer the membership for sale in accordance with Rule 3.14(b)([1]i). Notwithstanding the foregoing, the terms of the trust may authorize the successor trustee to continue to hold the membership in trust for the benefit of the Trust Member during any period when the Trust Member is declared legally incompetent or is disabled so long as the membership is leased for that period in accordance with the requirements of Rule *3.17* [3.16(b)]. Furthermore, the trust shall provide that the Exchange shall bear no liability for any actions taken or omitted by the Trust Member or any successor trustee in respect of the administration of the trust or the management of trust assets.

(c) A membership held in trust may be transferred during the lifetime of the Trust Member or at [his] *the Trust Member's* death in accordance with the provisions of Rule 3.14(c)([1]i), and may also be transferred during the lifetime of the Trust Member in accordance with the provisions of Rule 3.14(c)([3]*iii*), subject in either case to the requirements of the introductory clause and the last sentence of Rule 3.14(c)]. *Additionally, an Authorization to Sell may be granted with respect to a membership held in trust, in which case the provisions of Rule 3.14(d) and Rule 3.15(b) shall be applicable, and a membership held in trust may be sold in accordance with the provisions of Rule 3.14 and Rule 3.15.*

(d) A membership held in trust may also be transferred to the Trust Member to be held directly and not in trust.

(e) A member desiring to transfer a membership into trust must submit to the Membership Department, in a form and manner prescribed by the Exchange, an application to transfer the membership into trust, a [A] copy of the trust agreement reflecting the foregoing requirements [shall be furnished to the Exchange, accompanied by], *and* the certification of the attorney who prepared the *trust* agreement that it conforms to the requirements of this Rule. The Exchange may disapprove the transfer if it finds the trust agreement fails to satisfy the requirements of this Rule by written notice of such disapproval sent to the member proposing the transfer.

(f) After the transfer of a membership into trust has been approved by the Exchange, the Trust Member must promptly submit to the Membership Department any amendments to the trust agreement and must promptly notify the Membership Department in writing of any changes in the information set forth in the application

to transfer the membership into trust, any changes in successor trustee, any release of the membership out of trust, and any termination of the trust. In the event that the membership is released from the trust, the trust terminates, or the trust agreement is amended so that it no longer complies with the requirements of this Rule, the Exchange shall deem the membership to have reverted to the Trust Member to be held directly and not in trust.

IPC Permits

RULE 3.26. (a) IPC Permits. An IPC Permit shall be issued to each of the 33 persons who were members of the Bolsa Mexicana de Valores as of January 1, 1996. IPC Permits are non-transferable in any manner, whether by voluntary or involuntary sale, gift, lease or otherwise. A holder of an IPC Permit shall have either the right set forth in [sub]paragraph (b) or the right set forth in [subparagraph (c) of this Rule 3.26] *paragraph (c) of this Rule.*

(b) IPC Permit Exercisers. A holder of an IPC Permit may apply on its own behalf or on behalf of one of its subsidiaries to become an IPC Permit Exerciser. Such applications shall be subject to the same approval procedures as are applicable under the Rules of the Exchange to applications for membership. If the person on whose behalf the application is filed is qualified for membership on the Exchange and if the application is approved and becomes effective, the applicant shall become an IPC Permit Exerciser and shall have the rights, obligations, and limitations set forth below.

(1) Rights and Privileges. IPC Permit Exercisers shall enjoy the privileges of CBOE membership with respect to, and only with respect to, the trading of IPC Index Option Contracts. Among such privileges are (i) the right of a nominee of the IPC Permit Exerciser to access the trading floor for the purpose of executing orders upon satisfaction of all regulatory requirements and approvals that apply to membership generally; (ii) the right, through a nominee, to register and to be appointed as a Market-Maker in IPC Index Options; (iii) the right, through a nominee, to register and to act as a Floor Broker in IPC Index Options; (iv) the right to pay transaction fees to the Exchange at the member firm rate for transactions in IPC Index Options in its proprietary account; and (v) the right to use Exchange facilities in support of its trading in IPC Index Options on the same basis as other members of the Exchange. The rights of an IPC Permit Exerciser are not transferable in any manner.

(2) Obligations. IPC Permit Exercisers and their associated persons shall be obligated to comply with all of the provisions of the Rules of the Exchange and the federal securities laws to the same extent as other members of the Exchange and their associated persons. For this purpose, all references in the Exchange Rules to members shall be deemed to include IPC Permit Exercisers. Without limiting the generality of the foregoing, such obligations shall include (i) the obligation to pay all fees, dues, and other charges imposed by the Exchange, (ii) the obligation to maintain and to file with the Exchange all records required of members and their associated persons, (iii) the obligation to take all required examinations, (iv) the obligation to comply with the Exchange's business conduct and floor dealing rules, (v) the obligation, if acting as a Market-Maker, to perform the obligations of a Market-Maker, (vi) the obligation, if approved to conduct business with the public, to comply with the provisions of Chapters IX and XII of the [Exchange's] Rules, (vii) the obligation to be subject to the Exchange's disciplinary and arbitration jurisdiction under Chapters XVII and XVIII, respectively, of the [Exchange's] Rules, and (viii) the obligation to be subject to the Exchange's limitation of liability rules.

(3) Limitations. IPC Permit Exercisers shall have none of the rights of members under the laws of the State of Delaware, the Certificate of Incorporation of the Exchange, or the Constitution of the Exchange. Without limiting the generality of the foregoing, IPC Permit Exercisers shall have no interest in the property or assets of the Exchange, shall have no right to share in any distribution in the property and assets of the Exchange, shall have no right as an IPC Permit Exerciser to vote on issues submitted to the membership for vote, and shall have no right as an IPC Permit Exerciser to be elected to the Board of Directors. IPC Permit Exercisers will be deemed to be non-members in respect of transactions in Exchange products other than IPC Index Options, and registration of a nominee as a Market-Maker or Floor Broker in IPC Index Options shall not be deemed to give the nominee the right to effect transactions in such capacity in any other Exchange product. Accordingly, nominees of IPC Permit Exercisers may not while on the floor of the Exchange enter into transactions, nor flash orders to other trading posts, give verbal orders to brokers at other trading posts, or enter time-stamped orders to be executed by other members at other trading posts, in any Exchange product other than IPC Index Options, and if an IPC Permit Exerciser enters an order through an Exchange member from off the floor in Exchange products other than IPC Index Options, that order must be treated under the Exchange's Rules as the order of a customer.

(c) Rights of Holders of IPC Permits. The Exchange transaction fees for the proprietary transactions in IPC Index Options of holders of IPC Permits that have not become IPC Permit Exercisers, either directly or through a subsidiary, shall be charged at member firm rates.

Options Trading Permits

RULE 3.27. (a) Issuance, transfer and lease. Seventy-five Options Trading Permits (''Permits'') shall be distributed on or promptly following the date (herein called the ''Effective Date'') on which trading begins on the floor of the Exchange in NYSE Options (as hereinafter defined) pursuant to agreement between the Exchange and the New York Stock Exchange (''NYSE''), as follows:

(1) Non-specialists. Each NYSE non-specialist options firm and sole proprietor, or any successor thereto approved by the Exchange, doing business on the NYSE options trading floor on the Effective Date will be entitled to be issued the same number of Permits as that firm had valid NYSE options floor badges on December 5, 1996; provided, however, that, in order for a person to be entitled to be issued a Permit in respect of a floor badge, the holder of that badge on December 5, 1996, must personally engage in one or more of the activities specified in subparagraph (b)(2) of this Rule on the Exchange.

(2) Specialist firms. Each NYSE specialist options firm (including joint books) on the Effective Date, or any successor thereto approved by the Exchange, will be entitled to be issued the same number of Permits as that firm had valid NYSE options floor badges on December 5, 1996. Each specialist firm to which a Permit is issued shall have the right to select the person who, from time to time, shall be its nominee in respect of such Permit, subject to qualifying under the Rules of the Exchange.

(3) Creation of lease pool and distribution of proceeds. The Exchange will deposit into a ''lease pool'' any of the [seventy-five] *75* Permits not issued to firms in accordance with the foregoing subparagraphs (1) and (2) hereof, as well as any Permits which may be surrendered pursuant to subparagraph (4) hereof, and will

attempt to lease such Permits through an auction or other competitive process determined by the Exchange. The proceeds received by the Exchange on or before the first day of each calendar quarter from the leases will be distributed on the fifteenth day of such calendar quarter pro rata to the persons whose names and mailing address are on a list furnished to the Exchange by NYSE on or after the Effective Date as a list of the 92 persons who were (a) NYSE members using or leasing out their NYSE options trading rights (''OTRs'') on September 5, 1996, or (b) holders of separated OTRs on that date, or (c) transferees on or prior to the Effective Date of such persons. The Exchange shall have no responsibility or liability for any inaccuracy or mistake in such list. [No lease of a Permit in the lease pool shall become effective until there has been deposited with the Membership Department of the Exchange an acceptable Letter of Guarantee from a Clearing Member in an amount determined in accordance with the next sentence, which amount shall be applied to the payment of claims pursuant to Rule 3.15 as though such amount were the proceeds from the sale of a membership. During the first year following the Effective Date and thereafter until there has been a sale of a Permit, the amount shall be $50,000, and thereafter the amount shall be equal to the last sale price of a Permit.] The Exchange shall have no obligation as the lessor of a Permit to any person.

(4) Surrender of Permits. In the event a Permit is issued pursuant to subparagraph (1) hereof in respect of an NYSE options floor badge and the NYSE badgeholder, or a successor approved by the Exchange, does not engage in one or more of the activities specified in subparagraph (b)(2) of this Rule for one year following the Effective Date, then, unless the Exchange shall consent to the termination of such activities, the Permit shall be deemed to be surrendered forthwith and shall be added to the lease pool established pursuant to subparagraph (3) hereof.

(5) Transfer and lease. Permits issued pursuant to subparagraphs (1) and (2) hereof shall not be transferable (whether by sale, gift, involuntary transfer, lease, or otherwise) for one year following the Effective Date; provided that the foregoing shall not restrict the right of specialist firms to change the nominee of a Permit issued pursuant to subparagraph (2) hereof. Notwithstanding the foregoing, the Exchange may consent to the transfer of a Permit in the event of the death of, hardship affecting, or certain successions in ownership of the holder of such Permit. Commencing one year after the Effective Date, all Permits shall be freely transferable in accordance with the provisions of the Rules applicable to the transfer of memberships.

(b) Trading rights. Each holder of a Permit who satisfies the qualifications for membership in accordance with the Rules, or its nominee in the case of a holder who is not a natural person (each such holder or nominee is referred to herein as a ''Permit holder''), shall for the term of the Permit be deemed to be a limited member of the Exchange entitled to only the following trading rights and privileges:

(1) to be admitted to the options trading facility established by the Exchange for the trading of NYSE Options during regular business days;

(2) to engage in the activities of a Market-Maker, a DPM (as that term is defined in Rule 8.80), and/or a Floor Broker in respect of NYSE Options, in each case subject to the Rules of the Exchange applicable to such activities;

(3) to trade by order as principal those classes of equity options that were dually traded on both the Exchange and the [New York Stock Exchange (''NYSE'')] *NYSE* on the last trading day preceding the Effective Date and that continue to be traded on the Exchange;

(4) to trade by order as principal all classes of options traded on the Exchange in addition to those described in clauses (2) and (3) above, provided that a Permit holder's total contract volume in such classes of options during any calendar quarter may not exceed twenty percent (20%) of the sum of such Permit holder's total in person contract volume as principal pursuant to clause (2) above and such Permit holder's contract volume pursuant to clause (3) above during such calendar quarter; and

(5) to be admitted to the other trading facilities of the Exchange for the purpose of responding to a call of a Board Broker or Order Book Official pursuant to Rule 7.5 in respect of any class of options in which a transaction has been effected for the Permit holder's account on the day of the call.

As used in this Rule, the term ''trade by order'' means a trade effected on the Exchange by a member acting as Floor Broker for the account of a Permit holder, and the term ''NYSE Options'' means (i) those classes of options that were listed for trading on the NYSE options trading floor on last trading day preceding the Effective Date that were not then also listed for trading on the Exchange, and (ii) those additional classes of equity options designated by the Exchange as NYSE Options. During each of the seven years following the Effective Date, the Exchange shall designate as NYSE Options classes of equity options on at least 14 underlying stocks.

(c) DPMs. The Modified Trading System established in Rule 8.80 will be employed in NYSE Options. Each specialist firm to which a Permit is issued pursuant to subparagraph (a)(2) of this Rule shall be appointed as the DPM in the same classes of NYSE Options as those for which it was designated as a specialist on NYSE. Subject to the provisions of the Rules, a Permit holder qualified to act as a DPM pursuant to the Rules shall be appointed to act as the DPM for each class of equity options designated by the Exchange pursuant to the last sentence of paragraph (b) of this Rule. Each specialist firm appointed as a DPM in a class of NYSE Options pursuant to the foregoing two sentences shall, subject to the provisions of the Rules, continue to act as such DPM during the term of the Permits and thereafter so long as it is a regular member or member organization of the Exchange.

(d) Other rights and obligations.

(1) Except as may be otherwise set forth in the Constitution, in this Rule 3.27 or in the other Rules, Permit holders shall have the same rights as other members of the Exchange; provided that a Permit shall not give an organization the right as a member to transact business with the public in options or other securities dealt in on the Exchange other than NYSE Options. Permit holders shall be subject to, and obligated to comply with, the Rules of the Exchange to the same extent as other members and their nominees, except as follows:

(A) Membership application fees shall be waived in connection with (i) the submission of an application for approval as a Permit holder or as the nominee of a Permit holder arising out of the initial issuance of a Permit pursuant to subparagraph (a)(1) or (a)(2) of this Rule (but shall not be waived in respect of applications by transferees or lessees of a Permit or by subsequent nominees), (ii) the submission of an application for approval as a member of the Exchange or as the nominee of a member of the Exchange by a person who is the initial holder of a Permit issued pursuant to subparagraph (a)(1) or (a)(2) of this Rule, and (iii) the submission of an application for approval as the nominee of a member of the Exchange by a person who at the time of such application is the nominee of a NYSE specialist firm in respect of a Permit issued pursuant to subparagraph (a)(2) of this Rule.

(B) In the event a person who is entitled to be issued a Permit files an application pursuant to Rule 3.9, the rights of such person shall be deemed to be effective for a temporary period terminating six months following the Effective Date or the date on which the Membership Committee gives written notice of its action on the application, whichever is the earlier, provided such person is not subject to a ''statutory disqualification'' (as defined in the Securities Exchange Act of 1934), is in good standing on the NYSE on the Effective Date, and is not a subject of an investigation conducted by any self-regulatory agency that may involve that person's fitness for membership on the Exchange.

(C) All Permit holders shall be deemed to be appointed pursuant to Rule 8.3 to all classes of NYSE Options; provided, however, that the foregoing shall not affect the power of the appropriate Market Performance Committee to suspend or terminate the appointment of any Permit holder in accordance with the Rules.

(2) Permit holders shall have the right to serve on any committee of the Exchange to which they are appointed.

(3) Permit holders shall not have the rights of members, or be subject to the assessments on members, under Rule 3.24.

Extension of Time Limits

RULE 3.28. Any time limit imposed on an applicant, member, or other person under this Chapter may be extended by the Membership Committee in the event that the Membership Committee determines that such an extension is warranted due to extenuating circumstances.

Delegation of Authority

RULE 3.29. (a) All of the authority granted to the Exchange under this Chapter may be exercised by the Membership Committee and/or the Membership Department.

(b) The Membership Committee may delegate to the Membership Department any of the authority that is granted to the Membership Committee under the Rules.

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CHAPTER VI—Doing Business on the Exchange Floor

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Limitation on Dealings

RULE 6.5. No regular member shall bid, offer, purchase or write (sell) on the Exchange any security other than an option contract that is currently open for trading in accordance with the provisions of Chapter V. [No special member shall bid, offer, purchase, or write on the Exchange any security other than an option contract relating to one of the underlying securities listed in a guideline under this Rule 6.5 (MSE Options, as that term is defined in section 2.1(d) of the Constitution) and currently open for trading in accordance with the provisions of Chapter V.

. . . Interpretations and Policies:

.01 Special members may bid, offer, purchase, or write on the Exchange option contracts currently open for trading only with respect to the following underlying securities:

Ameritech
Diebold, Inc.
Anadarko Petroleum Corp.
Freeport-McMoRan, Inc.
Bristol-Myers Company
General Cinema Corp.
Champion International Corp.
IC Industries, Inc.
Chrysler Corporation
Litton Industries, Inc.
Coastal Corporation
Middle South Utilities, Inc.
Computer Associates International, Inc.
Ralston Purina Company
Corning Glass Works
Rockwell International Corporation]

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RULE 6.20—Admission to and Conduct on the Trading Floor; Member Education

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. . . Interpretations and Policies:

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.03 *Deleted* _____, *199__ (99–*_____). [Rule 3.21 provides that a Government securities options permit holder is entitled to enter into principal transactions as a Market-Maker and agency transactions as a Floor Broker in Government securities options settled by physical delivery on the floor of the Exchange until his permit expires.]

* * * * *

Letters of Authorization

RULE 6.72. (a) Required of each Floor Broker. No Floor Broker shall act as such on the Exchange unless there is in effect a Letter of Authorization that has been issued for such Floor Broker by a Clearing Member *and filed with the Exchange*. [A Floor Broker may have more than one such letter on file with the Exchange; provided, however, that a Letter of Authorization with an earlier effective date will afford the Clearing Member issuing such letter a priority over each subsequent issuer of a Letter of Authorization for claims made pursuant to Rule 3.15 against the proceeds from the sale of a membership by the entity covered by such Letters of Authorization. The Exchange shall notify each issuer of a Letter of Authorization of other outstanding Letters of Authorization which have been issued to the same Floor Broker.]

(b) Terms of Letter of Authorization. A Letter of Authorization *shall be in a form prescribed by the Exchange and* shall provide that the issuing Clearing Member accepts financial responsibility for all Exchange transactions made by the guaranteed Floor Broker.

(c) Revocation of Letter of Authorization. A Letter of Authorization filed with the Exchange shall remain in effect until a written notice of revocation has been filed with the [Exchange and posted on the Exchange bulletin board. If such written notice has not been posted for] *Membership Department. If such a written notice of revocation is not filed with the Membership Department* at least one hour prior to the opening of trading on a particular business day, such revocation shall not become effective until the close of trading on such day. *Upon the request of the Clearing Member that files such a written notice of revocation, the Exchange shall post notice of the revocation on the Exchange Bulletin Board. A revocation shall in no way relieve a Clearing Member of responsibility for transactions guaranteed prior to the effective date of such revocation.*

. . . Interpretations and Policies:

.01 Floor Brokers executing Government security options must have a separate Letter of Authorization issued by a Debt Securities Clearing Member.

.02 Floor Brokers engaging in transactions in securities subject to the rules in Chapter XXX must have a separate Letter of Authorization issued by a Clearing Member that is a member of the Clearing Corporation for the security that is the subject of any such transaction.

* * * * *

Automated Billing Process for Market-Maker Brokerage Bills

RULE 6.76A. (a) The Exchange shall administer the following automated billing process for brokerage services that are provided to Market-Makers by Floor Brokers and order service firms (''OSFs''):

(i) Each Floor Broker and OSF shall submit a written bill by the 6th day of the month to each Market-Maker customer of the Floor Broker or OSF for brokerage fees incurred by the Market-Maker during the prior month.

(ii) For the purposes of this Rule, the submission of a written bill to a Market-Maker shall be deemed to include hand delivery of the bill to the Market-Maker, hand delivery of the bill to a representative of the Market-Maker such as the Market-Maker's clerk, or delivery of the bill to the Market-Maker's Clearing Member with a written notation that the bill is for the Market-Maker.

(iii) A Market-Maker who receives a brokerage bill from a Floor Broker or OSF in accordance with this billing process shall have until the 10th day of the month to inform the Floor Broker or OSF if the Market-Maker disputes any portion of the bill. In the event the Market-Maker disputes the bill, the Floor Broker or OSF may determine to adjust the bill.

(iv) A Floor Broker or OSF that has submitted a written bill to a Market-Maker by the 6th day of the month for brokerage fees incurred by the Market-Maker during the prior month shall notify the Exchange's Accounting Department by the 12th day of the month in a form and manner prescribed by the Exchange of the amount to bill each Market-Maker customer of the Floor Broker or OSF for brokerage fees incurred by the Market-Maker during the prior month.

(v) The Exchange shall take direction solely from the Floor Broker or OSF with respect to the amount to bill a Market-Maker pursuant to this billing process. If for any reason a Market-Maker disputes the amount a Floor Broker or OSF has instructed the Exchange to bill the Market-Maker pursuant to this billing process, the Market-Maker may pursue a claim against the Floor Broker or OSF in arbitration under Chapter XVIII of the Rules or through other means permitted by that Chapter.

(vi) The Accounting Department shall prepare a monthly Market-Maker floor brokerage billing list for each Clearing Member that clears Market-Maker transactions and provide this list to each such Clearing Member by the 21st day of the month. The list shall set forth the amounts Floor Brokers and OSFs have instructed the Accounting Department to bill each Market-Maker that clears through that Clearing Member for brokerage fees incurred by the Market-Maker during the prior month.

(vii) A Clearing Member may instruct the Accounting Department in a form and manner prescribed by the Exchange not to draft the Clearing Member pursuant to this billing process for that portion of the brokerage fees billed to a Market-Maker which would cause the Market-Maker to have a negative balance in the Market-Maker's account at the Clearing Member. Any such instruction must be provided to the Accounting Department by the 22nd day of the month. In determining whether a negative balance would result in a Market-Maker's account, a Clearing Member may take into account deductions from the account that have been accrued but which have not yet posted to the account.

(viii) On the 25th day of the month, the Exchange will draft from each Clearing Member's account at the Clearing Corporation the total amount billed pursuant to this Rule to Market-Makers that clear through that Clearing Member (with the exception of amounts the Clearing Member has instructed the Accounting Department not to draft pursuant to subparagraph (a)(vii) of this Rule). Following the draft of these funds, the Exchange shall promptly distribute the amounts drafted in a manner prescribed by the Exchange to the Floor Brokers and OSFs that provided billing instructions to the Accounting Department pursuant to this billing process.

(ix) In the event a Clearing Member instructs the Accounting Department pursuant to subparagraph (a)(vii) of this Rule not to draft a portion of the brokerage fees billed to a Market-Maker:

(A) The Exchange shall, pursuant to subparagraph (a)(viii) of this Rule, distribute on a pro rata basis to the Floor Brokers and OSFs that submitted instructions to bill the Market-Maker, the portion of the brokerage fees which were drafted from the Clearing Member for that Market-Maker. This pro rata distribution shall be allocated based on the amount that each Floor Broker and OSF instructed the Accounting Department to bill the Market-Maker.

(B) If the Market-Maker later has a positive balance in the Market-Maker's account at the Clearing Member, the Clearing Member shall deduct from the account the amount of the brokerage fees that the Clearing Member previously instructed the Accounting Department not to draft. The Clearing Member shall then promptly distribute to those Floor Brokers and OSFs who previously did not receive full payment the amounts which were previously billed but not drafted pursuant to this billing process. To the extent that any outstanding amounts that were not previously drafted have been paid to a Floor Broker or OSF, the Clearing Member shall not be required to deduct these amounts from the Market-Maker's account and distribute them to the Floor Broker or OSF.

(x) If a Floor Broker or OSF fails to submit a written bill to a Market-Maker customer by the 6th day of the month for brokerage fees incurred by the Market-Maker during the prior month or if a Floor Broker or OSF fails to notify the Accounting Department by the 12th day of the month in the form and manner prescribed by the Exchange of the amount to bill each Market-Maker customer for brokerage fees incurred by the Market-Maker during the prior month, the Floor Broker or OSF may not bill the Market-Maker for these brokerage fees pursuant to the billing process set forth in this Rule. Notwithstanding the foregoing, the Floor Broker or OSF shall still be permitted to bill the Market-Maker for these brokerage fees in the regular, non-automated fashion.

(xi) In the event that any of the deadlines referenced in this Rule fall on a non-business day, the deadline shall advance to the next business day.

(b) Each Clearing Member shall be authorized under this Rule (i) to deduct from a Market-Maker's account at that Clearing Member amounts drafted by the Exchange from the Clearing Member's account at the Clearing Corporation pursuant to this Rule for brokerage fees billed to that Market-Maker and (ii) to make deductions from the Market-Maker's account at the Clearing Member and distributions to Floor Brokers and OSFs of the deducted amounts in accordance with subparagraph (a)(ix)(B) of this Rule.

(c) The Clearing Corporation shall have no liability to members or associated persons in connection with the billing process under this Rule.

(d) To the extent that there is any inconsistency between the provisions of this Rule and the provisions of Rule 6.76, the provisions of this Rule shall govern with respect to the bills processed pursuant to the billing process under this Rule.

Order Service Firms

RULE 6.77. (a) An order service firm is a regular member organization that is registered with the Exchange for the purpose of taking orders for the purchase or sale of stocks or commodity futures contracts (and options thereon) from market-makers on the floor of the Exchange and forwarding such orders for execution. An applicant for registration as an order service firm shall file [its] *an* application [in writing] with the Membership Department [of] *in a form and manner prescribed by* the Exchange. Applications shall be reviewed by the Membership Committee, which shall consider an applicant's financial condition, regulatory history, and such other factors as the Membership Committee deems appropriate. After reviewing the

application, the Membership Committee shall either approve or disapprove the applicant's registration as an order service firm. Before registration, the Membership Department, [upon direction of] *if directed by* the Membership Committee, shall post the names of the applicant and its nominee(s) on the floor of the Exchange for at least three business days.

(b) An order service firm shall make available to market-maker customers upon request a statement of financial condition as disclosed by its most recent balance sheet, which shall be prepared no later than the tenth business day following each calendar month-end.

(c) A [clearing member] *Clearing Member* need not register as an order service firm in order to take orders for the purchase or sale of stocks or commodity futures contracts (and options thereon) from market-makers for which it has a currently outstanding Letter of Guarantee.

(d) An order service firm that takes orders for the purchase or sale of commodity futures contracts (and options thereon) must comply with the Commodity Exchange Act (''CEA'') and the rules and regulations promulgated thereunder. Such a firm shall keep the Department of Financial *and Sales Practice* Compliance apprised of its registration status under the CEA on an ongoing basis, including any financial reporting or capital requirements.

Letters of Guarantee Required of Order Service Firms

RULE 6.78. (a) Prior to accepting any orders from market-makers on the floor of the Exchange, an order service firm must have on file with the [exchange] *Exchange* and in effect an Order Service Firm Letter of Guarantee issued for such service firm by a member of The Options Clearing Corporation.

(b) The Order Service Firm Letter of Guarantee shall be in a form *prescribed by* [acceptable to] the Exchange and shall provide that the issuing [clearing member] *Clearing Member* accepts financial responsibility for all orders handled by the order service firm on the floor of the Exchange and for all financial obligations of the order service firm to the Exchange.

(c) An Order Service Firm Letter of Guarantee filed with the Exchange shall remain in effect until a written notice of revocation has been filed with the [Exchange and posted on the Exchange bulletin board. If such written notice has not been posted for] *Membership Department. If such a written notice of revocation is not filed with the Membership Department* at least one hour prior to the opening of trading on a particular business day, such revocation shall not become effective until the close of trading on such [date] *day. Upon the request of the Clearing Member that files such a written notice of revocation, the Exchange shall post notice of the revocation on the Exchange Bulletin Board.* A revocation shall in no way relieve a [clearing member] *Clearing Member* of responsibility for transactions guaranteed prior to the effective date of such revocation.

(d) No [clearing member] *Clearing Member* shall be permitted to guarantee more than three (3) order service firms without the prior written approval of the Department of Financial *and Sales Practice* Compliance (the ''Department''). In considering a request to guarantee more than three (3) such firms, the Department shall consider the [clearing member's] *Clearing Member's* level of excess net capital, additional financial resources, and such other factors as the Department deems appropriate.

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CHAPTER VIII—Market-Makers, Trading Crowds and Modified Trading Systems

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Letters of Guarantee

RULE 8.5. (a) Required of Each Market-Maker. No Market-Maker shall make any transaction on the floor of the Exchange unless [a Letter of Guarantee has been issued for such member by a Clearing Member and filed with the Exchange, and unless such letter has not been revoked pursuant to paragraph (c) of this Rule] *there is in effect a Letter of Guarantee that has been issued for such Market-Maker by a Clearing Member and filed with the Exchange.* [A member may file more than one such Letter with the Exchange; provided, however, that a Letter of Guarantee with an earlier effective date will afford the Clearing Member issuing such letter a priority over each subsequent issuer of a Letter of Guarantee for claims made pursuant to Rule 3.15 against the proceeds from the sale of a membership by the person covered by such Letter of Guarante.] *If a Market-Maker desires to clear his or her transactions through more than one Clearing Member, a Letter of Guarantee is required to be issued and filed with the Exchange by each such Clearing Member to cover Exchange transactions executed by the Market-Maker through that Clearing Member. A Market-Maker may not execute Exchange transactions through a Clearing Member unless there is in effect a Letter of Guarantee that has been issued for such Market-Maker by the Clearing Member and filed with the Exchange.* The Exchange shall notify each issuer of a Letter of Guarantee of other outstanding Letters of Guarantee [which] *that* have been issued to the same Market-Maker [and shall notify each Clearing Corporation that has approved a Letter of Guarantee for a Market-Maker of the issuance and revocation, if applicable, of all other Letters of Guarantee issued to that Market-Maker in respect of transactions subject to the rules of any other Clearing Corporation].

(b) Terms of Letter of Guarantee. A Letter of Guarantee *shall be in a form prescribed by the Exchange* and shall provide that the issuing Clearing Member accepts financial responsibility for [all] Exchange transactions made by the guaranteed [member] *Market-Maker when executing such transactions through the issuing Clearing Member.*

(c) Revocation of Letter of Guarantee. A Letter of Guarantee filed with the Exchange shall remain in effect until a written notice of revocation has been filed with the [Exchange and posted on the Exchange bulletin board. If such written notice has not been posted for] *Membership Department. If such a written notice of revocation is not filed with the Membership Department* at least one hour prior to the opening of trading on a particular business day, such revocation shall not become effective until the close of trading on such day. *Upon the request of the Clearing Member that files such a written notice of revocation, the Exchange shall post notice of the revocation on the Exchange Bulletin Board.* A revocation shall in no way relieve a Clearing Member of responsibility for transactions guaranteed prior to the effective date of such revocation.

. . . Interpretations and Policies:

.01 Market-Makers entering into Government securities options transactions must have a separate Letter of Guarantee issued by a Debt Securities Clearing Member.

.02 Each Market-Maker must file with the Exchange one or more Letters of Guarantee for transactions cleared by The Options Clearing Corporation.

.03 A Market-Maker engaging in transactions subject to the rules in Chapter XXX may submit one or more Letters of Guarantee in respect of the securities to be traded by such Market-Maker; provided, that any such Letter of Guarantee shall specify the types of security (e.g., stocks or warrants, UIT interests) for which the Clearing Member accepts responsibility.

.04 Only those Letters of Guarantee that are required to be deposited with a Clearing Corporation will be submitted to such Clearing Corporation for its approval. *The Exchange shall notify each Clearing Corporation that has approved a Letter of Guarantee for a Market-Maker of the issuance and revocation, if applicable, of all other Letters of Guarantee issued to that Market-Maker in respect of transactions subject to the rules of any other Clearing Corporation.*

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Rule 8.9—Securities Accounts and Orders of Market-Makers

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. . . Interpretations and Policies:

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.08 Each participant in a joint account shall be jointly and severally liable for any losses which may be incurred by the joint account; however, in the case where a participant in a joint account is a nominee of a member organization, or is an individual who has registered his or her membership for a member organization, and the participant is not acting as an independent Market-Maker pursuant to Rule 3.8(f), the member organization and not the participant shall be so liable.

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CHAPTER IX—Doing Business With the Public

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Exchange Approval

RULE 9.1. An individual regular member [or any special member] may not transact business with the public. A regular member organization may transact business with the public after an application, submitted on a form prescribed by the Exchange, has been approved by the Membership Committee. Approval to transact business with the public shall be based on a member organization's meeting the general requirements set forth in this Chapter and the net capital requirements set forth in Chapter XIII of the Rules, and such approval may be withdrawn if any of the requirements cease to be met.

* * * * *

Registration and Termination of Representatives

RULE 9.3. (a) Registration. No member organization shall be approved to transact business with the public until those persons associated with it who are designated as Representatives have been approved by and registered with the Exchange. Persons who perform duties for the member organization which are customarily performed by sales representatives, solicitors, customers' men or branch office managers shall be designated as Representatives. In connection with their registration, Representatives shall file an application on a form prescribed by the Exchange, shall successfully complete a training course and an examination for the purpose of demonstrating an adequate knowledge of the securities business, and shall sign an agreement to abide by the Constitution and Rules of the Exchange and the Rules of the Clearing Corporation; provided, however, that Representatives of member organizations that are members of another national securities exchange or association which has standards of approval acceptable to the Exchange may be deemed to be approved by and registered with such other exchange or association. Member organizations whose Representatives are deemed registered pursuant to the last clause of the preceding sentence shall inform their Representatives of their obligation to adhere to the Constitution and Rules of the Exchange and the Rules of the Clearing Corporation.

(b) Termination—Filing of U–5's. The discharge or termination of employment of any registered person, together with the reasons therefor, shall be reported by a member organization immediately following the date of termination, but in no event later than thirty (30) days following termination, to the Exchange's Department of *Financial and Sale Practice* Compliance on a Uniform Termination Notice for Securities Industry Registration (Form U–5). A copy of said termination notice shall be provided concurrently to the person whose association has been terminated.

(c) Termination—Filing of amended U–5's. The member organization shall report to the Exchange, by means of an amendment to the Form U–5 filed pursuant to paragraph (b) above, in the event that the member organization learns of facts or circumstances causing any information set forth in the notice to become inaccurate or incomplete. Such amendment shall be filed with the Exchange's Department of *Financial and Sales Practice* Compliance and provided concurrently to the person whose association has been terminated no later than thirty (30) days after the member organization learns of the facts or circumstances giving rise to the amendment.

. . . Interpretations and Policies:

.01 The application prescribed by the Exchange pursuant to paragraph (a) of this Rule is the Uniform Application for Securities Industry Registration or Transfer (Form U–4). Any person required to complete Form U–4 shall promptly file any required amendments to Form U–4.

.0[1]*2* Any filing or submission requirement under this Rule shall be deemed to be satisfied if such filing or submission is made with the North American Securities Administrators Association/National Association of Securities Dealers, Inc. Central Registration Depository (CRD) within the *applicable* time period set forth in [paragraph (b) or (c) of] this Rule.

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CHAPTER X—Closing Transactions

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Contracts of Suspended Parties

RULE 10.11. When a member or member organization is suspended pursuant to Chapter XVI of these Rules, members and organizations having contracts with the suspended member or member organization for the purchase, sale or loan of securities shall, without unnecessary delay, proceed to close such contracts on the Exchange or in the best available market, except insofar as the rules of a Clearing Corporation are applicable and provide the method of closing; provided, however, that upon any such suspension, the Board of Directors may, in its discretion, suspend the mandatory closeout provisions of this Rule and may, in its discretion, reinstate such provisions at such time as it may determine. Should such a contract not be closed when required to be closed by this Rule, the price of settlement for the purpose of Rule 3.15 shall be *determined pursuant to the claims resolution procedures provided for by that Rule, with* [fixed by the Board, having] due regard for the price current at the time

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CHAPTER XV—Records, Reports and Audits

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RULE 15.1—Maintenance, Retention and Furnishing of Books, Records and Other Information

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. . . Interpretations and Policies:

.01 The following Rules contain specific requirements with regard to the maintenance and retention of books, records and other information: Rules *3.4* [3.5], *3.6* [3.7], 8.9, 9.6, 9.7, 9.8, 9.10,

9.21, 9.23, 11.2, 12.12 and Chapter XV. In addition, the following Rules contain specific requirements with regard to the furnishing of information to the Exchange: Rules [3.6], *3.7* [3.8], *3.9,* [3.14, 3.15, 3.16], *3.17,* 3.18, *3.20, 3.21, 3.23, 3.25,* 4.9, 4.13, 6.49, 6.51, 6.56, 6.59, 6.71, 6.72, 7.2, 7.3, 7.6, 8.2, 8.3, 8.5, 8.10, 8.11, 9.1, 9.2, 9.3, 12.11, 13.4, 14.2 and 19.2. The foregoing list is not intended to be exhaustive and members must comply with all applicable recordkeeping and reporting requirements whether or not listed above.

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CHAPTER XVIII—Arbitration

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RULE 18.2—Procedures in Member Controversies

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. . . *Interpretations and Policies:*

.01 In any arbitration concerning the alleged failure to honor a trade, each party to the arbitration shall promptly provide copies of all documents filed or received in the arbitration by that party to the Clearing Member(s) that guaranteed that party's Exchange transactions when the alleged trade took place.

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CHAPTER XXIVA—Flexible Exchange Options

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RULE 24A.15.—Letter of Guarantee or Authorization

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(a) No Market-Maker shall effect any transaction in FLEX Options unless one or more Letter(s) of Guarantee has been issued by a Clearing Member and filed with the Exchange pursuant to Rule 8.5(a) accepting financial responsibility for all FLEX transactions made by the Market-Maker and such letter has not been revoked under Rule 8.5(c). Upon approval by The Options Clearing Corporation and filing with the Exchange, an existing Letter of Guarantee may be amended specifically to include FLEX Option transactions. [In determining priority for claims made pursuant to Rules 3.15 and 8.5, the filing of an amendment to an existing Letter of Guarantee to authorize a member to engage in FLEX transactions shall not change the effective date of the existing Letter.]

(b) No Floor Broker shall act as such in respect of FLEX Option contracts unless [one or more Letters] *a Letter* of Authorization has been issued by a Clearing Member and filed with the Exchange under Rule 6.72(a) specifically accepting responsibility for the clearance of FLEX Option transactions of the Floor Broker and such letter has not been revoked under Rule 6.72(c). Upon approval by the Clearing Corporation and filing with the Exchange, an existing Letter of Authorization may be amended to include FLEX Option transactions. [In determining priority or claims made pursuant to Rules 3.15 and 6.72, filing of an amendment to a Letter of Authorization shall not change the effective date of an existing Letter of Authorization.]

[This rule supplements Exchange Rule 8.5.]

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CHAPTER XXVI—Market Baskets

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RULE 26.11.—Market-Makers

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(c) Letter of Guarantee. No Market-Maker shall make any transaction on the floor of the Exchange in market basket contracts unless one or more Letters of Guarantee has been issued by a Clearing Member under Rule 8.5(a) in which the issuing Clearing Member specifically accepts financial responsibility for all market basket transactions made by the Market-Maker and such Letter has not been revoked pursuant to Rule 8.5(c). Upon approval by the Clearing Corporation and filing with the Exchange, an existing Letter of Guarantee may be amended to include market basket transactions. [For purposes of determining the priority of Clearing Members for claims made pursuant to Rules 3.15 and 8.5, the effective date of an existing Letter of Guarantee shall not be deemed modified by the filing of an amendment authorizing a member to engage in market basket transactions.]

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RULE 26.13.—Floor Broker Financial Requirements

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(b) Letter of Authorization. No Floor Broker shall act as such in respect of market basket contracts unless [one or more Letters] *a Letter* of Authorization has been issued by a Clearing Member under Rule 6.72(a) (and not revoked under Rule 6.72(c)) in which the issuing Clearing Member specifically accepts responsibility for the clearance of market basket transactions of the Floor Broker when the name of the Clearing Member is given up. Upon approval by the Clearing Corporation and filing with the Exchange, an existing Letter of Authorization may be amended to include market basket transactions. [For purposes of determining the priority of Clearing Members for claims made pursuant to Rues 3.15 and 6.72, the effective date of an existing Letter of Authorization shall not be deemed modified by the filing of an amendment authorizing a member to engage in market basket transactions.]

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CHAPTER XXX—Stock, Warrant and Other Rules

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RULE 30.74.—Clearing of System Transactions

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(e) Whenever a Clearing Corporation to which a System trade has been reported excludes such System trade from the clearance procedures conducted by such Clearing Corporation, either because such Clearing Corporation ceases to act (either with respect to transactions generally or as to a particular transaction) for a member or member organization, or because of the insolvency of such member or member organization, the Exchange may, but shall not be obligated to, assume and honor any one or more or all of such excluded System trades for the account of and on behalf of the member or member organization for which the Clearing Corporation ceased to act or which is insolvent and the Exchange may take such action in the market to close out or offset its position as it may deem appropriate. In any such case, the Exchange shall have a claim against such member or member organization in the amount of the loss incurred by the Exchange as a result of such assumption of such excluded System trades. The Exchange may assert such claim against such member or member organization in any appropriate forum [and, without limiting the generality of the foregoing, in connection with the transfer of any membership by such member, or by any member who is associated with such member organization, such claim shall be entitled to priority in payment as a sum due the Exchange under the provisions of Rule 3.15.]

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REGULATORY CIRCULAR RG 98–148 *99–*

Date: _____, 1999 [December 29, 1998]

To: Members and Applicants for Membership

From: Membership Department

Re: Membership Application and Other Membership Fees

[Exchange Rules 2.22 and 3.9 authorize the Board of Directors to impose fees and the Membership Department to investigate all applicants

for membership, respectively. All applicants for CBOE membership, regardless of their Designated Examining Authority or standing at other self-regulatory organizations, are investigated and assessed the appropriate fees. This includes all persons associated within applicant member organizations, i.e., general and limited partners, executive officers, principal shareholders, and LLC members and managers. Moreover, investigations are conducted and the fees for such associated persons are assessed each time a new person of such status becomes associated with the firm, as well as at the time an initial application is filed.

In connection with this process, member organizations are reminded of their obligation under CBOE Rule 3.5(b) to file with the Exchange and keep current a list and descriptive identification of those persons associated with the member organization who are its executive officers, directors, principal shareholders, general and limited partners, and LLC members and managers. Member organizations who have not fulfilled this obligation should do so by filing such a list with the Membership Department.

For information purposes,] *The* following is a list of the *Exchange's* membership application *fees* and other membership fees, together with a brief explanation of each fee:

List of Fees	
Individual/Nominee/CBOT Exerciser/Lessee/Lessor	$2,000
Non-member Customer Business	$500
Order Service Firm	$1,500
General Partner	$250
Executive Officer	$250
LLC Manager	$250
Principal Shareholder	$250
Limited Partner	$250
LLC Member	$250
Corporation/Partnership/LLC	$250
Renewal/Change of Status	$100
Orientation	$200
Lease Fee	$500
Amendments to [Partnership] *Bylaws/Partnership Agreement/Operating* Agreement	$100
Inactive Nominee Status Change	
Submission before 4:00 p.m. on date prior to effective date	$40
Submission after 4:00 p.m. on date prior to effective date or before 8:00 a.m. on effective date	$75
Submission after 8:00 a.m. on effective date	$150
Fingerprint Processing and Photograph Fee	$35
Transfer of Membership into Trust	$500
Inactive Nominee Status Quarterly Maintenance Fee	$600
Applicant, Member, or Associated Person Subject to a Statutory Disqualification	$2,500
Change in Status that, if Approved, Would Require Amended or Additional Rule 19h–1(c) Filing	$1,500

ALL FEES ARE NON-REFUNDABLE AND MUST ACCOMPANY APPLICATIONS

Individual/Nominee/CBOT Exerciser/Lessee/Lessor—This fee is payable by each new individual applicant for membership on the Exchange.

Non-Member Customer Business—This fee is payable by applicant firms that plan to conduct a public customer business.

Order Service Firm—This fee is payable by applicant firms that plan to conduct an order service business pursuant to CBOE Rule 6.77.

General Partner—This fee is payable by each General Partner of a member firm applicant and each additional General partner who is added to such firm. General Partners must also be fingerprinted and incur the fingerprint processing fee.

Executive Officer—This fee is payable by each Executive Officer of a member firm applicant and each additional Executive Office who is added to such firm. Executive Officers must also be fingerprinted and incur the fingerprint processing fee.

LLC Manager—This fee is payable by each LLC Manager of an applicant LLC and each additional LLC Manager who is added to the LLC. LLC Managers must also be fingerprinted and incur the fingerprint processing fee.

Principal Shareholder—This fee is payable by each Shareholder that directly owns 5% or more of a class of a voting security of an applicant corporation and each additional such Shareholder who is added to the corporation.

Limited Partner—This fee is payable by each Limited Partner of an applicant partnership that has the right to receive upon dissolution, or has contributed, 5% or more of the partnership's capital and each additional such Limited Partner who is added to the partnership.

LLC Member—This fee is payable by each LLC Member of an applicant LLC that has the right to receive upon dissolution, or has contributed, 5% or more of the LLC's capital and each additional such LLC Member who is added to the LLC. LLC Members must also be fingerprinted and incur the fingerprint processing fee.

Corporation/Partnership/LLC—This fee is payable by each new firm applicant for membership on the Exchange. If a member organization changes its legal structure (e.g., from partnership to corporation or the reverse, from partnership to LLC or the reverse, or from corporation to LLC or the reverse), the firm is considered a new entity and assessed all application fees.

Renewal/Change of Status—This fee is payable by an existing individual member (including sole proprietors, nominees, CBOT exercisers, lessees, and lessors) desiring to change membership status or by a former individual member who [is reapplying] *reapplies* for membership within 6 months of his/her *membership* termination date.

Orientation—This fee (for [an Orientation Seminar and Examination] *the New Member Orientation Program and Floor Member Qualification Exam)* is payable by each applicant seeking membership as a [market maker or floor broker] *Market-Maker or Floor Broker.*

Lease Fee—The lease fee must accompany every new lease agreement filed with the Exchange.

Bylaw, Partnership *Agreement, and Operating* Agreement Amendments—This fee is payable each time a [partnership agreement is amended. Other applicable fees are also assessed (e.g. new General or Limited Partner fees)] *member organization's bylaws, partnership agreement, or operating agreement is amended.*

Inactive Nominee Status Change Fee—This fee is payable whenever an inactive nominee moves to active status. The amount of this fee varies in accordance with when the Membership Department receives notice of the status change via the submission of a Notification of Change in Nominee Status Form. If the Notification Form is submitted before 4:00 p.m. on the date prior to the effective date of the status change, the fee is $40. If the Notification From is submitted after 4:00 p.m. on the date prior to the effective date of the status change or before 8:00 a.m. on the effective date of the status change, the fee is $75. If the Notification Form is submitted after 8:00 a.m. on the effective date of the status change, the fee is $150. No fee shall apply to moves from active to inactive status.

Fingerprint Processing Fee—This fee is payable by all individual, nominee, *CBOT exerciser,* lessee, and lessor applicants and every General Partner, Executive Officer, LLC Member, and LLC Manager of member and applicant firms.

Transfer of Membership into Trust—This fee is payable by every individual member applying to transfer his or her membership into trust pursuant to CBOE Rule 3.25.

Inactive Nominee Status Quarterly Maintenance Fee—This fee is payable quarterly by a member firm for each inactive nominee status that the firm wishes to maintain. (E.g., a member firm desiring the ability to have 3 slots within which to designate inactive nominees would pay this fee at the beginning of each quarter for each of the 3 slots.)

Applicant, Member, or Associated Person Subject to a Statutory Disqualification—This fee is payable whenever a person or entity is subject to a statutory disqualification under the Securities Exchange Act of 1934 and: (i) is an applicant for Exchange membership, (ii) is seeking to be an associated person of an Exchange member (except where the Exchange is merely asked to concur in an SEC Rule 19h–1 filing by another self regulatory organization), *or* (iii) is an existing Exchange member or associated person who makes an application in accordance with Rule *3.18(b) or with respect to whom a proceeding is initiated pursuant to Rule 3.18* [3.4(f), or (iv) is an existing Exchange member or associated person who does not make an application in accordance with Rule 3.4(f) and contests a proceeding pursuant to Rule 3.4(e)]. This fee is in addition to any other membership fees that might be applicable.

Change in Status that, if Approved, Would Require Amended or Additional SEC Rule 19h–1(c) Filing—This fee is payable whenever a person or entity on whose behalf the Exchange has filed a Rule 19h–1(c) filing that has been approved by the SEC applies for a change in status that will require the Exchange to file an amended or additional Rule 19h–1(c) filing if the Exchange approves the requested change in status. This fee is in addition to any other membership fees that might be applicable.

Any questions regarding this Regulatory Circular may be directed to Raedell Pancake, Director, Membership Department, at (312) 786–7460.

(Regulatory Circulars RG90–10, RG91–48, RG92–37, RG95–47, RG95–58, [and] RG96–03, *and RG98–148* Revised).

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NYSE Options Program

Permit Lease Pool Procedures

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[8.h. No lease of a Permit in the lease pool will become effective until there has been deposited with the Membership Department of the Exchange a Letter of Guarantee from a Clearing Member in the amount equal to the last sale price of a Permit, except that during the first year of the Permits (during which no Permits may be bought or sold) the amount shall be $50,000.]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Introduction

The purpose of this proposed rule change is to update the Exchange's rules relating to membership. The proposed rule amendments codify various procedures that have been implemented over time pursuant to the Exchange's current membership rules. Additionally, the proposed rule amendments clarify, restate, and reorganize certain of the Exchange's membership rules to make it easier for the Exchange's membership to reference and understand those provisions. Finally, the proposed rule amendments incorporate into the Exchange's membership rules various proposed improvements and enhancements, which are more fully described below.

This proposed rule change is the product of a comprehensive review and evaluation of the Exchange's current membership rules. This thorough and detailed review and evaluation was conducted by Exchange staff, the Exchange's Membership Committee, Clearing Member representatives, and the Exchange's Floor Directors Committee and involved numerous meetings and discussions by and among these groups over several years.

Set forth below is a summary of the substantive amendments proposed by this rule change.

Rule 1.1—Definitions

The definition of lessor in CBOE Rule 1.1(ff) is proposed to be amended to clarify that a member organization that is a lessor of an Exchange membership may transact business with the public provided the organization is approved to do so pursuant to CBOE Rule 9.1. Specifically, the second sentence of CBOE Rule 1.1(ff) is proposed to be deleted because the sentence is ambiguous and could be read to imply that a lessor member organization is not permitted to transact business with the public. The definition of nominee in CBOE Rule 1.1(pp) is also proposed to be amended (i) to clarify that under the amended rules not all types of nominees are required to have an authorized floor function (*i.e.,* as is more fully set forth in proposed CBOE Rules 3.8(a)(iii) and 3.8(b)(iii), nominees of member organizations approved solely to transact business with the public and of lessor member organizations are not required to have an authorized floor function) and (ii) to eliminate a

provision which provides that all nominees shall be deemed to be Exchange members since proposed Rule 3.8(b) provides that a nominee of a member organization approved to act solely as a lessor shall be deemed an associated person of the organization and not an individual member.

Rule 3.1—Public Securities Business

CBOE Rule 3.1 is proposed to be amended to clarify when the Rule is referring to an individual member, a member organization, or a member. (As is set forth in Section 1.1(b) of the CBOE Constitution, the term ''member'' means an individual member or a member organization.) CBOE Rule 3.1 is also proposed to be amended to delete the provision that requires compliance with Section 11(a) of the Act [5] because compliance with the Act is required by CBOE Rule 4.2 and because CBOE Rule 3.1 is intended instead to set forth permissible membership capacities for the purpose of satisfying the requirement of Section 2.2 of the CBOE Constitution and Rule 3.1(a) that every member shall have as the principal purpose of its membership the conduct of a public securities business. Additionally, CBOE Rule 3.1 is proposed to be amended to separately refer to the membership capacity of a nominee and the membership capacity of an individual who has registered his or her membership for a member organization.

Rule 3.2—Qualifications and Membership Statuses of Individual Members

CBOE Rule 3.2 is proposed to be amended to clarify that the requirement in the Rule that an individual member is required to be 21 years of age applies to every individual member and not solely to individual members who own memberships. CBOE Rule 3.2 is also proposed to be amended to set forth in the Rule (i) all of the individual membership statuses under the Exchange's rules (including those that are approved by the Membership Committee and those that are approved by Exchange bodies other than the Membership Committee) and (ii) those individual membership capacities for which one is required to have an authorized floor function. Additionally, proposed CBOE Rule 3.2(c) codifies in the Exchange's rules the definition of an authorized floor function (*i.e.,* an individual member is deemed to have an authorized floor function if the member is approved by the Membership Committee to act as a Market-Maker and/or a Floor Broker).

Rule 3.3—Qualifications and Membership Statuses of Member Organizations

Proposed CBOE Rule 3.3 is similar in structure to proposed CBOE Rule 3.2 and sets forth all of the membership organization membership statuses under the Exchange's rules (including those that are approved by the Membership Committee and those that are approved by Exchange bodies other than the Membership Committee). Consistent with long standing Exchange policy, CBOE Rule 3.3 also clarifies that a member organization that is a Clearing Member or an order service firm is required to possess at least one membership for which the organization is not a lessor. In addition, CBOE Rule 3.3 clarifies that a member organization that desires to become a different type of business entity must apply for membership in the name of the new entity.

Rule 3.4—Qualifications of Foreign Member Organizations

Currently, CBOE Rule 3.3 provides that an organization not organized under United States law may not become a member organization, unless the organization is organized under other laws approved by the Exchange's Board of Directors. Due to the ever-increasingly global nature of the securities markets, the Exchange has determined to amend its rules to permit foreign entities to become members of the Exchange, provided that such entities satisfy a number of requirements that are designed to eliminate potential hindrances the Exchange might encounter in regulating a foreign entity were such requirements not in place. These requirements are set forth in proposed CBOE Rule 3.4 and include, among others, the requirements that the organization must (i) maintain in English and at a location in the United States the books and records of the organization that relate to its business on the Exchange, (ii) maintain its financial records in accordance with United States accounting standards or foreign accounting standards that are found by the Exchange to be comparable to United States accounting standards, (iii) waive any secrecy laws in the domiciliary jurisdiction of the organization, and (iv) submit to the jurisdiction of the United States federal courts and the Illinois courts.

Rule 3.5—Denial of and Conditions to Membership and Association

Proposed CBOE Rule 3.5 (which is a revised version of current CBOE Rule 3.4) clarifies which criteria for denial or conditioning membership or association with a member are applicable only to broker-dealer applicants and revises one of the current grounds for denial or conditioning approval of a broker-dealer applicant. Currently, the Membership Committee may deny or condition the approval of a broker-dealer applicant if the applicant has a negative net worth. Under proposed CBOE Rule 3.5(c)(i), this ground is revised to provide that the Membership Committee may deny or condition the approval of a broker-dealer applicant if the applicant is an individual and has net worth (excluding personal assets) below $25,000 or if the applicant is an organization and has net worth (excluding personal assets) below $50,000. The Exchange believes that this somewhat higher standard is appropriate given the financial resources typically now required to operate as an Exchange member. In addition, any individual applicant who fails to satisfy this standard could still apply to become a non-broker-dealer nominee of a member organization and not be subject to this standard.

Proposed CBOE Rule 3.5 also clarifies that it is the Exchange's intention not to use as a ground for denial or conditioning approval of an applicant failure by the applicant to pay debts that have been discharged in bankruptcy. However, in the event an applicant has engaged in fraud in connection with a bankruptcy proceeding (such as fraudulent conveyances) or some other type of violation of just and equitable principles of trade, this clarification is not intended to limit the Exchange from considering this activity in determining whether to deny or condition approval of the applicant. A new provision is also proposed to be included in proposed CBOE Rule 3.5 which makes clear that any decision made by the Membership Committee to deny or condition approval of an applicant must be consistent with both the provisions of proposed CBOE Rule 3.5 and the provisions of the Act. Additionally, certain provisions of current CBOE Rule 3.4 are not included in proposed CBOE Rule 3.5 and instead are restated in other rules.

Rule 3.6—Persons Associated With Member Organizations

Proposed CBOE Rule 3.6 clarifies that the associated persons of a member organization which are required to be disclosed to the Exchange and approved

[5] 15 U.S.C. 78k(a).

by the Membership Committee include those associated persons that are required to be disclosed on the organization's Form BD as direct owners or executive officers (or, if the organization is a non-broker-dealer lessor member organization, those associated persons that would be required to be disclosed on Form BD in these capacities in the event the organization was a broker-dealer). In addition, a prior reference to the completion of Form U–4 has been deleted, and CBOE Rule 9.3 has been amended to clarify which associated persons are required to complete Form U–4 (*i.e.*, persons who perform duties for member organizations approved to transact business with the public which are customarily performed by sales representatives, solicitors, customers' men, or branch office managers). Notwithstanding the foregoing, the Exchange may still require other applicants to complete Form U–4 during the application process solely as an information gathering tool.

Rule 3.7—Certain Documents Required of Members, Applicants, and Associated Persons

Proposed CBOE Rule 3.7 sets forth those documents which members are required to submit to the Membership Department. Most of the provisions of proposed CBOE Rule 3.7 are restatements of current requirements set forth in current CBOE Rule 3.6. Additionally, because current CBOE Rule 3.6 was last amended prior to when the Exchange amended its Rules to permit limited liability companies to become Exchange members, a provision is proposed to be included in proposed CBOE Rule 3.7.01 which specifies the documents that the Exchange currently requires applicants and members that are limited liability companies to file with the Membership Department. Proposed CBOE Rule 3.7 also includes provisions which refer to existing requirements under the Act (*i.e.*, the requirements under Section 17(f) of the Act [6] respecting fingerprinting and the requirement under Section 15 of the Act [7] that broker-dealers complete and keep current Form BD).

Rule 3.8—Nominees and Members Who Register Their Memberships for Member Organizations

CBOE Rule 3.8 is proposed to be amended to restate the current requirements that are applicable to nominees and members who register their memberships for member organizations. For example, CBOE Rule 3.8(a) sets forth current requirements that are applicable to the designation of a nominee by a member organization that will not be acting as a lessor, and Rule 3.8(c) sets forth current requirements that are applicable to registering one's membership for a member organization. CBOE Rule 3.8 is also proposed to be amended to incorporate the following substantive changes.

Proposed CBOE Rule 3.8(b) requires each lessor member organization to designate a single nominee to represent the organization in all matters relating to the Exchange with respect to all of the memberships for which the organization is a lessor. This individual will be required to satisfy all of the qualification requirements for membership (other than the requirements which are not applicable to lessors or which are applicable solely to members who will have an authorized floor function), except that the nominee will be considered an associated person of the lessor member organization and not an individual member by virtue of being approved to act as a nominee in this capacity. The Exchange currently requires lessor member organizations to designate a representative to represent the organization with respect to the memberships for which it is a lessor, and proposed CBOE Rule 3.8(b) formalizes the process for the designation and approval of these individuals and clarifies that they are subject to the Exchange rules that are applicable to nominees generally (except those rules that are not applicable to lessors or which are applicable solely to members who will have an authorized floor function).

Proposed CBOE Rule 3.8(d) clarifies that a nominee shall not, solely by virtue of being a nominee of a member organization, have any personal liability to the Exchange or to any other member for Exchange transactions and other securities transactions made by the nominee on behalf of the member organization. Proposed CBOE Rule 3.8.01 also makes clear that nothing in CBOE Rule 3.8(d) is intended to define or limit (i) any obligations between a nominee of a member organization, or an individual who has registered his or her membership for a member organization, and the member organization itself; (ii) any responsibility such a person may have for obligations of the member organization by virtue of a contractual obligation or ownership relationship to the organization beyond merely being a nominee or individual who has registered his or her membership for the organization; or (iii) the ability of the Exchange to sanction or take other remedial action against such a person pursuant to other Exchange rules for rule violations or other activity for which remedial measures may be imposed.

Proposed CBOE Rule 3.8(e)(i) provides that each nominee of a member organization and each individual who has registered his or her membership for a member organization is required to be materially involved in the daily operation of the Exchange business activities of the member organization. This provision is intended to eliminate the potential ability under the Exchange's current rules for an organization to qualify for membership by associating with an individual who is designated as that organization's nominee or who registers his or her membership for the organization but who has little or no involvement with the organization's Exchange business activities. The Exchange is proposing to prohibit the potential ability to have such an arrangement since such arrangements dilute the value of the membership rights of other Exchange members and result in a situation in which the person designated to represent the applicable member organization in all matters relating to the Exchange is not materially involved in the organization's Exchange business activities.

Rule 3.9—Application Procedures and Approval or Disapproval

CBOE Rule 3.9 is proposed to be amended to restate the Exchange's current membership application procedures.

For example, proposed CBOE Rule 3.9(g) restates the current provision that any individual membership applicant applying to have an authorized floor function is required to have attended the Exchange's New Member Orientation Program and to have passed the Exchange's Floor Member Qualification Exam. This provision is currently set forth in CBOE Rule 3.9(c)(2) and is proposed to be restated and moved to proposed CBOE Rule 3.9(g). Proposed CBOE Rule 3.9(g) also sets forth the procedural requirements that are related to this provision (such as the requirement that a person must score 75% or better on the Floor Member Qualification Exam in order to pass the Exam) which were previously approved by the Commission but which are not currently set forth in CBOE Rule

[6] 15 U.S.C. 78q(f).

[7] 15 U.S.C. 78o.

3.9.[8] Additionally, the provisions currently set forth in Rule 3.5(b) which address when an applicant who fails the Floor Member Qualification Exam may re-take the Exam are proposed to be deleted from Rule 3.5(b) and to be included in proposed Rule 3.9(g).

The Exchange is also proposing to codify in CBOE Rule 3.9 the following current membership application procedures which are not currently set forth in CBOE Rule 3.9. First, proposed CBOE Rule 3.9(d) requires each applicant to promptly update the applicant's application materials if any of the information provided in these materials becomes inaccurate or incomplete after the date of submission of the application to the Membership Department and prior to any approval of the application. This requirement is currently set forth in the application materials themselves and is proposed to be added to Rule 3.9. Second, proposed CBOE Rule 3.9(c) clarifies that the Membership Committee may utilize a posting period for any type of membership application and that the Membership Committee may shorten or waive a required posting period for an applicant if the Membership Committee determines that doing so is warranted due to extenuating circumstances. Third, proposed CBOE Rule 3.9(f) clarifies that the Exchange typically does not investigate an individual member applicant who was an individual member within the prior 6 months since the person was recently an Exchange member. Fourth, the provisions of CBOE Rule 3.4(d), which provide that the Membership Committee need not act on a membership application when the applicant is the subject of an inquiry, investigation, or proceeding conducted by a self-regulatory organization or government agency involving the applicant's fitness for membership until the matter has been resolved, are proposed to be moved to proposed Rule 3.9(j). Fifth, proposed CBOE Rule 3.9.02 clarifies that a member organization which desires to change its name is required to submit an application to the Membership Department and that the Membership Committee may disapprove the name change application or membership application of an organization if the Membership Committee determines that the proposed name of the organization is confusingly similar to the name of an existing member organization.

One substantive change that has been incorporated into CBOE Rule 3.9 is that any member desiring to change the Clearing Member that guarantees the member's Exchange transactions will be required to submit an application for approval to do so to the Membership Department, including a financial statement which sets forth the member's assets and liabilities. Proposed CBOE Rule 3.9 also provides that the Membership Department will provide a copy of this financial statement to the new Clearing Member designated in the application and will post notice to the membership that the application has been received (unless the Clearing Member(s) that will no longer be guaranteeing the member's Exchange transactions waive this requirement). This amendment is intended to permit the Clearing Member(s) that will no longer be clearing the member's Exchange transactions as well as other members to notify the Membership Department if the member has outstanding liabilities that bear upon the member's qualification for membership and to provide the new Clearing Member designated by the member with information regarding the member's financial standing so that the Clearing Member will have this information available to it in connection with managing the risk associated with the member's trading activities.

Rule 3.10—Effectiveness of Membership or Approved Associated Person Status

CBOE Rule 3.10 is proposed to be amended to restate the Exchange's current rule provisions regarding effectiveness of membership or approved associated person status. One substantive change that has been incorporated into CBOE Rule 3.10 is that an applicant that is approved to become a lessor will have 6 months to become effective in that status. Other types of applicants will continue to have 90 days to become effective in their approved statuses. Applicants that have been approved to become lessors will have a longer time period to become effective in that status because they generally must purchase a membership to become an effective lessor and it is often difficult for lessors to do so within 90 days.

Rule 3.11—Notice of Effectiveness of Membership or Approved Associated Person Status

CBOE Rule 3.11 is proposed to be amended to reflect the Exchange's current procedures for notifying the membership of the effectiveness any membership, membership status, or associated person status. CBOE Rule 3.11 is also proposed to be amended to delete the requirement that such notices be posted on the Exchange Bulletin Board since these notices are included in the Exchange Bulletin (which is forwarded to all members) and since these notices relate to statuses that have already been approved (unlike notices of pending membership applications which are posted on the Exchange Bulletin Board so that members may submit comments to the Membership Department regarding an applicant's fitness for membership).

Rule 3.12—Membership Rights and Restrictions on Their Transfer

CBOE Rule 3.12 is proposed to be amended to include in proposed CBOE Rule 3.12(b)(ii) a provision currently set forth in CBOE Rule 3.15(g) regarding restrictions on the transfer of membership rights (which is proposed to be deleted from CBOE Rule 3.15) and to indicate that certain rights may be granted to the grantee of an Authorization to Sell a membership pursuant to proposed CBOE Rule 3.14(d) and proposed CBOE Rule 3.15(b) (which are more fully discussed below).

Rule 3.13—Purchase of Membership

CBOE Rule 3.13 is proposed to be amended to generally provide that any newly issued memberships may be purchased pursuant to procedures established by the Exchange. CBOE Rule 3.13 is also proposed to be amended to clarify that only those approved to be an owner or lessor may purchase a membership and that any bid to purchase an outstanding transferable membership submitted by a person or organization approved to be an owner or lessor shall be canceled at such time that the person or organization is no longer approved to be an owner or lessor. In addition, proposed CBOE Rule 3.13(c) clarifies that a purchaser must pay for a purchased membership within 2 business days of the acceptance of a bid for a newly issued membership or the matching of a bid and offer for an outstanding transferable membership.

Rule 3.14—Sale and Transfer of Membership

The Exchange's membership transfer provisions of CBOE Rule 3.14(c) are proposed to be amended to provide that if the owner of a transferable membership requests the transfer of the membership pursuant to CBOE Rule 3.14(c)(iii) to an organization in which the transferor will maintain an interest, the interest must be at least equal in

[8] *See* Securities Exchange Act Release No. 32943 (September 22, 1993), 58 FR 50984 (September 29, 1993) (File No.SR–CBOE–91–38) (reflecting Commission approval of the procedural provisions related to the Exchange's requirement that individual membership applicants applying to have an authorized floor function are required to pass the Exchange's Floor Membership Qualification Exam).

value to the current market price of the membership (instead of the lower of the current market price or cost of the membership). Because the market price of a membership has increased significantly over the years, maintaining an ownership interest in an organization equal to the original cost that a member may have paid for a membership may no longer reflect a material ownership interest in that organization.

Current CBOE Rule 3.15.01 provides that the Exchange may recognize and give effect to a valid instrument by which a member, in consideration of a loan or guarantee of a loan by another member for the purpose of purchasing a membership, has authorized the lending or guaranteeing member to sell that membership. Proposed CBOE Rule 3.14(d) replaces this provision and also expands upon it by permitting the owner of a transferable membership to voluntarily grant an Authorization to Sell the membership to any other member (including, but not limited to, another member who has provided or guaranteed a loan to the membership owner for the purpose of purchasing a membership) and by specifying in more detail the provisions that are proposed to govern the grant of an Authorization to Sell and the exercise of authority thereunder.

Among the provisions under proposed CBOE Rule 3.14(d) that will apply to an Authorization to Sell are the following: (i) An Authorization to Sell shall be effective only if it has been executed on a form prescribed by the Exchange and filed with the Membership Department; (ii) a membership owner may not grant an Authorization to Sell a particular membership to more than one member; (iii) the grantee of an Authorization to Sell will have all of the authority granted under the Exchange's Constitution and rules relating to the sale of the membership that would otherwise be vested in the membership owner; (iv) a grantee of an Authorization to Sell a membership must notify the membership owner in writing at least 3 business days prior to exercising the grantee's right to sell the membership; (v) an Authorization to Sell shall be irrevocable and may only be canceled if the grantee of the Authorization to Sell consents to its cancellation; (vi) the Exchange shall take direction solely from the grantee of an Authorization to Sell a membership with respect to matters relating to the sale of the membership; (vii) notwithstanding the foregoing, a membership owner and a grantee of an Authorization to Sell a membership may have a written contract between them which sets forth the circumstances under which the grantee may exercise the grantee's authority to sell the membership, and any breaches of this written contract may be redressed through arbitration under Chapter XVIII of the Exchange's rules or through other means permitted by that Chapter; (viii) the grantee of an Authorization to Sell a membership that exercises the grantee's right to sell the membership may not be the purchaser of the membership unless the membership owner consents; and (ix) following receipt by the Membership Department of an Authorization to Sell that has been granted by a member, a cancellation of the Authorization to Sell, or a contract concerning the exercise of authority under the Authorization to Sell, the Membership Department will provide a copy of the applicable document to the member's Clearing Member(s).

Rule 3.15—Proceeds From the Sale of Membership

Current CBOE Rule 3.15 and current provisions of CBOE Rule 3.14 and Rule 3.16 provide for a claims process whenever a membership is sold, whenever a membership is transferred without a sale, at the beginning of a membership lease, and at the end of a membership lease. During this claims process, the Exchange, the Clearing Corporation, and members may submit claims against the owner of the membership that is being sold, transferred, or leased. If the membership was leased (such as is always the case at the end of a membership lease), the Exchange, the Clearing Corporation, and members may also submit claims against the lessee of the membership (except at the beginning of a membership lease when claims may only be submitted against the membership owner). In the case of a sale, these claims (if determined to be valid by the Board of Directors) are satisfied out of the proceeds of the sale. In the case of a transfer or the beginning or end of a lease, the owner of the membership that is the subject of the transfer or lease must post cash with the Exchange in an amount equal to the last membership sale or must obtain a letter of guarantee from a Clearing Member to satisfy the payment of any valid claims.

For a number of reasons, the Exchange is proposing to modify this membership claims process so that the only permissible claimant under the process will now be the grantee of an Authorization to Sell, so that the process will only occur upon the sale of a membership, and so that lessors will no longer have liability under the claims process for the debts and liabilities of their lessees. The primary reason for these modifications is that the Exchange no longer believes it is equitable for a lessor to be liable under the membership claims process for the debts and liabilities of a lessee, particularly when it is almost always the case that a lessor has no involvement in incurring a lessee's debts and liabilities and has no means to monitor the activities of a lessee. The Exchange also believes that these modifications to the membership claims process, when coupled with providing for the ability to grant an Authorization to Sell a membership, will result in more individuals and entities desiring to own Exchange memberships (including a greater number of individuals and entities who are engaged in trading activities on the Exchange desiring to own Exchange memberships). Additionally, these modifications will eliminate the significant administrative burden on the Exchange, Clearing Members, and other members that is a byproduct of the current membership claims process while still preserving the right of members to pursue claims against other members through the arbitration process.

Specifically, CBOE Rule 3.15 is proposed to be amended to provide for the following modified membership claims process upon the sale of a membership in place of the current membership claims process.

In the event of a sale of a membership for which no Authorization to Sell has been granted, the Exchange shall remit the sale proceeds from the sale of the membership to the member whose membership was sold promptly following receipt of the sale proceeds by the Exchange.

In the event of a sale of a membership for which an Authorization to Sell has been granted, the grantee shall have 2 business days from the date of the sale to notify the Membership Department of any claims the grantee has against the member whose membership was sold that are related to the member's Exchange business activities, and the member whose membership was sold shall have 5 business days from the date of the sale to either acknowledge or contest those claims. The Exchange shall then remit to the grantee that portion of the sale proceeds applicable to those claims that were acknowledged by the member whose membership was sold, escrow that portion of the remaining sale proceeds applicable to those claims that were contested by the member whose membership was sold, and remit to the member whose membership was sold any remaining

portion of the sale proceeds. Any portion of the sale proceeds applicable to contested claims that has been escrowed shall remain in escrow until the grantee and the member whose membership was sold resolve the claims through arbitration under Chapter XVIII of the Rules or through other means permitted by that Chapter. Notwithstanding the foregoing, the Exchange may determine to release to the member whose membership was sold sale proceeds that have been escrowed due to contested claims if the Exchange determines that the grantee of the Authorization to Sell is not proceeding in good faith to resolve the contested claims. Following the resolution of any contested claims for which sale proceeds have been escrowed, the Exchange shall remit the escrowed proceeds to the grantee and the member whose membership was sold in accordance with the resolution of these claims.

CBOE Rule 3.15 also provides further explanation regarding the procedural aspects of this claims process, lists examples of types of claims related to Exchange business activities that may be submitted by the grantee of an Authorization to Sell under this claims process, and notes that whether a claim is related to Exchange business activities shall be determined solely by the Exchange.

Additionally, proposed CBOE Rule 3.14(d)(viii) provides that, consistent with the priority provided for under CBOE Rule 3.15(b) to claims made by the grantee of an Authorization to Sell, the Exchange will recognize a security interest of the grantee in any proceeds from the sale of a membership that the grantee is entitled to receive pursuant to CBOE Rule 3.15(b), but will not recognize any other lien or security interest in a membership or in the proceeds from the sale of a membership.

Rule 3.16—Special Provisions Regarding Chicago Board of Trade Exerciser Memberships

CBOE Rule 3.16 is proposed to be amended to clarify that a Chicago Board of Trade exerciser membership acquired by a person pursuant to Paragraph (b) of Article Fifth of the Exchange's Certificate of Incorporation terminates upon receipt by the Membership Department of written notice from the person that the person is surrendering the membership or at such time that the person is no longer entitled to membership on the Exchange in accordance with Paragraph (b) of Article Fifth. In addition, the provisions regarding leased memberships currently contained in CBOE Rule 3.16(b) have been deleted and restated in an amended form in proposed CBOE Rule 3.17.

Rule 3.17—Leased Memberships

Proposed CBOE Rule 3.17 restates the provisions regarding leased memberships that are currently contained in CBOE Rule 3.16(b) and also incorporates the following substantive changes to those provisions.

Proposed CBOE Rule 3.17(a) clarifies that the Exchange shall bear no liability to a lessor or lessee in connection with the Exchange's review and approval of a lease agreement.

In connection with the modification of the current membership claims process to eliminate lessor liability under that process for claims against a lessee, the Exchange is proposing to include an explicit provision in proposed CBOE Rule 3.17(b) which provides that a lessor of a membership shall not have any liability for claims against a lessee of that membership solely by virtue of being a lessor of the membership. Proposed CBOE Rule 3.17(b) also clarifies that this provision is not intended to limit or define any responsibility a lessor may have for claims against a lessee by virtue of a contractual obligation or ownership relationship between the lessor and lessee beyond the lease of a membership from the lessor to the lessee. Similarly, the Exchange is proposing to eliminate the current provision of CBOE Rule 3.16(b) which provides that any division of rights and responsibilities between a lessor and lessee with respect to the satisfaction of applicable Exchange dues, fees, and other charges shall not affect a lessor's obligation to pay all amounts due the Exchange with respect to which a lessee has been delegated responsibility.

Proposed CBOE Rule 3.17(c) clarifies that the Exchange may specify that particular provisions be included in membership lease agreements in addition to those specifically designated in the Rule.

Proposed CBOE Rule 3.17(d) requires a lessee to promptly file the lease agreement and any amendments thereto with the Membership Department and to promptly notify the Membership Department of any termination of the lease before the termination becomes effective. This obligation is proposed to be placed on lessees because lessees are present at the Exchange to conduct their activities.

Proposed CBOE Rule 3.17(e) is intended to prevent the potential occurrence of a situation in which a lessor sells or transfers a membership during the term of a lease of the membership and the lessee is left with no membership with which to conduct the lessee's Exchange business activities. Specifically, proposed CBOE Rule 3.17(e) provides that in the event a lessor sells or transfers a membership while it is being leased to a lessee, the purchaser or transferee of the membership is required to lease the membership to the lessee pursuant to the terms of the lessee's existing lease agreement with the lessor for a period of 20 business days following the date the membership is transferred to the purchaser or transferee. The purchaser or transferee may also satisfy this requirement by making arrangements with another membership owner to permit the lessee to lease a membership from that membership owner for the required time period pursuant to the terms of the lessee's existing lease agreement. Additionally, the lessee is permitted to waive this requirement if the lessee so chooses. The Exchange believes CBOE Rule 3.17(e) will prevent the disruption of business on the Exchange which can occur if a lessor sells or transfers a membership while it is being leased to a lessee by allowing the lessee a reasonable amount of time to procure the lease of another membership.

Proposed CBOE Rule 3.17(e) further provides that it shall be a rule violation for a lessor to circumvent the requirements of proposed CBOE Rule 3.17(e) by improperly terminating a membership lease prior to the sale or transfer of the membership for the purpose of avoiding the applicability of these requirements. In the event the Exchange determines that such a circumvention has taken place, proposed CBOE Rule 3.17(e) provides that the Exchange may impose the requirements of proposed CBOE Rule 3.17(e) upon the purchaser or transferee of the membership and/or take disciplinary action against the lessor.

Proposed CBOE Rule 3.17(f) clarifies that in the event a lessor sells or transfers a membership while it is being leased to a lessee, the lessor is required to remit to the purchaser or transferee of the membership any amounts paid to the lessor by the lessee under the lease agreement for any portion of the lease period, up to 20 business days, during which the lessor will no longer be leasing the membership to the lessee. The lessor is required to remit these amounts to the purchaser or transferee of the membership no later than the date the membership is transferred to the purchaser or transferee. The lessor is also required to remit to the lessee by the transfer date any remaining amounts paid to the lessor by the lessee under

the lease agreement for any portion of the lease period beyond the foregoing 20 business day period. Additionally, in the event the lessee waives the requirements of CBOE Rule 3.17(e) described above, the lessor is required to remit to the lessee by the transfer date all amounts paid to the lessor by the lessee under the lease agreement for any portion of the lease period during which the lessor will no longer be leasing the membership to the lessee.

Rule 3.18—Members and Associated Persons Who Are or Become Subject to a Statutory Disqualification

The Exchange is proposing to modify its procedures for determining, with respect to a member or associated person who is or becomes subject to a statutory disqualification, whether to permit that member or associated person to continue in membership or association with a member, and if so, whether to condition such continuance in membership or association.

Currently, the Membership Committee is authorized under current CBOE Rule 3.4, with respect to a member or associated person who is or becomes subject to a statutory disqualification, to determine not to permit that member or associated person to continue in membership or association with a member or to condition such continuance in membership or association. However, the Membership Committee must first gather the relevant information and interview the member or associated person before rendering its decision. In addition, the member or associated person has the right to appeal the Membership Committee's decision to the Exchange's Appeals Committee and to appeal the Appeals Committee's decision to the Board of Directors. Furthermore, these appeal rights must be exhausted before the Membership Committee's decision can take effect. Therefore, it is possible that a member or associated person could become subject to a statutory disqualification, such as a serious felony conviction, and still be able to continue to act in that capacity for an extended period of time while the foregoing proceedings are pending.

Accordingly, the Exchange is proposing to modify its current procedures in this regard by replacing them with a more expedited procedure which will still provide due process to the member or associated person that is or has become subject to a statutory disqualification without a right of appeal to the Appeals Committee and then to the Board of Directors. The proposed modified procedure is set forth in proposed CBOE Rule 3.18 and has the following substantive components:

(i) If a member or associated person who is or becomes subject to a statutory disqualification wants to continue in Exchange membership or association with a member, the member or associated person is required to submit an application to the Membership Department within 10 days of becoming subject to the statutory disqualification.

(ii) Following receipt of the application, or in the event the Exchange becomes aware that a member or associated person is subject to a statutory disqualification and has failed within the required time period to submit an application to continue in membership or association, the Chairperson of the Membership Committee will appoint a panel composed of the Membership Committee Chairperson and two other members of the Membership Committee to conduct a hearing concerning the matter.

(iii) The hearing panel will hold a hearing concerning the matter 14 or more days following the receipt of the application or the initiation of the proceeding, and both the subject of the proceeding and Exchange staff will be afforded an opportunity to present relevant information, arguments, and witnesses during the hearing.

(iv) Following the hearing, the hearing panel will present its recommended decision to the Membership Committee, which may ratify or amend the decision.

(v) The Exchange's Executive Committee may determine within 7 days after the issuance of the Membership Committee's decision to order review of the decision. If the Executive Committee does not order review of the decision, the Membership Committee's decision will become the final decision of the Exchange.

(vi) If the Executive Committee orders review of the Membership Committee's decision, the review will be conducted by the Executive Committee or a panel thereof composed of at least 3 members of the Executive Committee, whose decision must be ratified by the Executive Committee, and the Executive Committee's decision will be the final decision of the Exchange.

The Executive Committee is composed of the Exchange's Chairman, Vice Chairman, and President, and at least 4 other Exchange directors and is generally authorized under Section 7.2 of the Exchange's Constitution to exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Exchange. The Exchange is proposing to utilize the Executive Committee as the review body under proposed CBOE Rule 3.18 instead of the Board of Directors because the Executive Committee is generally able to convene more quickly than the Board because of its smaller size.

In the event that the Exchange were to determine to permit a member or associated person who is subject to a statutory disqualification to remain in membership or association, the Exchange would also submit a notice to the Commission to the extent required by Rule 19h–1 under the Act.[9]

Additionally, in order to help to ensure that the Exchange receives notice if a member or associated person becomes subject to a statutory disqualification, proposed CBOE Rule 3.18.02 provides that if an associated person of a member is or becomes subject to a statutory disqualification, the member is required to immediately provide written notice to the Membership Department of the name of the associated person, the person's capacity with the member, and the nature of the statutory disqualification.

Rule 3.19—Termination from Membership

Proposed CBOE Rule 3.19 clarifies that the membership status of a member automatically terminates if the member does not possess a membership through ownership, lease, or registration of a membership to the member and that the membership of a member organization automatically terminates if the member organization has no nominee or person who has registered his or her membership for the member organization. Proposed CBOE Rule 3.19 also restates the provision of current CBOE Rule 3.17 which permits the Exchange, if extenuating circumstances are present, to allow a member to retain the member's membership status following an event that triggers the termination of that status in order to permit the member to re-obtain a membership status.

Rule 3.20—Dissolution and Liquidation of Member Organizations

Proposed CBOE Rule 3.20 restates the provisions currently set forth in current CBOE Rule 3.18 regarding dissolution and liquidation of member organizations and amends those provisions by requiring a member organization (i) to provide notice of the adoption of a plan of liquidation or dissolution to both the Department of Financial and Sales Practice Compliance and the Membership

[9] 17 CFR 240.19h–1.

Department and (ii) to provide notice to these Departments of any actual liquidation or dissolution.

Rule 3.21—Obligations of Terminating Members

Proposed CBOE Rule 3.21 restates requirements applicable to terminating members which are currently set forth in current CBOE Rule 3.19. In addition, in connection with the modification of the current membership claims which includes the elimination the Exchange's ability to submit claims against the proceeds of a membership sale under that process, the Exchange is proposing to delete the provision of current CBOE Rule 3.19 which permits the Exchange to withhold the distribution of the proceeds of a sale of a membership if the seller is not current in the payment of Exchange fees or the submission of various filings.

Current Rules 3.20–3.22A—Government Securities Options Permits

All of the provisions contained in current CBOE Rules 3.20, 3.21, 3.22, and 3.22A relating to government securities options permits are proposed to be deleted due to the fact that all of these permits have expired. Similarly, CBOE Rule 1.1(hh), which sets forth the definition of a government securities options permit holder, and CBOE Rule 6.20.03, which relates to government securities options permit holders, are also proposed to be deleted.

Rule 3.25—Transfer of Individual Membership in Trust

CBOE Rule 3.25 is proposed to be amended to clarify that (i) the only type of trust into which a membership owner may transfer a membership is a living trust; (ii) a member desiring to transfer a membership in trust is required to submit an application to the Membership Department which must be approved by the Exchange; (iii) a Trust Member is required to submit to the Membership Department any amendments to the trust agreement and to notify the Membership Department of any changes in the information set forth in the application to transfer the membership in trust, any changes in successor trustee, any release of the membership out of trust, and any termination of the trust; and (iv) the Exchange shall deem a membership held in trust to have reverted to the Trust Member to be held directly and not in trust in the event the membership is released from the trust, the trust terminates, or the trust agreement is amended so that it no longer complies with the requirements of CBOE Rule 3.25.

Rule 3.27—Options Trading Permits

In connection with the modification of the current claims process that is applicable to memberships, the Exchange is also proposing to amend CBOE Rule 3.27 to make the same modifications to the corollary claims process that is applicable to Options Trading Permits.

Rule 3.28—Extension of Time Limits

Proposed CBOE Rule 3.28 clarifies that any time limit imposed on an applicant, member, or other person under Chapter III of the Exchange's rules may be extended by the Membership Committee in the event the Membership Committee determines that such an extension is warranted due to extenuating circumstances. This proposed provision is similar to CBOE Rule 17.13 which authorizes the Exchange to extend time limits provided for under Chapter XVII of the Exchange's rules.

Rule 3.29—Delegation of Authority

Proposed CBOE Rule 3.29 clarifies that all of the authority granted to the Exchange under Chapter III of the Exchange's rules may be exercised by the Membership Committee and/or the Membership Department and that the Membership Committee may delegate to the Membership Department any of the authority that is granted to the Membership Committee under the Exchange's rules. Since there are so many different types of membership-related applications and approvals provided for under Chapter III, the Membership Committee may wish to delegate to the Membership Department the authority to act on certain routine types of applications and approvals so that the Committee can focus its attention on the more significant types of membership-related applications and approvals. Proposed CBOE Rule 3.29 makes clear that this type of delegation may occur.

Rule 6.76A—Automated Billing Process for Market-Maker Brokerage Bills

In order to streamline the processing and payment of bills for brokerage services that are provided to Market-Makers by Floor Brokers and order service firms (''OSFs'') and because Floor Brokers and OSFs will no longer have the ability to submit claims for outstanding brokerage bills as part of the membership claims process, the Exchange is proposing to implement an automated billing process for these bills which is proposed to be set forth in proposed CBOE Rule 6.76A. Below are the substantive components of this proposed automated billing process. Some additional procedural aspects of this proposed automated billing process are also described in the proposed Rule.

(i) Each Floor Broker and OSF will be required to submit a written bill by the sixth day of the month to each Market-Maker customer of the Floor Broker or OSF for brokerage fees incurred by the Market-Maker during the prior month.

(ii) Submission of a written bill to a Market-Maker for these purposes shall be deemed to include hand-delivery of the bill to the Market-Maker, hand delivery of the bill to a representative of the Market-Maker, or delivery of the bill to the Market-Maker's Clearing Member with a written notation that the bill is for the Market-Maker.

(iii) A Market-Maker who receives a brokerage bill from a Floor Broker or OSF in accordance with this billing process will have until the tenth day of the month to inform the Floor Broker or OSF if the Market-Maker disputes any portion of the bill.

(iv) A Floor Broker or OSF that has submitted a bill to a Market-Maker by the sixth day of the month will notify the Exchange's Accounting Department by the twelfth day of the month of the amount to bill each Market-Maker customer of the Floor Broker or OSF for brokerage fees incurred by the Market-Maker during the prior month.

(v) The Exchange will take direction solely from the Floor Broker or OSF with respect to the amount to bill a Market-Maker pursuant to this billing process.

(vi) If for any reason a Market-Maker disputes the amount a Floor Broker or OSF has instructed the Exchange to bill the Market-Maker pursuant to this billing process, the Market-Maker may pursue a claim against the Floor Broker or OSF in arbitration under Chapter XVIII of the Rules or through other means permitted by that Chapter. In addition, in the event a Floor Broker of OSF improperly instructs the Exchange to bill a Market-Maker for brokerage fees which the Floor Broker or OSF is not entitled to receive, the Exchange may discipline the Floor Broker or OSF pursuant to Chapter XVII of the Exchange's rules for violating CBOE Rule 4.6 by submitting false statements to the Exchange.

(vii) The Accounting Department will prepare a monthly Market-Maker floor brokerage billing list for each Clearing Member that clears Market-Maker transactions and provide this list to each such Clearing Member by the twenty-first day of the month.

(viii) A Clearing Member may instruct the Accounting Department not to draft the Clearing Member pursuant to this billing process for that portion of the

brokerage fees billed to a Market-Maker which would cause the Market-Maker to have a negative balance in the Market-Maker's account at the Clearing Member.

(ix) On the twenty-fifth day of the month, the Exchange will draft from each Clearing Member's account at the Clearing Corporation the total amount billed pursuant to this billing process to Market-Makers that clear through that Clearing Member.

(x) The Exchange will then promptly distribute the amounts drafted to the applicable Floor Brokers and OSFs.

(xi) In the event a Clearing Member instructs the Accounting Department not to draft a portion of the brokerage fees billed to a Market-Maker, the Exchange will distribute on a pro rata basis to the Floor Brokers and OSFs that submitted instructions to bill the Market-Maker, the portion of the brokerage fees which were drafted from the Clearing Member for that Market-Maker.

(xii) In the event a Clearing Member instructs the Accounting Department not to draft a portion of the brokerage fees billed to a Market-Maker and the Market-Maker later has a positive balance in the Market-Maker's account at the Clearing Member, the Clearing Member will be required to deduct from the account the amount of the brokerage fees that the Clearing Member previously instructed the Accounting Department not to draft and to distribute these funds to the Floor Brokers and OSFs who previously did not receive full payment.

(xiii) If a Floor Broker or OSF fails to satisfy the submission deadlines provided for under this billing process for the billing of brokerage fees incurred by a Market-Maker during the prior month, the Floor Broker or OSF may not bill the Market-Maker for these brokerage fees pursuant to this billing process. However, the Floor Broker or OSF will still be permitted to bill the Market-Maker for these brokerage fees in the regular, non-automated fashion.

(xiv) In the event that any of the deadlines under this billing process fall on a non-business day, the deadline will advance to the next business day.

In order to contribute toward defraying the Exchange's cost of administering this automated billing process, the Exchange also proposes to assess, in a form and manner prescribed by the Exchange, (i) a $0.50 fee to each Floor Broker and OSF for each bill of $5.00 or more from the Floor Broker or OSF that is assessed to a Market-Maker under this billing process and (ii) a $0.50 fee to each Market-Maker for each bill of $5.00 or more from a Floor Broker or OSF that is assessed to the Market-Maker under this billing process.

Rules 6.72, 6.78, and 8.5—Clearing Member Guarantees

CBOE Rules 6.72, 6.78, and 8.5 relate to guarantees provided by Clearing Members. CBOE Rule 6.72 is proposed to be amended to clarify that a Floor Broker may only have one Letter of Authorization guarantee from a Clearing Member in effect at a time. CBOE Rules 6.72, 6.78, and 8.5 are each proposed to be amended to clarify that if a Clearing Member revokes a guarantee provided under one of those Rules, the Exchange will only post notice of the revocation if requested to do so by the Clearing Member. The Exchange does not believe that it is necessary to require that all of these revocations be posted because most are routine and result because a member is terminating from membership or is changing the Clearing Member that guarantees the member's Exchange transactions. In addition, CBOE Rule 8.5 is proposed to be amended to clarify that a Market-Maker may have in effect more than one Letter of Guarantee from a Clearing Member and that each such Letter of Guarantee shall provide that the issuing Clearing Member accepts financial responsibility for Exchange transactions made by the guaranteed Market-Maker when executing transactions through the issuing Clearing Member.

Also, in order to ensure that Clearing Members receive notice of proceedings involving disputed trades, CBOE Rule 18.2 is proposed to be amended to provide that in any arbitration concerning the alleged failure to honor a trade, each party to the arbitration shall promptly provide copies of all documents filed or received in the arbitration by that party to the Clearing Member(s) that guaranteed that party's Exchange transactions when the alleged trade took place.

Rule 8.9—Securities Accounts and Orders of Market-Makers

Proposed CBOE Rule 8.9.01 clarifies that each participant in a joint account shall be jointly and severally liable for any losses which may be incurred by the joint account, except that in the case where a participant in a joint account is a nominee of a member organization, or is an individual who has registered his or her membership for a member organization, and the participant is not acting as an independent Market-Maker pursuant to CBOE Rule 3.8(f), the member organization and not the participant shall be so liable. This clarification is intended to make applicable to joint accounts the general provision proposed to be included in proposed CBOE Rule 3.8(d) which clarifies that a nominee shall not, solely by virtue of being a nominee of a member organization, have any personal liability to the Exchange or to any other member for Exchange transactions and other securities transactions made by the nominee on behalf of the member organization.

Rule 18.2—Procedures in Member Controversies

In order to ensure that Clearing Members receive notice of proceedings involving disputed trades, CBOE Rule 18.2 is proposed to be amended to provide that in any arbitration concerning the alleged failure to honor a trade, each party to the arbitration shall promptly provide copies of all documents filed or received in the arbitration by that party to the Clearing Member(s) that guaranteed that party's Exchange transactions when the alleged trade took place.

Membership Fee Circular

The Exchange is proposing to amend its Membership Fee Circular to only include in the Circular information regarding membership fees and to delete from the Circular two introductory paragraphs regarding certain rule requirements related to membership since these requirements are now proposed to be more fully set forth in the membership rules themselves. The Exchange is also proposing to amend the description in the Membership Fee Circular of the fee that is payable by an applicant who is subject to a statutory disqualification to reflect that the rule provisions governing this situation are now proposed to be set forth in proposed CBOE Rule 3.18.

Special Members

The Exchange proposes to delete all references to special members contained in the Exchange's rules since all special memberships on the Exchange have expired. These proposed deletions are from CBOE Rules 3.12, 3.14, 3.16, 6.5, and 9.1.

Nonsubstantive Rule Changes

The Exchange is also proposing to make certain nonsubstantive wording changes to several CBOE membership rules, including CBOE Rules 3.23, 3.24, 3.27, 6.77, and 10.11.

Conforming Rule Changes

Additionally, the Exchange proposes to make conforming changes to other CBOE rules (including CBOE Rules 24A.15, 26.11, 26.13, and 30.74, and the NYSE Options Program Permit Lease

Pool Procedures [10]) to make them consistent with the proposed rule changes described above.

Effectiveness of Rule Change

This proposed rule change will become effective 30 days from the date of its approval by the Commission. The purpose of this 30 day time period is to provide the Exchange with an opportunity to notify the Exchange's membership of the effectiveness of this rule change and to provide those members who desire to grant or receive Authorizations to Sell with an opportunity to do so before the amended rule provisions take effect.

2. Statutory Basis

The proposed rule change will codify in the Exchange's membership rules various procedures that have been implemented over time pursuant to the Exchange's current membership rules, will clarify, restate, and reorganize certain of the Exchange's membership rules to make it easier for the Exchange's membership to reference and understand those provisions, and will incorporate into the Exchange's membership rules various proposed improvements and enhancements to those rules. Accordingly, the Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act [11] in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–99–15 and should be submitted by December 9, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

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[10] *See* Amendment No. 2, *supra* note 4.

[11] 15 U.S.C. 78f(b)(5).

[12] 17 CFR 200.30–(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42127; File No. SR–EMCC–99–10]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Requirements for a Class I, II, or III Director

November 10, 1999.

On September 24, 1999, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–EMCC–99–10) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on October 22, 1999.[2] No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Description

The rule change amends Article II, Section 2.2 of EMCC's by-laws to postpone until the year 2000 annual shareholders meeting the requirement that individuals elected to Class I, II, or III directorships must be an officer or partner of a shareholder or of an affiliate or subsidiary of a shareholder. Similarly, the rule change amends Section 1(A) of EMCC's amended and restated shareholder agreement to postpone until the year 2000 annual shareholders meeting the requirement that directors elected to these classes must be an officer or partner of a ''participant shareholder'' (*i.e.*, a shareholder that is also an EMCC participant) or of an affiliate of a participant shareholder. EMCC's previous rules would have implemented these provisions at the 1999 annual shareholders meeting.[3]

The rule change also amends the amended and restated shareholders agreement's definition of ''participant shareholder'' to mean a shareholder that holds one or more Class A Subject shares and is also a participant or an affiliate of a participant. Previously, a ''participant shareholder'' was defined as a shareholder that holds one or more Class A Subject shares.

II. Discussion

Section 17A(b)(3)(C) of the Act [4] requires that the rules of a clearing agency assure fair representation of its shareholders in the selection and administration of its affairs. For the reasons set forth below, the Commission believes that EMCC's rule change is consistent with its obligations under the Act.

EMCC's membership is not yet as large as its management had anticipated it would be at this time, and there are a number or shareholders and other

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 42016 (October 15, 1999), 64 FR 57169.

[3] These amendments will allow EMCC to maintain the status quo with respect to the eligibility requirements for directors. For a description of EMCC's current rules and procedures governing EMCC's board of directors, see Securities Exchange Act Release No. 39661, International Series Release No. 1117 (February 13, 1998), 63 FR 8711.

[4] 15 U.S.C. 78q–1(b)(3)(C).

industry participants who have not yet completed the membership process or have not yet acquired EMCC shares. The Commission believes that it is important for EMCC to maintain the current broad-based representation of industry participants on its board of directors while it continues to expand its participants base. If EMCC were to restrict its board membership to officers or partners of shareholders or of affiliates or subsidiaries of shareholders, EMCC could possibly have to replace current board members with representatives from shareholders already represented on the board. The rule change allows EMCC to maintain its current board membership, comprised of participants, shareholders, and founding contributors, which provides for a broad cross-section of the emerging markets community while providing EMCC with an additional year to continue to broaden its participant base.

When EMCC was originally organized, it was expected than an entity that became a shareholder would also be the participant. However, EMCC participants have indicated that they may prefer that the shareholder and the participant be affiliated but different entities. The Commission believes that amending the definition of ''participant shareholder'' to include an affiliate of a participant will provide EMCC's participants with additional flexibility without adversely affecting EMCC's operations or its participants' ability to be represented on the EMCC Board.

EMCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing because accelerated approval will allow the amendments to take effect in time for EMCC's 1999 shareholders meeting. Furthermore, the Commission has not received any comment letters and does not expect to receive any comment letters on the proposal.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–EMCC–99–10) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30087 Filed 11–17–99; 8:45 am]

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[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42122; File No. SR–Phlx–99–34]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Registration Fees for Registered Representatives

November 10, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder[2] notice is hereby given that on August 26, 1999, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On October 25, 1999, the Phlx submitted to the Commission Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fee schedule for Registered Representative registration. Specifically, the initial, maintenance, and transfer registration fees pertaining to Registered Representative registration will each be increased to $25.00, effective January 1, 2000. The text of the proposed rule change is available at the Phlx and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Jurij Trypupenko, Counsel, Phlx to Sharon Lawrence, Senior Special Counsel, Division of Market Registration (''Division''), Commission, dated October 21, 1999 (''Amendment No. 1''). Amendment No. 1 clarifies the purpose for the increase in fees, the date on which the proposed fee increase will take effect, and the NASD's role in billing and collecting the fees for the Exchange. Because Amendment No. 1 is substantive, the Commission deems the date of the filing to be October 25, 1999, the date of the amendment was filed with the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to increase its fees for the initial registration, maintenance, and transfer of Registrated registrations with the Exchange from $12.00 to $25.00. These fees, which were adopted in 1993,[4] and subsequently adjusted in 1995[5] and 1997,[6] are payable by member organizations that apply for, maintain, and transfer Registered Representative registrations. The proposed fee increase would become effective January 1, 2000, and would apply to Registered Representative fees incurred on or after that date. Therefore, any initial registration filed in 1999 would be subject to the current $12.00 initial registration fee. Similarly, any maintenance or transfer fees incurred in 1999 would be subject to the current $12.00 maintenance or transfer fee. The National Association of Securities Dealers, Inc. (''NASD'') will bill for the year 2000 fees in November 1999 and, thereafter, will collect the fees for the Exchange.[7]

The purpose of the proposed rule change is to address increased costs associated with maintaining survelliance and regulatory programs in a sophisticated trading environment. The Exchange continues to believe that strong survelliance and regulatory

[4] Securities Exchange Act Release No. 32833 (September 14, 1993), 58 FR 48922 (September 20, 1993).

[5] Securities Exchange Act Release No. 36348 (October 6, 1995), 60 FR 53450 (October 13, 1995).

[6] Securities Exchange Act Release No. 39044 (September 10, 1997), 62 FR 48914 (September 17, 1997).

[7] The Exchange represents that initial, transfer, and maintenance Registered Representatives fees have traditionally been billed and collected by the NASD. The NASD would continue to bill for and collect these fees under the proposed rule change. Phone message from Jurij Trypupenko, Counsel, Phlx, to Melinda Diller, Law Clerk, Division, Commission, on October 28, 1999.

programs are essential for the Exchange to maintain a fair and orderly market for the investment community.

According to the Exchange, general costs associated with the Exchange's surveillance and regulatory programs have continued to rise. Since the last Registered Representatives fee increase in 1997,[8] costs associated with the Exchange's surveillance and regulatory programs have increased in excess of 100%, a ten-fold increase over the increase in costs during the prior two-year period.[9] This increase in costs is attributable to, among other things, inflationary and competitive affects on the cost of staffing, equipment, and technology and expansion of the Exchange's surveillance and regulatory programs.[10] Moreover, the Exchange has listed, and will likely to continue to list, new issues and products, which may trigger significant additional surveillance and regulatory costs.[11]

2. Statutory Basis

For these reasons, the Exchange believes the proposed rule change is consistent with Section 6 of the Act, [12] in general, and furthers the objectives of Sections 6(b)(4) of the Act [13] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. [14]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [15] and subparagraph (f)(2) of Rule 19b–4 thereunder.[16] The Exchange intends to implement the fee, effective January 1, 2000. At any time within 60 days of the filing of the amended proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the amended proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–99–34 and should be submitted by December 9, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30086 Filed 11–17–99; 8:45 am]

BILLING CODE 8010–01–M

[8] *See* note 6, *supra.*

[9] *See* Amendment No. 1, *supra* note 3.

[10] *Id.*

[11] *Id.*

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

[14] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 240.19b–4(f)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42123; File No. SR–Phlx–99–7]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Increase the Maximum Size of Option Orders Eligible for Delivery through the Automated Options Market System

November 10, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 13, 1999, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities Exchange Commission (''SEC or ''Commission'') the proposed rule change as described in Item I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposed to revise Phlx Rule 1080(b)(ii) to state that, subject to the approval of the Phlx Options Committee, orders up to 500 contracts in any Phlx equity or index option may be entered through ''AUTOM,'' the Exchange's Automated Options Market System.[3] The text of the proposed rule change is available at the Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of Purpose of and Statutory Basic for, Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B and C below, of the most significant aspect of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] AUTOM is the Exchange's electronic order routing and delivery system for equity and index options. *See* Phlx Rule 1080.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

In 1995, the Exchange received Commission approval to increase to 500 contracts the maximum order size for all equity and index option orders entered through AUTOM.[4] The Exchange's Board of Governors, however, decided to make the 500 contract threshold available only to orders in U.S. Top 100 Index Options (TPX).[5] Therefore, orders for all other equity and index options traded on the Exchange are restricted to a maximum AUTOM order size of 100 contracts.

The proposed rule change deletes the language in Phlx Rule 1080 that restricts AUTOM order size to 100 contracts for all options other than TPX[6] and revises it to state that orders up to 500 contracts are eligible for AUTOM order delivery, subject to Options Committee approval. By increasing the number of option contracts eligible for automated order delivery through AUTOM, the Exchange believes the proposed rule change provides the flexibility necessary to more effectively respond to the changing trading environment. Additionally, the Exchange believes this change would allow it to provide electronic order delivery for larger orders in a greater number of options.

2. Statutory Basis

For the reasons above, the Exchange believes the proposed rule change is consistent with Section 6 of the Act,[7] in general, and with Section 6(b)(5),[8] in particular, in that it is designed to facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market system, and protect investors and the public interest.[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date; the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)[11] thereunder.

Under Rule 19b–4(f)(6)(iii),[12] a proposed rule change normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate such shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission designate such shorter time period so that the proposed rule change may become operative immediately upon its filing.

The Commission has determined, consistent with the protection of investors and the public interest, to make the proposed rule change operative upon filing. The Commission believes it is appropriate to make the proposed rule change operative upon filing because the proposal allows the Exchange to fully implement AUTOM order size requirements previously approved by the Commission. The revised AUTOM order size requirements should help the Exchange to better serve investors by providing automated delivery for large orders. In addition, users of options other than TPX should benefit from the increased availability of AUTOM for order delivery.

For all of the reasons set forth above, the Commission believes it is consistent with the protection of investors and the public interest to make the proposed rule change operative upon the date of filing, October 13, 1999. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–99–37 and should be submitted by December 9, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30088 Filed 11–17–99; 8:45 am]

BILLING CODE 8010–D–M

[4] *See* Securities Exchange Act Release No. 35782 (May 30, 1995), 60 FR 30136 (June 7, 1995).

[5] The Commission has previously noted that "although the Exchange received approval to expand the maximum AUTOM order size to 500 contracts, the Exchange's Board of Governors has limited implementation to TPX only." *See* Securities Exchange Act Release No. 38683 (May 27, 1997), 62 FR 30366 (June 3, 1997).

[6] Exchange Rule 1080(b0(ii) presently states, "Orders up to the maximum number of contracts permitted by the Exchange may be entered. Currently, ordered up to 100 contracts are eligible for AUTOM, except orders of 500 contracts are eligible in U.S. Top 100 Index Options."

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42120; File No. SR–Phlx–99–33]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Phlx Automatic Communication and Execution System

November 9, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 24, 1999, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The proposal amends rules governing the Phlx Automatic Communication and Execution System (''PACE'')— the Phlx's automatic order routing and execution system on the equity trading floor. On October 12, 1999, the Exchange filed Amendment No. 1 to the proposed rule change, which entirely replaces and supercedes the initial proposal.[3] On November 1, 1999, the Exchange filed Amendment No. 2 to the proposed rule change.[4] The Exchange has designated this proposal as one which does not significantly affect the protection of investors or the public interest, and does not impose any significant burden on competition under Section 19(b)(3)(A) of the Act[5] and Rule 19b–4(f)(6) thereunder,[6] which renders the proposal effective upon filing with the Commission.[7] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 229, Commentary .07(c)(i), the automatic price improvement feature of PACE, to state that PACE will determine whether the last sale is an uptick or downtick for providing automatic price improvement, and that the previous day's last sale will not be considered in improving the price. The purpose of this amendment is to conform the language of Phlx Rule 229, Commentary .07(c)(i)(B) to reflect the manner in which PACE currently operates. The text of the proposal is below. Additions are in italic.

Rule 229

Philadelphia Stock Exchange Automated Communication and Execution System

Commentary .01–.06 No change.
.07
(a) No change.
(b) No change.
(c) Price Improvement for PACE Orders
(i) Automatic Price Improvement—Where the specialist voluntarily agrees to provide automatic price improvement to all customers and eligible market orders in a security, automatically executable market and marketable limit orders in New York Stock Exchange and American Stock Exchange listed securities received through PACE for 599 shares or less shall be provided with automatic price improvement of 1/16 from the PACE Quote when received beginning at 9:45 A.M. except where:
(A) a buy order would be improved to a price less than the last sale or a sell order would be improved to a price higher than the last sale; or
(B) a buy order would be improved to the last sale price which is a downtick or a sell order would be improved to the last sale price which is an uptick. *The PACE System will determine whether the last sale price is a downtick or an uptick. The PACE System does not recognize changes from the previous day's close.*
In these situations, the order is not eligible for automatic price improvement, and is, instead, automatically executed at the PACE Quote. A specialist may voluntarily agree to provide automatic price improvement to larger orders in a particular security to all customers under this provision. A specialist may choose to provide automatic price improvement where the PACE Quote is 3/16 or greater or 1/8 or greater.
(C)–(D) No change.
(ii)–(iv) No change.
.08–.19 No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PACE is the Exchange's automatic order routing and execution system on the equity trading floor.[8] PACE accepts orders for manual and automatic execution in accordance with the provisions of Phlx Rule 229, which governs PACE and defines its objectives and parameters. Recently, the Exchange implemented automatic price improvement[9] where specialists could voluntarily provide 1/16 automatic price improvement to eligible orders in markets where the difference in price between the bid and the offer is either 1/8 or greater, or 3/16 or great.

There are certain exceptions to providing automatic price improvement. One exception is when a buy order would be improved (if automatic price improvement were provided) to the last sale price which is a downtick (or a sell order would be improved to the last sale price which is an uptick).[10] For example, when the market is 41 7/8× 42 1/16, and the last sale is 42—(a downtick), a buy order would not be automatically improved to 42, but

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange filed the original proposal under Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(5) thereunder, characterizing the proposal as effecting a change in PACE. 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b–4(f)(5). The Exchange later clarified that the purpose of the proposal was to conform the language of Phlx Rule 229 to reflect the manner in which PACE currently operates. Because the proposal will not effect any significant change other than to amend Phlx Rule 229 to conform to how PACE's automatic price improvement feature currently operates, the Exchange filed Amendment No. 1 to reflect that the proposal has become effective upon filing of Amendment No. 1, pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b–4(f)(6). The Commission accepted the August 24, 1999 proposal as meeting the 5-day pre-filing requirement under Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[4] *See* letter from Nandita Yagnik, Attorney, Phlx, to Nancy Sanow, Senior Special Counsel, Division of Market Regulation, SEC, dated October 29, 1999 (Amendment No. 2''). In Amendment No. 2, the Phlx corrects inaccuracies in the language of Phlx Rule 229.

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

[7] Because Amendment No. 1 was substantive, the Commission deems the proposal effective as of October 12, 1999, the date that the Exchange filed Amendment No. 1.

[8] *See* Phlx Rule 229.

[9] *See* Securities Exchange Act Release No. 40006 (May 19, 1998), 63 FR 29288 (May 28, 1998) (SR–Phlx–98–10).

[10] *See* Phlx Rule 229, Commentary .07(c)(i)(B).

instead executed at 42 1/16, because it would have improved to the last sale, which is a downtick. However, a sell order would be automatically improved and executed at 41 15/16. As it currently operates, PACE does not recognize an uptick or downtick from the previous day's close. Thus, for example, on the opening, eligible buy orders are automatically improved to the last sale, regardless of whether the last sale is a downtick from the previous day's close.

To ensure that Phlx Rule 229 accurately reflects the manner in which the automatic price improvement feature currently operates, the Exchange proposes to amend the automatic price improvement provisions to state that PACE will determine whether the last sale is a downtick or an uptick, and will not recognize changes from the previous day's close. Each day, the first sale is neither an uptick nor downtick from the previous day's close. This allows automatic price improvement to occur, even if the last sale is a downtick from the previous day's close (or in the case of a sell order, an uptick from the previous day's close). For example, if the previous day's closing price was 42 1/8, and the stock opens at 42, the downtick is not relevant to the automatic price improvement process in this example. Thus, where the PACE quote is 41 7/8 × 42 1/16, a buy order may be automatically improved to 42 because PACE will not recognize the 42 as a downtick from the previous day's last sale.

While the Exchange originally did not intend for PACE to operate in this manner, the system has operated this way for approximately 12 months. The Exchange believes that conforming the language of Phlx Rule 229 to reflect the manner in which PACE has been operating is the most efficient way to correct the discrepancy between the language of Phlx Rule 229 and the current method of operation of the automatic price improvement feature. The Exchange stated it has not been notified of any negative impact on customers resulting from the current method of operation of the automatic price improvement feature.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6 of the Act)[11] in general, and Section 6(b)(5) of the Act[12] in particular, because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a nation market system and protect investors and the public interest by providing PACE customers the ability to receive automatic price improvement, resulting in better execution.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change, as amended, as become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder[14] because the proposal (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change,[15] or such shorter time as designated by the Commission.[16]

The Exchange has requested that the Commission accelerate the operative date because the Exchange has not been notified of any negative effects in the current operation of PACE, and because Phlx Rule 229 should reflect PACE's current method of operation.

The Commission finds that it is appropriate to designate the proposal to become operative today, because such designation is consistent with the protection of investors and the public interest. Specifically, the Commission finds that it is appropriate to accelerate the operative date of the proposal because it is in the best interests of investors that the discrepancy between the language of Phlx Rule 229 and the current method of operation of PACE be corrected as soon as possible, to minimize any potential confusion. For this reason, the Commission finds that designation of the proposal to become operative today is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of this proposed rule change, the Commission may summarily abrogate this rule change if it appears to the Commission that such action is necessary or appropriate in the public interest or for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–Phlx–99–33, and should be submitted by December 9, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30089 Filed 11–17–99; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] The Exchange pre-filed the proposed rule change on August 24, 1999. *See* footnote 3, *supra*.

[16] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f)

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3226]

State of California (And Contiguous Counties in Nevada and Arizona)

Butte, San Bernardino, and Shasta Counties and the contiguous counties of Colusa, Glenn, Kern, Inyo, Lassen, Los Angeles, Modoc, Orange, Plumas, Riverside, Siskiyou, Sutter, Tehama,

Trinity, and Yuba Counties in California, Clark County, Nevada, and La Paz and Mohave Counties in Arizona constitute a disaster area as a result of damages caused by wildfires that occurred August 23 through October 19, 1999. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 3, 2000 and for economic injury until the close of business on August 4, 2000 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.250
Homeowners Without Credit Available Elsewhere	3.625
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-profit Organizations Without Credit Available Elsewhere	4.000
Others (including non-profit organizations) With Credit Available Elsewhere	7.000
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical damage are 322605 for California, 322705 for Nevada, and 322805 for Arizona. For economic injury the numbers are 9F6100 for California, 9F6200 for Nevada, and 9F6300 for Arizona.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 4, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–30124 Filed 11–17–99; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3215; Amendment #2]

State of New Jersey;

In accordance with correspondence received from the Federal Emergency Management Agency on November 2, 1999, the above-numbered Declaration is hereby amended to correct the deadline for filing applications for physical damage as a result of this disaster. The new physical filing deadline is November 17, 1999.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 19, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 3, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–30129 Filed 11–17–99; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3212; Amendment #3]

State of North Carolina

In accordance with information received from the Federal Emergency Management Agency dated October 29 and November 2, 1999, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of this disaster from November 14 to December 14, 1999. This declaration is further amended to establish the incident period for this disaster as beginning on September 15, 1999 and continuing through November 2, 1999.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 16, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 2, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–30128 Filed 11–17–99; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3209]

Commonwealth of Pennsylvania (Amendment #2)

In accordance with correspondence received from the Federal Emergency Management Agency on November 2, 1999, the above-numbered Declaration is hereby amended to correct the deadline for filing applications for physical damage as a result of this disaster. The new physical filing deadline is November 1, 1999.

All other information remains the same, i.e., the deadline for filing applications for economic injury is June 1, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 3, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–30125 Filed 11–17–99; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3219]

Commonwealth of Pennsylvania (Amendment #2)

In accordance with correspondence received from the Federal Emergency Management Agency on November 2, 1999, the above-numbered Declaration is hereby amended to correct the deadline for filing applications for physical damage as a result of this disaster. The new physical filing deadline is November 22, 1999.

All other information remains the same, i.e., the deadline for filing applications for economic injury is June 22, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 3, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–30126 Filed 11–17–99; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3214]

Commonwealth of Pennsylvania; Amendment #3

In accordance with correspondence received from the Federal Emergency Management Agency on November 2, 1999, the above-numbered Declaration is hereby amended to correct the deadline for filing applications for physical damage as a result of this disaster. The new physical filing deadline is November 17, 1999.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 19, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 3, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–30127 Filed 11–17–99; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3501, *et seq.*) this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and it's expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 30, 1999 [64 FR, 35236].

DATES: Comments on this notice must be received on or before December 20, 1999.

FOR FURTHER INFORMATION CONTACT: Robert M. Clark, Office of the Secretary, Office of Transportation Policy, Department of Transportation, 400 7th Street, SW., Washington, DC 20590. Phone Number: (202)366–2916. Copies of these collections can also be obtained.

SUPPLEMENTARY INFORMATION:

Office of the Secretary

Title: Infant Travel Survey.

OMB Control Number: 2105–0536.

Affected Public: Citizens (typically parents) traveling in air transportation with infants and small children.

Type of Request: Reinstatement, with changes of a previously approved collection for which approval has expired.

Form(s): OMB 2105–0536.

Abstract: Children 2 years of age and younger are exempt from the FAA requirement that they be restrained in a seat during transport airplane takeoffs and landings. In February 1997, the White House Commission on Aviation Safety and Security recommended that this exemption be eliminated, requiring instead that those children be placed in a separate aircraft seat equipped with an approved Child Restraint System (CRS). In May 1995, in response to Section 522 of the Federal Aviation Administration Authorization Act of 1994, P.L. 103–305, the FAA published a report on CRS use in transport category aircraft.

FAA issued an ANPRM on April 2, 1998 (the comment period closed June 28), seeking technical comments about what types of CRS could/should be used in transport category aircraft. Responses to those questions provide needed technical information relative to implementation of CRS aboard transport airplanes, but economic questions related to the issue were not included in that Notice. This deficiency resulted in little information, on which to assess the validity of the assumptions used in its analysis, being received from the traveling public by the FAA. Accordingly, there is a need to gauge the impact that requiring use of CRS would have on travelers accompanied by infants and small children, 2 years of age and less. Information needs to be obtained about the types of trips (length, purpose, mode of travel) on which such children accompany adults; the prevalence of actual CRS use, relative to air travel by infants and small children; the factors that determine whether CRS are being used for such children; and what types of changes to these travel events would result from requiring the use of CRS.

Estimated Annual Burden Hours: 74.7 hours.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention OST Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection techniques or other forms of information technology. Comments to OMB are best assured of having their effect if OMB receives them within 30 days of publication.

Issued in Washington, DC, on November 12, 1999.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 99–30164 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–6506]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) will meet to discuss various issues relating to offshore safety. The meeting will be open to the public.

DATES: NOSAC will meet on Thursday, December 9, 1999, from 9:00 a.m. to 3:00 p.m. The meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before November 25, 1999. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before November 25, 1999.

ADDRESSES: NOSAC will meet in room 185 of the Army Corps of Engineers Offices, 2000 Fort Point, Galveston, TX. Send written material and requests to make oral presentations to Captain P. Richardson, Commandant (G–MSO), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Captain P. Richardson, Executive Director of NOSAC, or Mr. Jim Magill, Assistant to the Executive Director, telephone 202–267–0214, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

National Offshore Safety Advisory Committee (NOSAC). The agenda includes the following:

(1) Introduction and swearing-in of new members.

(2) Progress report from the Prevention Through People Subcommittee.

(3) Progress report from the Subcommittee on Pipeline-Free Anchorages for Mobile Offshore Drilling Units, Liftboats and Vessels.

(4) Status report on revision of 33 CFR Subchapter ''N'', Outer Continental Shelf Regulations.

(5) Report on the new regulations for large offshore supply vessels and crewboats, (46 CFR Subchapter ''L'').

(6) Report on issues concerning the International Maritime Organization (IMO) and the International Organization of Standardization (ISO).

(7) Status report from Incident Reporting Subcommittee.

(8) Report from Platform/Ship Collision Avoidance Subcommittee.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Executive Director no later than November 25, 1999. Written material for distribution at the meeting should reach the Coast Guard no later than November 25, 1999. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of the meeting, please submit 25 copies to the Executive Director no later than November 25, 1999.

Information on Services for Individual With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: November 9, 1999.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 99–30163 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc.; Government/Industry Free Flight Steering Committee

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 an RTCA Government/Industry Free Flight Steering Committee meeting to be held December 2, 1999, starting at 1 p.m. The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, in the Bessie Coleman Conference Center, Room 2AB (second floor).

The agenda will include: (1) Welcome and Opening Remarks; (2) Review of Summary of the Previous Meeting; (3) Reports from FAA on: (a) Safe Flight 21 Program Master Plan; (b) Update on Free Flight Phase 1 Performance Assessments; (c) Free Flight Phase 2 Recommendations; (4) Report and Recommendations from the Free Flight Select Committee: (a) Free Flight Phase 1; (b) Post Free Flight Phase 1 (2003–2005); (c) ADS–B Mission Needs Statement; (d) Update on Free Flight Phase 1 Operational and Procedural Issues; (5) Satellite Navigation Users Group; (6) Other Business; (6) Date and Location of Next Meeting; (7) Closing Remarks.

Attendance is open to the interested public but limited to space availability. With the approval of the co-chairmen, members of the public may present statements or obtain information should contact the RTCA, Inc., at (202) 833–9339 (phone), (202) 833–9434 (facsimile), or dclarke@rtca.org (e-mail).

Janice L. Peters,

Designated Official.

[FR Doc. 99–30123 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Douglas County, Colorado

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that the scope of work for the environmental impact statement/4(f) evaluation has changed for transportation improvements along I–25 in Douglas County, Colorado. The project scope has been extended to include I–25 between Lincoln Avenue and C–470.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Sands, FHWA, Colorado Division, 555 Zang Street, Room 250, Lakewood, CO, 80228, Telephone: (303) 969–6730 extension 362.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Colorado Department of Transportation (CDOT) will prepare an environmental impact statement (EIS)/Section 4(f) evaluation for transportation improvements on Interstate 25 (I–25) between the I–25/C–470 interchange (I–25 Milepost 194) and south of Castle Rock (I–25 Milepost 178) a distance of approximately 16 miles and on Colorado State Highway 85 (SH 85) between the Colorado 470 (C–470) (SH 85 Milepost 200) and the SH 85/I–25 interchange in Castle Rock (SH 85 Milepost 184) a distance of approximately 16 miles. The proposed amendments will be identified in the EIS/Section 4(f) evaluation. The EIS/Section 4(f) evaluation will evaluate improvement alternatives to compare to the No-Build Alternative.

To be placed on the public mailing list to receive additional project information or to provide written comments of project scope please contact:

Theresa Tiehen, Colorado Department of Transportation Project Manager, 18500 East Colfax Avenue, Aurora CO 80011, Colorado Department of Transportation, Region 1, Telephone: (303) 757–9285.

The draft EIS/Section 4(f) evaluation will be available for public and agency review and comment prior to the public meeting.

To ensure that a full range of issues related to the proposed action are addressed and all significant issued identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS/Section 4(f) evaluation should be directed to Theresa Tiehen at the CDOT address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 9, 1999.

Ronald A. Speral,

Program Delivery Engineer, Colorado Division, Federal Highway Administration, Lakewood, Colorado.

[FR Doc. 99–29966 Filed 11–17–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 141X)]

Union Pacific Railroad Co.—Abandonment Exemption—in Pima County, AZ

On October 29, 1999, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–05 [1] to abandon a segment of its line of railroad known as the South Drill Track extending from milepost 982.78 to the end of the line at milepost 984.70, near Tucson, a distance of 1.92 miles in Pima County, AZ. The line traverses U.S. Postal Service Zip Code 85745. There are no stations on the line.

[1] UP seeks exemptions from the offer of financial assistance (OFA) provisions of 49 U.S.C. 10904 and the public use provisions of 49 U.S.C. 10905. These exemption requests will be addressed in the final decision.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by February 16, 2000.

Unless an exemption is granted, as sought, from the OFA provisions of 49 U.S.C. 10904, any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Unless an exemption is granted, as sought, from the public use provisions of 49 U.S.C. 10905, any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than December 8, 1999. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 141X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001; and (2) James P. Gatlin, 1416 Dodge Street, Room 830, Omaha, NE 68179–0830. Replies to the UP petition are due on or before December 8, 1999.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. (TDD for the hearing impaired is available at (202) 565–1695.)

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: November 10, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–30026 Filed 11–17–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Trace Request for Electronic Funds Transfer Payment

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing efforts to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form ''Trade Request for Electronic Funds Transfer Payment.''

DATES: Written comments should be received on or before January 18, 2000.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dorothy Wilson, Administrative Services Branch, Room 357D, 401–14th St., SW Washington, DC 20227, (202) 874–7157.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Trace Request for Electronic Funds Transfer Payment.

OMB Number: 1510–0045.

Form Number: FMS 150.

Abstract: This form is used to notify the financial organization that a customer (beneficiary) has claimed non-receipt of credit for a payment. The form is designed to help the financial organization locate any problem and to keep the customer (beneficiary) informed of any action taken.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 80,775.

Estimated Time Per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 10,770.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden of the collection of information; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) Estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: November 10, 1999.

John D. Newell,

Assistant Commissioner, Regional Operations.

[FR Doc. 99–30117 Filed 11–17–99; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Notice of Reclamation, Electronic Funds Transfer, Federal Recurring Payments; Request for Debit, Electronic Funds Transfer, Federal Recurring Payments

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general pubic and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the forms ''Notice of Reclamation, Electronic Funds Transfer, Federal Recurring Payments''; ''Request for Debit, Electronic Funds Transfer, Federal Recurring Payments.''

DATES: Written comments should be received on or before January 18, 2000.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dorothy Wilson, Administrative Services Branch, Room 357D, 401–14th St., SW Washington, DC 20227, (202) 874–7157.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Notice of Reclamation, Electronic Funds Transfer, Federal Recurring Payments; Request for Debit, Electronic Funds Transfer, Federal Recurring Payments.

OMB Number: 1500–0043.

Form Number: FMS–133, FMS–135.

Abstract: Program agencies authorize Treasury to recover payments that have been issued after the death of the beneficiary. FMS Form 133 is used by Treasury to notify financial organizations (FO) of the FO's accountability concerning the funds. When the FOs do not respond to the FMS 133, Treasury then prepares FMS Form 135 and sends it to the Federal Reserve Bank (FRB) which serves to request the FRB to debit the account of the FO.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 55,000.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 50,930.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: November 10, 1999.

John D. Newell,

Assistant Commissioner, Regional Operations.

[FR Doc. 99–30118 Filed 11–17–99; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974, as Amended; System of Records

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury gives notice of a new proposed system of records, entitled ''IRS Audit Trail and Security Records System—Treasury/IRS 34.037.''

DATES: Comments must be received no later than December 20, 1999. The proposed system of records will be effective December 28, 1999, unless the Internal Revenue Service (IRS) receives comments that would result in a contrary determination.

ADDRESSES: Comments should be sent to Office of Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224. Persons wishing to review the comments should call 202–622–6200 (this is not a toll free number) to make an appointment with the Office of Governmental Liaison and Disclosure.

FOR FURTHER INFORMATION CONTACT: David Silverman, Tax Law Specialist, Internal Revenue Service at 202–622–6200. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: The IRS is establishing this system to detect and counter unauthorized access, use, fraud and abuse of its information. The system provides protection by monitoring and tracking, through analysis of audit logs, accesses to and use of IRS records in paper and electronic format. Outside of IRS Information Systems, the Office of the Treasury Inspector General for Tax Administration (TIGTA) is the principal user of data contained in this system of records. The TIGTA may analyze the data contained in the system of records as part of its mission to detect and deter fraud, waste, and abuse.

The new system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform in the House of Representatives, the Committee on Governmental Affairs in the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996.

The proposed IRS system of records ''IRS Audit Trail and Security Records System—Treasury/IRS 34.037'' is published in its entirety below.

Dated: September 21, 1999.

Shelia Y. McCann,

Deputy Assistant Secretary (Administration).

TREASURY/IRS 34.037

SYSTEM NAME:

IRS Audit Trail and Security Records System.

SYSTEM LOCATION:

National Office, District Offices, Regional Offices, Service Centers, Computing Centers. (See IRS Appendix A for addresses of IRS offices).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have accessed, by any means, information contained within IRS electronic or paper records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Electronic and paper records concerning IRS employees or contractors or other individuals who have accessed IRS records .

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301: 26 U.S.C. 6103, 7213, 7213A , 7214, 7608, 7803, and 18 U.S.C. 1030(a)(2)(B)

PURPOSE(S):

To enable the IRS to enhance protection of sensitive information by assuring the public and employees that their information is being protected in an ethical and legal manner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of IRS tax return and return information may be made only as provided by 26 U.S.C. 6103.

Records other than returns and return information may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations, or foreign government under a tax treaty;

(2) Disclose information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee, or (d) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(3) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the information pertains;

(4) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(5) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of Federal labor actions or grievances or conducting administrative hearings or appeals or if needed in the performance of other authorized duties;

(6) Disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice; and,

(7) Disclose information to the defendant in a criminal prosecution, the Department of Justice, or a court of competent jurisdiction where required in criminal discovery or by the Due Process Clause of the Constitution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and paper.

RETRIEVABILITY:

(1) Indexed or retrieved by name, social security number (SSN) or other unique identifier assigned to an IRS employee or contractor or other individual who has been granted access to IRS records.

(2) Retrieved or indexed by a Taxpayer Identification Number.

SAFEGUARDS:

Access controls will not be less than those described in TD P 71–10, Department of Treasury Security Manual, IRM 2.1.10 Automated Information Systems Security, and IRM 1(16)12 Managers Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in accordance with record disposition handbooks, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security Program Section, Telecommunication and Operations Division, Information Systems, Internal Revenue Service, Department of the Treasury, 1111 Constitution Ave., NW, Washington, D.C. 20224 or head of the office maintaining the file.

NOTIFICATION PROCEDURE:

This system of records is exempt from certain provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system of records is exempt from certain provisions of the Privacy Act and may not be accessed for the purpose of determining if the system contains a record pertaining to a particular individual.

CONTESTING RECORD PROCEDURES:

This system of records is exempt and may not be accessed for purposes of inspection or contest of record contents. Also, 26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Records contained in the IRS Audit Trail and Security Records System are obtained from three sources: (1) Information provided by authorized users to managers used for establishing access control; (2) information automatically recorded by information security audit functions of the operating systems and various IRS applications which process IRS information; and (3) information derived from IRS records in paper and electronic format.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (see 31 CFR 1.36).

[FR Doc. 99–30037 Filed 11–17–99; 8:45 am]

BILLING CODE 4830–01–P

federal register

Thursday
November 18, 1999

Part II

Department of Education

Bilingual Education: Comprehensive School Grants; Inviting Applications for New Awards for Fiscal Year 2000; Notice;

DEPARTMENT OF EDUCATION

[CFDA No.: 84.290U]

Bilingual Education: Comprehensive School Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000

Note To Applicants

This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for an award under this program. The statutory authorization for this program, and the application requirements that apply to this competition, are contained in sections 7114 and 7116 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. 103–382, enacted October 20, 1994 (the Act) (20 U.S.C. 7424 and 7426)).

Purpose of Program

This program provides grants to implement schoolwide bilingual education programs or schoolwide special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all or virtually all limited English proficient (LEP) children and youth in one or more schools with significant concentrations of these children and youth.

Eligible applicants: (a) One or more local educational agencies (LEAs); or (b) one or more LEAs in collaboration with an institution of higher education, community-based organizations, other LEAs, or a State educational agency.

Deadline for Transmittal of Applications: January 14, 2000.

Deadline for Intergovernmental Review: March 15, 2000.

Available Funds: $20 million.

The Administration has requested $20 million for this program for FY 2000. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process before the end of the fiscal year, if Congress appropriates funds for this program.

Estimated range of awards: $150,000–$275,000.

Estimated average size of awards: $200,000.

Estimated number of awards: 100.

Note: The Department is not bound by any estimates in this notice.

Project period: 60 months.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) 34 CFR part 299.

Description of Program

Funds under this program are to be used to reform, restructure, and upgrade all relevant operations and programs, within a school, that serve LEP children and youth. Before carrying out a project assisted under this program, a grantee will plan, train personnel, develop curriculum, and acquire or develop materials. In addition, grantees are authorized, under this program, to improve the education of LEP children and youth and their families by implementing family education programs, improving the instructional program for LEP children, compensating personnel who have been trained—or are being trained—to serve LEP children and youth, providing tutorials and academic or career counseling for LEP children and youth, and providing intensified instruction.

Priorities

Absolute Priority

The priority in the notice of final priority for this program, as published in the **Federal Register** on October 30, 1995 (60 FR 55245), applies to this competition.

Under 34 CFR 75.105(c)(3) and section 7114(a) of the Act, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that serve only schools in which the number of LEP students, in each school served, equals at least 25 percent of the total student enrollment.

Competitive Priority

Within the absolute priority specified in this notice, the Secretary under 34 CFR 75.105(c)(2)(i) and 34 CFR 299.3(b) gives preference to applications that meet the following competitive priority. The Secretary awards 5 points to an application that meets this competitive priority. These points are in addition to any points the application earns under the selection criteria for the program:

Projects that will contribute to systemic educational reform in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community designated by the United States Department of Housing and Urban Development or the United States Department of Agriculture, and are made an integral part of the Zone's or Community's comprehensive community revitalization strategies.

A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided at the end of this notice.

Invitational Priorities

Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Reading

Projects that focus on reforming, restructuring, and upgrading reading instruction to assist limited English proficient students to read independently and well by the end of third grade.

Invitational Priority 2—Mathematics

Projects that focus on reforming, restructuring, and upgrading mathematics instruction to assist limited English proficient students to master challenging mathematics, including the foundations of algebra and geometry, by the end of eighth grade.

Invitational Priority 3—Preparation for Postsecondary Education

Projects that focus on motivating and academically preparing limited English proficient students for successful participation in college and other postsecondary education.

Invitational Priority 4—Safe and Drug-Free Schools

Projects that contribute to the creation and maintenance of a safe and drug-free learning environment for limited English proficient students by being made an integral part of a comprehensive school safety plan.

Information on developing and implementing a comprehensive school safety plan is found in the 1998 Annual Report on School Safety prepared by the U.S. Departments of Education and Justice and available at the Department of Education's Internet site at http://www.ed.gov/pubs/AnnSchoolRept98/

Invitational Priority 5—Professional Development

Applicants that consider the U.S. Department of Education Professional

Development Principles in planning and designing a Comprehensive School Grant project.

Those principles call for educator professional development that focuses on teachers as central to student learning, yet includes all other members of the school community; focuses on individual, collegial, and organizational improvement; respects and nurtures the intellectual and leadership capacity of teachers, principals, and others in the school community; reflects best available research and practice in teaching, learning, and leadership; enables teachers to develop further expertise in subject content, teaching strategies, uses of technologies, and other essential elements in teaching to high standards; promotes continuous inquiry and improvement embedded in the daily life of schools; is planned collaboratively by those who will participate in and facilitate that development; requires substantial time and other resources; is driven by a coherent long-term plan; is evaluated ultimately on the basis of its impact on teacher effectiveness and student learning; and uses this assessment to guide subsequent professional development efforts.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria in 34 CFR 75.210 and sections 7114, 7116, and 7123 of the Act to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria*—(1) *Meeting the purposes of the authorizing statute.* (15 points) The Secretary reviews each application to determine how well the proposed project will implement schoolwide bilingual education programs or schoolwide special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all (or virtually all) children and youth of limited English proficiency in schools with significant concentrations of those children and youth.

(Authority: 20 U.S.C. 7424(a))

(2) *Need for the project.* (10 points) The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(i) The number of children and youth of limited English proficiency in the school or school district to be served, and

(ii) The characteristics of those children and youth, such as—

(A) Language spoken;

(B) Dropout rates;

(C) Proficiency in English and the native language;

(D) Academic standing in relation to the English proficient peers of those children and youth; and

(E) If applicable, the recency of immigration.

(Authority: 20 U.S.C. 7426(g)(1)(A))

(3) *Quality of the project design.* (15 points) The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(Authority: 34 CFR 75.210(c)(2) (i), (ii), and (xviii))

(4) *Project activities.* (15 points) The Secretary reviews each application to determine—

(i) How well the proposed project will improve the education of limited English proficient students and their families by carrying out some or all of the following authorized activities:

(A) Implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children.

(B) Improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software, and assessment procedures, and, if appropriate, applying educational technology.

(C) Compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency.

(D) Providing training for personnel participating in or preparing to participate in the program that will assist that personnel in meeting State and local certification requirements and, to the extent possible, obtaining college or university credit.

(E) Providing tutorials and academic or career counseling for children and youth of limited English proficiency.

(F) Providing intensified instruction.

(ii) The degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, and the appropriate local and State educational agency or businesses; and

(iii) How well the proposed project provides for utilization of the State and national dissemination sources for program design and in dissemination of results and products.

(Authority: 20 U.S.C. 7424(b)(3); 7426(h)(6) and (i)(4)–(5))

(5) *Proficiency in English and another language.* (5 points) The Secretary reviews each application to determine the extent to which the proposed project will provide for the development of bilingual proficiency both in English and another language for all participating students.

(Authority: 20 U.S.C. 7426(i)(1))

(6) *Quality of the management plan.* (10 points) The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(Authority: 34 CFR 75.210(g) (1) and (2) (i) and (iv))

(7) *Quality of project personnel.* (5 points) (i) The Secretary considers the quality of the personnel who will carry out the proposed project.

(ii) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(iii) In addition, the Secretary considers the following factors:

(A) The qualifications, including relevant training and experience, of the project director or principal investigator.

(B) The qualifications, including relevant training and experience, of key project personnel.

(Authority: 34 CFR 75.210(e) (1)–(3) (i) and (ii))

(8) *Language skills of personnel.* (3 points) The Secretary reviews each application to determine how well the proposed project meets the following requirements:

(i) The program will use qualified personnel, including personnel who are proficient in the language or languages used for instruction.

(ii) The applicant will employ teachers in the proposed program who, individually or in combination, are proficient in English, including written, as well as oral, communication skills.

(Authority: 20 U.S.C. 7426 (g)(1)(E) and (h)(1))

(9) *Adequacy of resources.* (3 points) The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The extent to which the budget is adequate to support the proposed project.

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(Authority: 34 CFR 75.210(f) (1) and (2) (iii)–(iv))

(10) *Integration of project funds.* (5 points) The Secretary reviews each application to determine how well funds received under this program will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited English proficiency.

(Authority: 20 U.S.C. 7426(g)(2)(A)(iii))

(11) *Evaluation plan.* (10 points) The Secretary reviews each application to determine how well the proposed project's evaluation will meet the following requirements:

(i) Student evaluation and assessment procedures must be valid, reliable, and fair for limited English proficient students.

(ii) The evaluation must include—

(A) How students are achieving the State student performance standards, if any, including data comparing children and youth of limited English proficiency with nonlimited English proficient children and youth with regard to school retention, academic achievement, and gains in English (and, if applicable, native language) proficiency;

(B) Program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the program's staff professional development, and appropriateness of the language of instruction; and

(C) Program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited English proficiency.

(Authority: 20 U.S.C. 7426(h)(3) and 7433(c)(1)–(3))

(12) *Commitment and capacity building.* (4 points) The Secretary reviews each application to determine how well the proposed project meets the following requirements:

(i) The proposed project must contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, that will be of sufficient size, scope, and quality to promise significant improvement in the education of students of limited English proficiency.

(ii) The applicant will have the resources and commitment to continue the program when assistance under this program is reduced or no longer available.

(Authority: 20 U.S.C. 7426(h)(5))

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order.

If you want to know the name and address of any State Single Point of Contact (SPOC), see the list published in the **Federal Register** on April 28, 1999 (64 FR 22963) or; you may view the latest SPOC list on the OMB Web site at the following address:

http://www.whitehouse.gov/omb/grants

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372–CFDA# 84.290U, U.S. Department of Education, 400 Maryland Avenue, SW., room, 7E200, Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Eastern time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *Do not send applications to the above address.*

INSTRUCTIONS FOR TRANSMITTAL OF APPLICATIONS:

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.290U, Washington, D.C. 20202-4725; or

(2) Hand-deliver the original and two copies of the application by 4:30 p.m. (Eastern time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.290U, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary

does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Education Assistance (ED 424) the CFDA number and suffix letter of the competition under which the application is being submitted.

Application Instructions and Forms

This notice contains the following forms and instructions, including a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act (GEPA), a checklist for applicants, and various assurances, certifications, and required documentation:

a. Estimated Burden Statement.

b. Application Instructions.

c. Checklist for Applicants.

d. List of Empowerment Zones and Enterprise Communities.

e. Application for Federal Education Assistance (ED 424) and Instructions.

f. Group Application Certification.

g. Budget Information—Non-Construction Programs (ED 524) and Instructions.

h. Student Data.

i. Project Documentation.

j. Program Assurances.

k. Assurances—Non-Construction Programs (Standard Form 424B) and Instructions.

l. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and Instructions.

m. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014) and Instructions.

n. Disclosure of Lobbying Activities (Standard Form LLL) and Instructions. This document has been marked to reflect statutory changes. See the notice published in the **Federal Register** (61 FR 1413) by the Office of Management and Budget on January 19, 1996.

o. Notice to All Applicants (GEPA Requirement) and Instructions (OMB No. 1801–0004).

An applicant may submit information on a photostatic copy of the application forms, assurances, and certifications. However, one copy of the application forms, assurances, and certifications must have an original signature.

All applicants must submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application. Please mark each application as *original* or *copy*. No grant may be awarded unless a complete application has been received.

FOR FURTHER INFORMATION CONTACT: Millicent Bentley-Memon, Terence Sullivan, or Edia Velez, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5605, Switzer Building, Washington, DC 20202–6510. Telephone: Millicent Bentley-Memon (202) 205–2777, Terence Sullivan (202) 205–9752, Edia Velez (202) 205–9715. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office, toll free, at 1–888–293–6498 or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available at GPO access at:

http://www.access.gpo.gov/nara/endex.html

Program Authority: 20 U.S.C. 7424.

Dated: November 9, 1999.

Art Love,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 1885–0535 (Exp. 12/31/2001). The time required to complete this information collection is estimated to average 120 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* U.S. Department of Education, Washington, DC 20202–4651.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5605, Switzer Building, Washington, D.C. 20202–6510.

Application Instructions

Mandatory Page Limit for the Application Narrative

The narrative is the section of the application where you address the selection criteria used by reviewers in evaluating the application. You must limit the narrative to the equivalent of no more than 50 pages, using the following standards:

(1) A page is 8.5′ x 11′, on one side only with 1′ margins at the top, bottom, and both sides.

(2) You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

(3) If you use a proportional computer font, you may not use a font smaller than a 12-point font. If you use a non-proportional font or a typewriter, you may not use more than 12 characters per inch.

(4) The page limit does not apply to the Application for Federal Education Assistance Form (ED 424); the Budget Information Form (ED 524) and attached itemization of costs; the other application forms and attachments to those forms; the assurances and

certifications; or the one-page abstract and table of contents described below. The page limit applies only to item 15 in the Checklist for Applicants provided below.

IF, IN ORDER TO MEET THE PAGE LIMIT, YOU USE PRINT SIZE, SPACING, OR MARGINS SMALLER THAN THE STANDARDS SPECIFIED IN THIS NOTICE, YOUR APPLICATION WILL NOT BE CONSIDERED FOR FUNDING.

Abstract

The narrative section should be preceded by a one-page abstract that includes a short description of the population to be served by the project, project objectives, and planned project activities.

Selection Criteria

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Do not include resumes or curriculum vitae for project personnel; provide position descriptions instead. Do not include bibliographies, letters of support, or appendices in your application.

Empowerment Zone/Enterprise Community Priority

Applicants that wish to be considered under the competitive priority for Empowerment Zones and Enterprise Communities, as specified in a previous section of this notice, should identify in Section D of the Project Documentation Form the applicable Empowerment Zone or Enterprise Community. The application narrative should describe the extent to which the proposed project will contribute to systemic educational reform in the particular Empowerment Zone or Enterprise Community and be an integral part of the Zone's or Community's comprehensive revitalization strategies. A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided at the end of this notice.

Table of Contents

The application should include a table of contents listing the various parts of the narrative in the order of the selection criteria. The table should include the page numbers where the parts of the narrative are found.

Budget

A separate budget summary and cost itemization must be provided on the Budget Information Form (ED 524) and in the itemized budget for each project year. Budget line items should be directly related to the activities proposed to achieve the goals and objectives of the project.

Submission of Application to State Educational Agency

Section 7116(a)(2) of the authorizing statute (Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994, Pub. L. 103–382) requires all applicants except schools funded by the Bureau of Indian Affairs to submit a copy of their application to their State educational agency (SEA) for review and comment (20 U.S.C. 7426(a)(2)). Section 75.156 of the Education Department General Administrative Regulations (EDGAR) requires these applicants to submit their application to the SEA on or before the deadline date for submitting their application to the U.S. Department of Education. This section of EDGAR also requires applicants to attach to their application a copy of their letter that requests the SEA to comment on the application (34 CFR 75.156). A copy of this letter should be attached to the Project Documentation Form contained in this application package. APPLICANTS THAT DO NOT SUBMIT A COPY OF THEIR APPLICATION TO THEIR STATE EDUCATIONAL AGENCY IN ACCORDANCE WITH THESE STATUTORY AND REGULATORY REQUIREMENTS WILL NOT BE CONSIDERED FOR FUNDING.

Final Application Preparation

Use the Checklist for Applicants provided below to verify that your application is complete. Submit three copies of the application, including one copy with an original signature on each form that requires the signature of the authorized representative. Do not use elaborate bindings, notebooks, or covers. The application must be mailed or hand-delivered to the U.S. Department of Education Application Control Center (ACC). If mailed, the application must be postmarked by the deadline date.

Checklist for Applicants

Order of the Forms and Other Items for the Application

1. Application for Federal Education Assistance Form (ED 424).
2. Group Application Certification Form (if applicable).
3. Budget Information Form (ED 524).
4. Itemized budget for each project year.
5. Student Data Form.
6. Project Documentation Form, including:

Section A—Copy of transmittal letter to SEA (if applicable);

Section B—Documentation of consultation with nonprofit private school officials (if applicable);

Section C—Appropriate box checked;

Section D—Empowerment Zone or Enterprise Community identified (if applicable).

7. Program Assurances Form.
8. Assurances—Non-Construction Programs Form (SF 424B).
9. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements Form (ED 80–0013).
10. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions Form (ED 80–0014) (if applicable).
11. Disclosure of Lobbying Activities Form (SF LLL).
12. Notice to All Applicants (GEPA Requirement) (OMB No. 1801–0004).
13. One-page abstract.
14. Table of contents.
15. Application narrative (not to exceed 50 pages).

Transmittal of the Application

1. One original and two copies of the application to the U.S. Department of Education Application Control Center.
2. One copy to the appropriate State Educational Agency (if applicable).
3. One copy to the appropriate State Single Point of Contact (if applicable).

BILLING CODE 4000–01–P

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name: _____

Organizational Unit

Address: _____

_____

City _____ State _____ County _____ ZIP Code + 4 _____ - _____

2. Applicant's D-U-N-S Number: |__|__|__|__|__|__|__|__|__|__| Title: **Bilingual Education: Comprehensive School Grants**

3. Catalog of Federal Domestic Assistance #: **84._2_|_9_|_0_|_U_|** → _____

4. Project Director: _____

Address: _____

City _____ State _____ Zip code + 4 _____

Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____

E-Mail Address: _____

5. Is the applicant delinquent on any Federal debt? ___Yes ____No
(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)* |_____|

A - State	H - Independent School District
B - County	I - Public College or University
C - Municipal	J - Private, Non-Profit College or University
D - Township	K - Indian Tribe
E - Interstate	L - Individual
F - Intermunicipal	M - Private, Profit-Making Organization
G - Special District	N - Other *(Specify)*: _____

7. Novice Applicant ___Yes ____ No

Application Information

8. Type of Submission:

-PreApplication	*-Application*
____Construction	____Construction
____Non-Construction	__X_Non-Construction

9. Is application subject to review by Executive Order 12372 process?
____ Yes *(Date made available to the Executive Order 12372 process for review):* ____/____/_____

____ No *(If "No," check appropriate box below.)*
____ Program is not covered by E.O. 12372.
____ Program has not been selected by State for review.

10. Proposed Project Dates: ____/____/_____ ____/____/_____
Start Date: **End Date:**

11. Are any research activities involving human subjects planned at any time during the proposed project period? ____Yes _____No
a. If "Yes," Exemption(s) #: b. Assurance of Compliance #:

_____ *OR* _____

c. IRB approval date: ____ Full IRB **or**
_____ ____ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$ _____.00
b. Applicant	$ _____.00
c. State	$ _____.00
d. Local	$ _____.00
e. Other	$ _____.00
f. Program Income	$ _____.00
g. TOTAL	$ _____.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

_____

b. Title: _____

c. Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____

d. E-Mail Address: _____

e. Signature of Authorized Representative

_____ Date: ___/___/_____

ED 424 (rev 1.12.99)

BILLING CODE 4000–01–C

Instructions for ED 424

1. Legal Name and Address. Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. D–U–N–S Number. Enter the applicant's D–U–N–S Number. If your organization does not have a D–U–N–S Number, you can obtain the number by calling 1–800–333–0505 or by completing a D–U–N–S Number Request Form. The form can be obtained via the Internet at the following URL: http://www.dub.com/dbis/aboutdb/intlduns.htm.

3. Catalog of Federal Domestic Assistance (CFDA) Number. Enter the CFDA number and title of the program under which assistance is requested.

4. Project Director. Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. Federal Debt Delinquency. Check ''Yes'' if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check ''No.''

6. Type of Applicant. Enter the appropriate letter in the box provided.

7. Novice Applicant. Check ''Yes'' only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking ''Yes'' the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check ''No.''

8. Type of Submission. Self-explanatory.

9. Executive Order 12372. Check ''Yes'' if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check ''No.''

10. Proposed Project Dates. Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. Human Subjects. Check ''Yes'' or ''No''. If research activities involving human subjects are *not* planned *at any time* during the proposed project period, check ''No.'' The remaining parts of item 11 are then not applicable.

If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects *are* planned at any time during the proposed project period, either at the applicant organization on or at any other performance site or collaborating institution, check ''Yes.'' If all the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in ''Protection of Human Subjects in Research'' attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. Provide this narrative information in an ''Item 11/Protection of Human Subjects Attachment'' and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.

If some or all of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in ''Protection of Human Subjects in Research'' attached to this form to prepare the six-point narrative about the nonexempt activities. Provide this six-point narrative in an ''Item 11/Protection of Human Subjects Attachment'' and insert this attachment immediately following the ED 424 face page.

If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter ''Pending'' in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. If the applicant organization does not have on file with GPOS or OPRR an approved Assurance of Compliance that covers the proposed research activity, enter ''None'' in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. Project Title. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. Estimated Funding. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. Certification. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14c, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1875–0106. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651. If you have comments or concerns regarding the status of your individual submission of this form write directly to: Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, SW., ROB–3, Room 3633, Washington, DC 20202–4725.

Protection of Human Subjects in Research

(Attachment to ED 44)

I. Instructions to Applicants About the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application ''Yes'' and designated exemptions in 11a, (all research activities are exempt), provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under II.B. ''Exemptions,'' below. The Narrative must be succinct. Provide this information in an ''Item 11/Protection of Human Subjects Attachment'' and insert this attachment immediately following the ED 424 face page.

If you marked ''Yes'' to item 11 on the face page, and designated no exemptions from the regulations (some or all of the research activities are nonexempt), address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an ''Item 11/Protection of Human Subjects

Attachment'' and insert this attachment immediately following the ED 424 face page.

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review broad (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a Research Activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as ''a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.'' If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research. Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as ''a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information.'' If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met. [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of exemptions are not covered by the regulations:

(1) Research conducted in established or comply accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigators(s) do not participate in the activities being observed. [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) requires(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or other-wise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708–8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

BILLING CODE 4000–01–M

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. ∋∋4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. ∋∋1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. ∋794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. ∋∋ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) ∋∋ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. ∋∋ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. ∋ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. ∋∋1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. ∋∋276a to 276a-7), the Copeland Act (40 U.S.C. ∋276c and 18 U.S.C. ∋∋874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. ∋∋ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. ∋∋1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. ∋∋7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12 Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. ∋∋1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. ∋470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. ∋∋469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. ∋∋2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. ∋∋4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, AAudits of States, Local Governments, and Non-Profit Organizations.≅

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number 1880--538

Expiration Date: 10/31/99

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11, Training Stipends						
11. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11, Training Stipends						
11. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

BILLING CODE 4000–01–C–A

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time

reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and the Office of Management and Budget, Paperwork Reduction Project 1875–0102, Washington, DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A—Budget Summary

U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1–11.

Lines 1–11, columns (a)–(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1–11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)–(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B—Budget Summary

Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1–11 of Section B.

Lines 1–11, columns (a)–(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1–11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)–(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C—Other Budget Information

Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

BILLING CODE 4000–01–M

GROUP APPLICATION CERTIFICATION

NOTE: This form must be completed by eligible parties applying as a group for a grant. This form must be accompanied by a group agreement that details the activities that each member of the group plans to perform under the grant.

(34 CFR 75.128(b)-(c)).

To the best of my knowledge and belief, all data in this application are true and correct. I agree to be bound to every statement and assurance made in this application.

Authorized Representative					Name of Institution/ Organization
Typed Name	Title	Signature	Date Signed	Telephone Number (including Area Code)	

STUDENT DATA

Name of Local Educational Agency

SECTION A

NOTE: This section must be completed by applicants under the following programs:

- **Comprehensive School Grants**
- **Systemwide Improvement Grants**

1. Total number of limited English proficient (LEP) students in the school district	
2. Total number of students in the school district	
3. Percentage of LEP students (line 1 divided by line 2)	%

SECTION B

NOTE: This section must be completed by applicants under the following program:

- **Comprehensive School Grants**

Name of project school	(1) Total number of LEP students in the school	(2) Total number of students in the school	(3) % of LEP students (Column (1) divided by column (2))
			%
			%
			%
			%
			%
			%

Name of Local Educational Agency _____

STUDENT DATA
(continued)

SECTION C

NOTE: This section must be completed by applicants under the following programs:

- **Comprehensive School Grants**
- **Systemwide Improvement Grants**

1. Circle the grade level(s) that will participate in the project: PreK K 1 2 3 4 5 6 7 8 9 10 11 12

2. Total number of language groups that will participate in the project. _____

3. List the five largest participating language groups and the approximate number of students in each group.

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

BILLING CODE 4000–01–C

PROJECT DOCUMENTATION

Note: Submit the appropriate documents and information as specified below for the following programs:

- Comprehensive School Grants
- Systemwide Improvement Grants

SECTION A

A copy of applicants transmittal letter requesting the appropriate State educational agency to comment on the application. This requirement does not apply to schools funded by the Bureau of Indian Affairs. (See 34 CFR 74.155 and 75.156 below.)

§ 75.155 Review procedure if State may comment on applications: Purpose of §§ 75.156–75.158. If the authorizing statute for a program requires that a specific State agency be given an opportunity to comment on each application, the State and the applicant shall use the procedures in §§ 75.156–75.158 for that purpose.

(Authority: 20 U.S.C. 1221e–3(a)(1))

Cross-Reference: See 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities) for the regulations implementing the application review procedures that States may use under E.O. 12372. (In addition to the requirement in § 75.155 for review by the State educational agency, the application is subject to review by State Executive Order 12372 process. Applicants must complete item 16 of the application face sheet (Standard Form 424, Application for Federal Assistance) by either (a) specifying the date when the application was made available to the State Single Point of Contact for review or (b) indicating that the program has not been selected by the State for review.)

§ 75.156 When an applicant under § 75.155 must submit its application to the State: proof of submission. (a) Each applicant under a program covered by § 75.155 shall submit a copy of its application to the State on or before the deadline date for submitting its application to the Department. (b) The applicant shall attach to its application a copy of its letter that requests the State to comment on the application.

(Authority: 20 U.S.C.. 1221e–3(a)(1))

SECTION B

Evidence of compliance with the Federal requirements for participation of students enrolled in nonprofit private schools. (See section 7116(h)(2) of Public Law 103–382 and 34 CFR 75.119, 76.652, and 76.656 below.)

Sec. 7116. Applications. ''(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type to those which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children.''

(Authority: 20 U.S.C.. 1221e–3(a)(1))

§ 75.119 Information needed if private schools participate. If a program requires the applicant to provide an opportunity for participation of students enrolled in private schools, the application must include the information required of subgrantees under 34 CFR 76.656.

(Approved by the Office of Management and Budget under control number 1880–0513)

(Authority: 20 U.S.C. 1221e–3(a)(1))

§ 76.652 Consultations with representatives of private school students.

(a) An applicant for a subgrant shall consult with appropriate representatives of students enrolled in private schools during all phases of the development and design of the project covered by the application, including consideration of:

(1) Which children will receive benefits under the project;

(2) How the children's needs will be identified;

(3) What benefits will be provided;

(4) How the benefits will be provided; and

(5) How the project will be evaluated.

(b) A subgrantee shall consult with appropriate representatives of students enrolled in private schools before the subgrantee makes any decision that affects the opportunities of those students to participate in the project.

(c) The applicant or subgrantee shall give the appropriate representatives a genuine opportunity to express their views regarding each matter subject to the consultation requirements in this section.

(Authority: 20 U.S.C. 1221e–3(a)(1))

§ 76.656 Information in an application for a subgrant. An applicant for a subgrant shall include the following information in its application:

(a) A description of how the applicant will meet the Federal requirements for participation of students enrolled in private schools.

(b) The number of students enrolled in private schools who have been identified as eligible to benefit under the program.

(c) The number of students enrolled in private schools who will receive benefits under the program.

(d) The basis the applicant used to select the students.

(e) The manner and extent to which the applicant complied with § 76.652 (consultation).

(f) The places and times that the students will receive benefits under the program.

(g) The differences, if any, between the program benefits the applicant will provide to public and private school students, and the reasons for the differences.

(Authority: 20 U.S.C. 1221e–3(a)(1))

SECTION C

Check the appropriate box below:

- There are no eligible nonprofit private schools in the proposed service delivery area that wish to participate in the project. ☐
- One or more eligible nonprofit private schools in the proposed service delivery area with to participate in the project and are listed on the enclosed Student Data form ☐
- There are no eligible nonprofit private schools in the proposed service delivery area. ☐

SECTION D

If applicable, identify on the line at the right the Empowerment Zone, Supplemental Empowerment Zone, or Enterprise Community that the proposed project will serve. (See the competitive priority and the list of designated Empowerment Zones and Enterprise Communities in previous sections of this application package.)

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PROGRAM ASSURANCES

NOTE: **The authorizing statute requires applicants under certain programs to provide assurances. This form must be completed for applications under the following programs:**

- **Comprehensive School Grants**
- **Systemwide Improvement Grants**

As the duly authorized representative of the applicant, I certify that the applicant:

- Will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instructional programs if the applicant is awarded a grant under the program.
- Will employ in the proposed project teachers who are proficient in English, including written and oral communication skills.
- Will integrate the proposed project with the applicant's overall educational program.
- Has developed this application in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in the proposed project.

(Authority: 20 U.S.C. 7426(g))

Authorized Representative		Applicant Organization
Signature	Title	
Typed Name	Date Signed	

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Notice to All Applicants

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103–382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISI0N IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help to illustrate how an applicant may comply with Section 427.

(1) An Applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An Applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An Applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct ''outreach'' efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651.

Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, ''New Restrictions on Lobbying,'' and 34 CFR Part 85, ''Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).'' The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the underdesigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. Debarment, Suspension, and Other Responsibility Matters

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. Drug-Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610–

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employeed for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

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(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled ACertification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,≡ without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application _____ b. initial award c. post-award	**3. Report Type:** a. initial filing _____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____
4. Name and Address of Reporting Entity: ____ Prime _____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* **$**	
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a) (last name, first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:**_____ **Title:**_____ **Telephone No.:** _____ **Date:** _____	
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**	

BILLING CODE 4000–01–C

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''Subawardee,'' then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., ''RFP–DE–90–001.''

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Empowerment Zones and Enterprise Communities

(As of January 13, 1999)

Empowerment Zones

California: Los Angeles, Oakland, Santa Ana, Riverside County *
Connecticut: New Haven +
Florida: Miami +
Georgia: Atlanta, Cordele * +
Illinois: Chicago, East St. Louis +, Ullin*
Indiana: Gary, East Chicago
Kentucky: Kentucky Highlands * (Clinton, Jackson, and Wayne Counties)
Maryland: Baltimore
Massachusetts: Boston +
Michigan: Detroit
Minnesota: Minneapolis +
Mississippi: Mid-Delta * (Bolivar, Holmes, Humphreys, LeFlore, Sunflower, Washington Counties)
Missouri/Kansas: Kansas City, Kansas City
Missouri: St. Louis +
New Jersey: Cumberland County
New York: Harlem, Bronx
North Dakota: Lake Agassiz *
Ohio: Cleveland, Cincinnati, Columbus +
Ohio/West Virginia: Ironton/Huntington +
Pennsylvania/New Jersey: Philadelphia/Camden
South Carolina: Columbia/Sumter
South Dakota: Oglala Sioux Reservation in Pine Ridge *
Tennessee: Knoxville
Texas: Houston, El Paso +, Rio Grande Valley * (Cameron, Hidalgo, Starr, and Willacy Counties)
Virginia: Norfolk +/Portsmouth

Enterprise Communities

Alabama: Birmingham
Alabama: Chambers County *, Greene County *, Sumter County *
Alaska: Juneau *
Arizona: Arizona Border * (Cochise, Santa Cruz and Yuma Counties), Phoenix, Window Rock *
Arkansas: East Central * (Cross, Lee, Monroe, and St. Francis Counties), Mississippi County *, Pulaski County
California: Imperial County *, Los Angeles, Huntington Park, San Diego, San Francisco, Bayview, Hunter's Point, Watsonville *, Orange Cove *
Colorado: Denver
Connecticut: Bridgeport, New Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Jackson County *, Miami, Dade County, Tampa, Immokalee *
Georgia: Albany, Central Savannah River * (Burke, Hancock, Jefferson, McDuffie, Tallafero, and Warren Counties), Crisp County *, Dooley County *
Hawaii: Kaunakakai *
Illinois: East St. Louis, Springfield
Indiana: Indianapolis, Austin *
Iowa: Des Moines
Kansas: Leoti *
Kentucky: Louisville, Bowling Green *
Louisiana: Macon Ridge * (Catahoula, Concordia, Franklin, Morehouse, and Tensas Parishes), New Orleans, Northeast Louisiana Delta * (Madison Parish), Ouachita Parish
Maine: Lewiston *
Massachusetts: Lowell, Springfield
Michigan: Five Cap *, Flint, Muskegon, Harrison *
Minnesota: Minneapolis, St. Paul
Mississippi: Jackson, North Delta Area * (Panola, Quitman, and Tallahatchie Counties)
Missouri: East Prairie *, St. Louis
Montana: Poplar *
Nebraska: Omaha
Nevada: Clarke County, Las Vegas
New Hampshire: Manchester
New Jersey: Newark
New Mexico: Albuquerque, La Jicarita * (Mora, Rio Arriba, Taos Counties), Deming *
New York: Albany, Schenectady, Troy
New York: Buffalo, Rochester
New York: Newburg, Kingston
North Carolina: Charlotte
North Carolina: Edgecombe, Halifax, Robeson, Wilson Counties *
Ohio: Akron, Columbus, Greater Portsmouth * (Scioto County)
Oklahoma: Choctaw, McCurtain Counties *, Oklahoma City, Ada *
Oregon: Josephine County *, Portland
Pennsylvania: Harrisburg, Lock Haven *, Pittsburgh, Uniontown *
Rhode Island: Providence
South Carolina: Charleston, Williamsburg, Florence County *, Hallandale *
South Dakota: Beadle, Spink Counties *
Tennessee: Fayette, Haywood Counties *, Memphis, Nashville, Rutledge *
Tennessee/Kentucky: Scott, McCreary Counties *
Texas: Dallas, El Paso, San Antonio, Waco, Uvalde *
Utah: Ogden
Vermont: Burlington
Virginia: Accomack (Northampton County)*, Norfolk

Washington: Lower Yakima County *, Seattle, Tacoma, Collie *
West Virginia: Charleston *, Huntington, McDowell County *, West Central Appalachia * (Braxton, Clay, Fayette, Nicholas, and Roane)
Wisconsin: Milwaukee, Keshena *

* Denotes rural designee.
+ Also an Enterprise Community, Round One.

State Single Point of Contact

(As of April 22, 1999)

Note: In accordance with Executive Order 12372, Intergovernmental Review of Federal Programs, this listing represents the designated State Single Points of Contact (SSPOCs). Because participation is voluntary, some States and Territories no longer participate in the process. These include: Alabama, Alaska, American Samona, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

The jurisdictions not listed no longer participate in the process. However, an applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a SSPOC.

ARIZONA
Ms. Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, FAX: (602) 280–8144, jonis@ep.state.az.us

ARKANSAS
Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206, tlcopeland@dfa.state.ar.us

CALIFORNIA
Grants Coordination, State Clearinghouse, Office of Planning and Research, 1400 10th Street, Room 121, Sacramento, California 95814, Telephone: (916) 445–0613, FAX: (916) 323–3018, No e-mail address

DELAWARE
Executive Department, Office of the Budget, 540 S. Dupont Highway, Suite 5, Dover, Delaware 19901, Telephone: (302) 739–3326, FAX: (302) 739–5661, No e-mail address

DISTRICT OF COLUMBIA
Mr. Charles Nichols, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, N.W.—Suite 1200, Washington, D.C. 20005, Telephone: (202) 727–1700 (direct), (202) 727–6537 (secretary), (FAX: (202) 727–1617, No e-mail address

FLORIDA
Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399–2100, Telephone: (850) 922–5438, FAX: (850) 414–0479, Contact: Ms Cherie Trainor, (850) 414–5495, cherie.trainor@dca.state.fl.us

GEORGIA
Ms. Deborah Stephens, Coordinator, Georgia State Clearinghouse, 270 Washington Street, S.W.—8th Floor, Atlanta, Georgia 30334, Telephone: (404) 656–3855, FAX: (404) 656–7901, ssda@mail.opb.state.ga.us

ILLINOIS
Ms. Virginia Bova, Single Point of Contact, Illinois Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, IL 60601, Telephone: (312) 814–6028, FAX: (312) 814–1800

INDIANA
Ms. Allison Becker, State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–7221 (direct line), FAX: (317) 233–3323, No e-mail address

IOWA
Mr. Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4809, steve.mccann.@ided.state.ia,us

KENTUCKY
Mr. Kevin J. Goldsmith, Director, Sandra Brewer, Executive Secretary, Intergovernmental Affairs, Office of the Governor, 700 Capitol Avenue, Franklin, Kentucky 40601, Telephone: (502) 546–2611, FAX: (502) 564–0437, kgoldmkgosmigh@mail.state.ky.us, sbrewer@mail.state.ky.us

MAINE
Ms. Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489, joyce.benson@state.me.us

MARYLAND
Ms. Linda Janey, Manager, Plan & Project Review, Maryland Office of Planning, 301 W. Preston, Street—Room 1104, Baltimore, Maryland 21201–2365, Telephone: (410) 767–4490, FAX: (410) 767–4480, linda@mail.op.state.md.us

MICHIGAN
Mr. Richard Pfaff, Southeast Michigan Council of Governments, 660 Plaza Drive—Suite 1900, Detroit, Michigan 48226, Telephone: (313) 961–4266, FAX: (313) 961–4869, pfaff@semcog.org

MISSISSIPPI
Ms. Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 550 High Street, 303 Walters Sillers Building, Jackson, Mississippi 39201–3087, Telephone: (601) 359–6762, FAX: (601) 359–6758, No e-mail address

MISSOURI
Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Jefferson Building, Room 915, Jefferson City, Missouri 65102, Telephone: (573) 751–4834, FAX: (573) 522–4395, pohll__@mail.oa.state.mo.us

NEVADA
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Note: This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to Sherron Duncan at the Office of Management and Budget (202) 395–3914 and to the State in question. Changes to the list will only be made upon formal notification by the State. The list is updated every six months and is also published biannually in the Catalog of Federal Domestic Assistance. The last changes made were to Delaware, Indiana, Missouri, New Mexico, Puerto Rico, Rhode Island, Utah, and Wisconsin.

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Thursday
November 18, 1999

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91, 121, and 125

Revisions to Digital Flight Data Recorder Regulations for Boeing 737 Airplanes and for Part 125 Operations; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, and 125

[Docket No. FAA–1999–6482; Notice No. 99–19]

RIN 2120–AG87

Revisions to Digital Flight Data Recorder Regulations for Boeing 737 Airplanes and for Part 125 Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to amend the digital flight data recorder (DFDR) regulations for transport category airplanes to add a requirement for all Boeing 737 (B–737) series airplanes to record additional flight data parameters. This proposal is based on safety recommendations issued by the National Transportation Safety Board (NTSB) following the investigations of two accidents and other incidents involving B–737 aircraft. The additional parameters that would be recorded would provide the only currently available means of gathering information that the FAA and the NTSB anticipate will help assess the reasons for continuing incidents that appear related to rudder anomalies on B–737 airplanes. In addition, the FAA is proposing a change to the flight data recorder requirements of part 125 that would affect all aircraft operated under that part or under deviation from that part.

DATES: Comments must be received on or before December 20, 1999.

ADDRESSES: Comments on this document should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. [FAA–1999–6482], 400 Seventh Street SW., Room Plaza 401, Washington, DC 20590. Comments also may be sent electronically to the following Internet address: 9–NPRM–CMTS@faa.gov. Comments may be filed and examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: George Kaseote, Aircraft Certification Service, AIR–130, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8541; facsimile (202) 493–5173.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–1999–6482.'' The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339) and the Government Printing Office (GPO)'s electronic bulletin board service (telephone: (202) 512–1661).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Statement of the Problem

Two aviation accidents in the United States involving Boeing 737 (B–737) model airplanes appear to have been caused by a rudder hardover with resultant roll and sudden descent: United Airlines (United) flight 585, near Colorado Springs, Colorado, on March 3, 1991, and USAir flight 427, near Aliquippa, Pennsylvania, on September 8, 1994. The NTSB has determined that the rudder on B–737 airplanes may experience sudden uncommanded movement or movement opposite the pilot's input, which may cause the airplane to roll suddenly. Incidents of suspected uncommanded rudder movement continue to be reported, including five incidents in 1999 involving U.S.-registered airplanes.[1]

The B–737 airplanes involved in the United and USAir accidents and in the recent rudder incidents were equipped with the required flight data recorders (FDRs), but none of the recorders provided information about the airplanes' movement about their three axes or the positions of the flight control surfaces immediately preceding the accidents or incidents. To date, corrective measures taken to resolve the suspected problem have been limited by the lack of data being recorded. More data is needed to help identify events occurring during suspected uncommanded or hardover rudder events.

The FAA has issued 17 airworthiness directives (ADs) for the B–737 airplane as a result of the investigation into the USAir accident, including one that addresses an upgraded rudder power control unit (PCU) designed to remedy one element of the rudder upset problem, a rudder reversal. Suspected rudder upsets continue to occur, however, and some of the B–737 airplanes that recently experienced

[1] On February 23, 1999, a USAirways Metrojet B–737–200 experience a roll to the left with no change in heading. This incident is further described later in this NPRM. On February 23, 1999, A USAirways B–737–200 experienced an uncommanded rudder movement shortly after departure. On March 12, 1999, a Delta Air Lines B–737–247 experienced a 2-second uncommanded yaw to the right during cruise flight. On April 13, 1999, a United B–737–300 experienced an uncommanded 20 to 30 degree roll to the left during level cruise flight described as a ''sharp quick uncommanded kick to the left.'' On April 10, 1999, a United B–737–300 aborted its takeoff roll because of an uncommanded yaw event as the airplane passed through 120 to 130 knots.

suspected uncommanded rudder movements (not reversals) had been modified with the upgraded rudder PCU, suggesting that other events are still occurring in the rudder system.

The FAA agrees with the NTSB's conclusion that the collection of additional rudder system and flight control data are necessary to more effectively assess the cause of the continued uncommanded rudder movements and to possibly design a solution. The NTSB stated in its safety recommendations that all B–737 airplanes should record pitch trim, trailing and leading edge flaps, thrust reverser position, yaw damper command, yaw damper status (on/off), standby rudder status (on/off), and control wheel, control column, and rudder pedal forces.

Summary of B–737 Accidents

United Flight 585

On March 3, 1991, United flight 585, a B–737–291, was on a scheduled passenger flight from Denver to Colorado Springs, Colorado. As the airplane was completing its turn to final approach, it rolled rapidly to the right and pitched down, reaching a nearly vertical attitude before it struck the ground. The airplane was destroyed and none of the 5 crewmembers or 20 passengers survived. The FDR recorded five flight data parameters (altitude, airspeed, heading, vertical acceleration, and microphone keying) in accordance with the applicable regulations for an airplane its age. The FDR was not required to record other parameters that the NTSB later perceived as critical to its accident investigation, including airplane pitch and roll attitude, engine thrust, lateral and longitudinal acceleration, control wheel position, rudder pedal position, and the position of the control surfaces (rudder, aileron, and spoiler). The NTSB was unable to make a determination of the probable cause of the accident.

USAir Flight 427

On September 8, 1994, USAir flight 427, a B–737–3B7, was on a scheduled passenger flight from Chicago, Illinois, to Pittsburgh, Pennsylvania, when, during the approach to Pittsburgh, the airplane suddenly rolled to the left and pitched down until it reached a nearly vertical attitude and struck the ground near Aliquippa, Pennsylvania. The airplane was destroyed and none of the 5 crewmembers or 127 passengers survived. The FDR was equipped to record the following 13 parameters: altitude, airspeed, heading, pitch attitude, roll attitude, vertical acceleration, longitudinal acceleration, microphone keying, low pressure compressor speed, high pressure compressor speed, exhaust gas temperature, fuel flow, and control column position.

NTSB Investigation of USAir Flight 427

Early in the investigation of the USAir accident, the NTSB noticed that the airplane experienced a high rate of change in its heading, an indication that the initial upset of the airplane may have been caused by uncommanded rudder movement. This situation had been considered in the 1991 United flight 585 accident investigation, and the NTSB reviewed the information it had collected from the United accident as the USAir investigation continued. Another rudder upset incident occurred on an Eastwind Airlines[2] B–737 while the USAir investigation continued, and a concurrent investigation was opened. The Eastwind investigation concluded that unlike the B–737s involved in the United and USAir accidents, the Eastwind flight was moving at well over the crossover airspeed,[3] and thus maintained sufficient roll control authority to overcome the effects of full rudder deflection.

FAA Actions

Following piloted computer simulations of the USAir accident and reports of malfunctions in the yaw damper system of B–737s, the FAA issued two ADs requiring design changes to the rudder system on B–737 airplanes. To address possible rudder hardover scenarios and uncommanded yaw damper movements, the FAA first issued AD 97–14–03 (62 FR 34623, June 27, 1997). That AD requires installation of a newly designed rudder-limiting device to reduce rudder authority at flight conditions where full rudder authority is not required; and installation of a newly designed yaw damper system to improve system reliability and fault monitoring capability. In response to the possibility of a secondary slide jam and rudder reversal, the FAA next issued AD 97–14–04 (62 FR 35068, June 30, 1997), which requires installation of a new vernier control rod bolt and a new main rudder PCU servo valve. The new servo valve is similar to the servo valve used on B–737 Next Generation (NG) series airplanes (B–737–600, –700, –800, and –900) and is designed to eliminate the possibility of a rudder reversal.

Incident Investigation: 1991–1995

The NTSB investigated 28 B–737 incidents involving anomalous rudder activity or uncommanded rolls between 1991 and 1995. Because all of the airplanes involved were manufactured before May 26, 1989, under § 121.343(b) they were required to record only five parameters of flight data. As a result, the NTSB lacked certain definitive investigative criteria and had little more than the flightcrews' subjective recollections to aid in determining a probable cause.

Safety Recommendations: 1995–1997

Between 1995 and 1997, while investigating the USAir accident, the NTSB issued 20 safety recommendations dealing with the B–737; three of those (A–95–25, A–95–26, and A–95–27) dealt specifically with upgrades to the FDR for all B–737s. The NTSB stated that if either the United or the USAir B–737 airplanes had recorded data on the flight control surface positions, flight control inputs, and lateral acceleration, that information would have allowed quick identification of any abnormal control surface movements and configuration changes or autopilot status changes that may have been involved in the loss of control.

FAA Response: 1997 Regulations

In response to these safety recommendations, the FAA promulgated revisions to the DFDR requirements for all airplanes. (Revisions to Digital Flight Data Recorder Rules; Final Rule (62 FR 38362, July 17, 1997)) The revised DFDR regulations prescribe a maximum of 88 parameters to be recorded on flight data recorders, with the exact number of parameters required to be recorded depending on the date of airplane manufacture. For turbine-powered

[2] On June 9, 1996, Eastwind fight 517, a B–737–2H5, was on a regularly scheduled passenger flight from Trenton, New Jersey, to Richmond, Virginia. While on approach to Richmond, the airplane yawed abruptly to the right and then rolled to the right. The captain immediately applied opposite rudder and left aileron. The yaw/roll event slowed but the airplane was still attempting to roll so the captain advanced the right throttle to compensate for the roll with differential power. The airplane then appeared to move back toward neutral for 1 or 2 seconds before abruptly returning to a right bank. The flightcrew then disengaged the yaw damper system and several seconds later the upset event stopped. The airplane flew normally for the remainder of the flight. There were no injuries to the 48 passengers or 5 crewmembers nor any damage to the airplane. The FDR recorded the following 11 parameters: time, altitude, airspeed, magnetic heading, engine pressure ratio (both engines), microphone keying, roll attitude, control column position, and longitudinal and vertical acceleration.

[3] The crossover airspeed is the airspeed above which the lateral control system (ailerons) of the B–737 can overcome the aerodynamic forces caused by a rudder that has gone to a full hardover position (full travel in one direction).

transport category airplanes manufactured on or before October 11, 1991, and not equipped with a flight data acquisition unit (FDAU),[4] 14 CFR 121.344 and 125.226 require the recordation of 18 specified parameters by August 20, 2001. For airplanes manufactured on or before October 11, 1991, that were equipped with a FDAU, the regulations require the recordation of 22 parameters by August 20, 2001. Airplanes manufactured after October 11, 1991, are required to record 34 parameters by August 20, 2001. In some situations, compliance may require the addition of sensors and wiring capable of recording the specified parameters or a reprogramming of the current recorder to accommodate the specified parameters. The 1997 DFDR regulations also added a requirement for newly manufactured airplanes. Airplanes manufactured after August 18, 2000, are required to record 57 parameters, and airplanes manufactured after August 19, 2002, are required to record 88 parameters of flight data.

Further NTSB Findings

On March 24, 1999, the NTSB issued the final report of its investigation into the crash of USAir flight 427. The NTSB determined that the probable cause of the accident was a loss of control resulting from the movement of the rudder surface position to its blowdown limit.[5] Furthermore, the NTSB stated that—

> the rudder surface most likely deflected in a direction opposite to that commanded by the pilots as a result of a jam of the main rudder PCU servo valve secondary slide to the servo valve housing offset from its neutral position and overtravel of the primary slide.

Continuing Concerns

On February 23, 1999, USAirways Metrojet flight 2710, a B–737–2B7, experienced an unexplained rudder hardover at cruise altitude. The flightcrew reported that the airplane began to roll to the left although the heading did not change. After the flightcrew disconnected the autopilot, they noticed the right rudder pedal was forward of neutral and that pressure on the left rudder pedal would not move the rudder. The flightcrew regained normal rudder control only after the standby rudder system was activated under prescribed USAirways' procedures. The airplane made a successful emergency landing. The preliminary results of kinematic analysis and computer simulations using the Metrojet's FDR data indicate that the rudder traveled slowly to its blowdown limit. To date, examinations of the Metrojet rudder system have not revealed evidence of a failure or a jam of the servo valve or other problem, such as a blockage in the rudder system feedback loop, that would explain the uncommanded rudder hardover.

The NTSB recognized that the B–737 airplane has flown over 92 million hours since its initial certification in December 1967, and that the airplane's accident rate is comparable to that of other airplanes of a similar type. Nonetheless, the NTSB has concluded that the redesigned rudder system does not eliminate the possibility of other potential failure modes and malfunctions.

NTSB Recommendations

The NTSB concluded in its March 1999 report that the current regulations for upgrading the DFDRs on existing airplanes are inadequate because they do not require the recordation of specific flight control information. Because several B–737 airplane rudder-related events have been associated with the yaw damper system (which moves the rudder independent of flightcrew input), the NTSB concluded that it is important that yaw damper command (proposed parameter 90), yaw damper status (proposed parameter 89), standby rudder status (proposed parameter 91), and control wheel, control column, and rudder pedal forces (current parameter 88) all be recorded on all B–737 airplanes. The NTSB also indicated that for optimal documentation, the indicated parameters need to be sampled more frequently than is currently required. The NTSB stated that by documenting the yaw damper's operation and the resultant rudder surface movements, a yaw damper event could be distinguished quickly from a flightcrew input or a rudder anomaly. The NTSB considers this information critical in the case of B–737 airplanes. The NTSB stated that if pilot flight control input forces had been recorded on the United, USAir, or Eastwind FDRs, the NTSB investigations would have been resolved more promptly and actions taken to prevent similar events would have been hastened.

On April 16, 1999, the NTSB submitted the following recommendations to the FAA regarding the recordation of additional parameters on B–737 DFDRs:

Recommendation No. A–99–28. Require that all B–737 airplanes operated under part 121 or part 125 that currently have a FDAU be equipped, by July 31, 2000, with a flight data recorder system that records, at a minimum, the parameters required by the 1997 DFDR regulations applicable to that airplane, plus the following parameters: pitch trim, trailing edge flaps, leading edge flaps, thrust reverser position (each engine), yaw damper command, yaw damper status, standby rudder status, and control wheel, control column, and rudder pedal forces. Yaw damper command, yaw damper status, and control wheel, control column, and rudder pedal forces should be sampled at a minimum rate of twice per second.

Recommendation No. A–99–29. Require that all B–737 airplanes operated under part 121 or part 125 that are not equipped with a FDAU be equipped, at the earliest time practicable, but no later than August 1, 2001, with a flight data recorder system that records, at a minimum, the same parameters noted in Safety Recommendation No. A–99–28.

The NTSB also noted in its final report on the USAir accident that B–737 flightcrews continue to report anomalous rudder behavior and the NTSB considers it possible that another catastrophic event related to the B–737 rudder upset could occur.

FAA Response

The FAA agrees with the intent of NTSB Safety Recommendation Nos. A–99–28 and A–99–29. The agency shares the concern of the NTSB regarding continuing reports of rudder-related incidents on B–737 airplanes and has initiated this rulemaking action.

The Proposed Regulations

The FAA is proposing that all B–737 model airplanes be required to record the parameters listed in § 121.344(a)(1) through (a)(22), and (a)(88), plus three new parameters, to be designated as (a)(89) through (a)(91), that would be added by this rulemaking. The new parameters include yaw damper status, yaw damper command, and standby rudder status. In addition, the sampling rate for the control forces listed in current paragraph (a)(88) would be increased for B–737 airplanes.

Compliance Date Determinations

In its recommendation, the NTSB proposed that B–737 aircraft with FDAUs be retrofitted to record the listed parameters by July 31, 2000, and those

[4] The flight data acquisition unit (FDAU) is an electronic device that acquires data from sensors of various types (analog, digital, pneumatic, etc.), translates the data into a digital format, and transmits the data to the flight data recorder.

[5] The rudder's blowdown limit is the maximum rudder deflection available for an airplane at a given flight condition/configuration and occurs when the aerodynamic forces acting on the rudder become equal to the output force of the rudder's powered control actuator, which is a function of the system hydraulic pressure.

without FDAUs be retrofitted by August 1, 2001.

The FAA is proposing dates of August 18, 2000, and August 20, 2001, respectively. The FAA notes that the compliance date for the 1997 DFDR requirements is August 20, 2001. In an effort to streamline compliance and facilitate planning by operators with mixed fleets, the dates in this proposed regulation are the same (or comparable to) the date in the 1997 regulations. These dates represent a change of less than three weeks from the date recommended by the NTSB. The FAA has determined that this brief delay is warranted in order to facilitate consistency and efficiency in the regulations.

The FAA is aware that operators that have already upgraded their airplanes to meet the 1997 regulations may have incurred out-of-service costs from the additional downtime needed for installation. The FAA does not have data indicating how many airplanes may already have been retrofitted and thus would have to undergo another unscheduled maintenance visit to comply with these proposed regulations. Accordingly, the FAA is willing to consider an extension of the compliance period, up to one year beyond the 2001 compliance date, for those airplanes that installed a FDAU between July 16, 1996, and November 18, 1999. The FAA seeks comment from those operators who would benefit from such an extension, including specific information regarding the number of airplanes that would be affected by this change and the costs savings that would result from decreased downtime, as opposed to complying by August 20, 2001. The FAA understands that airplanes may have recently undergone an extended heavy maintenance visit to install equipment to meet the 1997 regulations, and seeks to mitigate the impact of this proposed rule if the savings would be significant without undermining the intent of the regulations proposed here. More detailed economic data is necessary to justify this further extension.

Compliance Status Determination

The NTSB recommendations concerning the date for retrofit of B–737 airplanes is based on whether the airplane was equipped with a FDAU as of the date of its recommendation, April 16, 1999. The 1997 DFDR regulations use the date July 16, 1996 (the date of the NPRM for those regulations), as the date for determining whether an airplane was equipped with a FDAU. The FAA has determined that the 1996 date is more appropriate for the requirements proposed here. The FAA is aware that some operators, in an attempt to comply with the 1997 DFDR regulations early, have already retrofitted B–737s in their fleets and have installed FDAUs in airplanes that were not equipped with them in July 1996. Because airplanes with FDAUs would have to comply with these proposed regulations 1 year earlier than non-FDAU airplanes, these operators would be penalized by their early compliance with the 1997 DFDR upgrades. Accordingly, the FAA has determined that it is more appropriate to use the July 16, 1996, date in this proposed regulation. That date already is familiar to operators, will facilitate consistent planning by affected operators, and will not penalize those operators that chose to complete the 1997 DFDR upgrades before they were required to do so.

In addition, as proposed above, the FAA is considering extending the compliance date an additional year for those airplanes that were upgraded with FDAUs between July 16, 1996 and November 18, 1999.

Accordingly, B–737 airplanes that were equipped with a FDAU on July 16, 1996, would be required to comply with the requirements proposed here by August 18, 2000. Those B–737 airplanes that were not equipped with a FDAU as of July 16, 1996, would have to comply by August 20, 2001. If the FAA receives sufficient data supporting such a change, airplanes that were retrofitted to include a FDAU between July 16, 1996, and November 18, 1999, would have to comply by August 19, 2002.

Proposed Rule Changes

The FAA is concerned that the promulgation of new regulations applicable only to B–737 airplanes may cause confusion since they overlap the DFDR upgrade regulations promulgated in 1997 for all airplanes operated under part 121 and part 125.

Proposed changes to the affected sections of part 121 are summarized as follows:

Paragraph 121.344(b) applies to airplanes that were manufactured before October 11, 1991, and requires the recordation of either 18 or 22 parameters of flight data, depending on whether the airplane had a FDAU on July 16, 1996. Paragraph (b) would be amended by adding language that excepts B–737 airplanes from this paragraph; all B–737 airplanes would instead be subject to the requirements listed in new paragraph 121.344(m), discussed below.

Paragraph 121.344(c) applies to airplanes that were manufactured before October 11, 1991, and were equipped with digital data buses and certain FDAU equipment as of July 16, 1996. That paragraph requires the recordation of 22 parameters of flight data. Paragraph (c) would be amended by adding the same exception language for the B–737 that was proposed for paragraph (b). All B–737 airplanes would instead be subject to the requirements listed in new paragraph 121.344(m), discussed below.

Paragraph 121.344(d) applies to airplanes that were manufactured after October 11, 1991. That paragraph requires the recordation of 34 parameters of flight data, plus all other parameters that the airplane is equipped to record. Language would be added to paragraph (d) indicating that in addition to the requirements of (d), all B–737 airplanes must comply with paragraph 121.344(m). Because the requirements of paragraphs (d) and (m) do not overlap completely, compliance with both would be required. The compliance dates for the two paragraphs remain separate. Essentially, a B–737 airplane covered by paragraphs (d) and (m) would have to install the parameters listed in paragraphs (a)(1) through (a)(22), plus paragraphs (a)(88) through (a)(91) by August 18, 2000, since they already have FDAUs. The parameters listed in paragraphs (a)(23) through (a)(34) would not have to be installed before August 20, 2001, under the requirements of paragraph (d). This is the only category of B–737s for which a dual compliance date would exist. The FAA anticipates that most operators of B–737s would choose to install all of the required equipment at the same time.

Paragraph 121.344(e) applies to airplanes that will be manufactured after August 18, 2000. Paragraph (e) requires the recordation of 57 parameters of flight data, plus all other parameters that the airplane is equipped to record. Similar to paragraph (d), language would be added to paragraph (e) indicating that in addition to the requirements of (e), all B–737 airplanes must comply with paragraph 121.344(m). Because the requirements of paragraphs (e) and (m) do not overlap completely, compliance with both would be required. In order to comply with both paragraphs, a B–737 airplane manufactured after August 18, 2000, must go into service recording the parameters listed in paragraphs (a)(1) through (a)(57) and (a)(88) through (a)(91), plus all other parameters that the airplane is equipped to record.

Paragraph 121.344(f) applies to airplanes that will be manufactured after August 19, 2002. That paragraph requires the recordation of 88

parameters of flight data, plus all others parameters that the airplane is equipped to record. Similar to paragraph (e), language would be added to paragraph (f) indicating that in addition to the requirements of paragraph (f), all B–737 airplanes must comply with paragraph 121.344(m). Because the requirements of paragraphs (f) and (m) do not overlap completely, compliance with both would be required. In order to comply with both paragraphs, a B–737 airplane manufactured after August 19, 2002, must go into service recording the parameters listed in paragraphs (a)(1) through (a)(91), plus all other parameters that the airplane is equipped to record.

All paragraphs of current § 121.344 not specifically amended by this rulemaking would continue to apply to all B–737 airplanes.

New Paragraph 121.344(m)

The proposed rule contains a new paragraph 121.344(m) that would apply to all B–737 airplanes operated under part 121. The parameters required to be recorded under paragraph (m) would be either an alternative or an addition to the other recording requirements of § 121.344 for an airplane of a particular age and having particular equipment installed, as explained above.

The introductory text of proposed paragraph (m) states that all B–737 airplanes must record the parameters listed in paragraphs (a)(1) through (a)(22) and (a)(88) through (a)(91) in accordance with the ranges, accuracies, resolutions, and recording intervals specified in appendix M to part 121. This language introduces two requirements that were not included in the 1997 DFDR upgrade regulations.

First, under the 1997 DFDR regulations, B–737 airplanes that were not equipped with FDAUs did not have to have FDAUs installed to meet those regulations. However, the FAA anticipates that FDAUs will, in many cases, be necessary in order to meet the recording requirements established in paragraph (m) and appendix M.[6] Second, B–737 airplanes that were covered under § 121.344(b) had to record the designated parameters in accordance with the rates, ranges, and accuracies specified in appendix B to part 121. Under this proposal, those airplanes would have to record the parameters listed in paragraph (m) in accordance with appendix M rather than appendix B. Appendix M contains more stringent requirements than appendix B for recording rates and accuracies, and may require equipment upgrades.

The proposed compliance dates for the requirements of paragraph (m) are in given in paragraphs (m)(1) and (m)(2). Paragraph (m)(1) provides that all B–737 model airplanes equipped with a FDAU of any type as of July 16, 1996, must comply with the requirements of paragraph (m) by August 18, 2000. Paragraph (m)(1) also provides that B–737 airplanes manufactured after July 16, 1996, must comply with the requirements of paragraph (m) by August 18, 2000. Without the manufacturing date provision, airplanes manufactured after the date specified (July 16, 1996) would have no specified compliance date. This requirement presumes that B–737s manufactured after July 16, 1996, are equipped with FDAUs and thus would be subject to the August 18, 2000, compliance date.

Paragraph (m)(2) states that all B–737 model airplanes that were not equipped with a FDAU of any type as of July 16, 1996, must comply with the requirements of paragraph (m) by August 20, 2001.

FDAU Equipment

A FDAU is an electronic device that acquires data from sensors of various types, translates the data into a digital format, and transmits the data to a flight recorder. The FAA has received numerous questions regarding the meaning of a ''FDAU of any type,'' as used in the regulations. In some cases, operators have sought to delay compliance with the 1997 DFDR regulations or change the applicability of the regulations based on the equipment installed in their airplanes. The term FDAU is intended to refer to any piece of equipment installed on an airplane that functions as a data acquisition unit. A particular piece of equipment need not have a nameplate designating it as, or be marketed or sold as, a ''flight data acquisition unit'' in order to be considered a FDAU for purposes of these regulations if it functions as described. Further, a combination unit that is capable of FDAU functions would be considered a FDAU for purposes of both current and proposed regulations.

Compliance Dates

With some minor variation, as described above, the FAA has agreed to the compliance schedule recommended by the NTSB for retrofit of B–737s to record the flight data proposed in this rulemaking. The FAA agrees with the NTSB that operators have less to accomplish in a retrofit of airplanes that had FDAUs installed as of July 16, 1996, than they do for airplanes that have never had FDAUs. Accordingly, a B–737 that had a FDAU installed on July 16, 1996, must comply with the requirements of paragraph (m) by August 18, 2000. A B–737 airplane that did not have a FDAU installed as of July 16, 1996, and does not have a FDAU installed as of the date of this NPRM must comply with the requirements of paragraph (m) by August 20, 2001. A B–737 airplane not equipped with a FDAU on July 16, 1996, but equipped with a FDAU as of the date of this NPRM, must comply with paragraph (m) by August 19, 2002.

The reasons for the change to the NTSB's recommended dates for compliance and for determining FDAU status were discussed above.

The New Parameters

Flight Control Input Forces

The parameter listed in paragraph (a)(88) is described as ''[a]ll cockpit flight control input forces (control wheel, control column, rudder pedal).'' These control input forces are the center of the NTSB's recommendation and comprise data that the NTSB has stated is critical to a more complete investigation of accidents and incidents concerning loss of control of airplanes.

This parameter was added in the 1997 amendment to the DFDR regulations, but within the last few months has become a source of disagreement as to where these forces must be measured. The FAA has received inquiries from the NTSB and Boeing concerning an acceptable means of recording rudder pedal forces. These are discussed below.

Actions by Boeing

In 1996, in response to the proposed DFDR upgrade regulations, Boeing began to develop the equipment and instructions necessary to comply with paragraph (a)(88). In designing a rudder pedal force transducer (a specific type of sensor), Boeing's primary concern was to identify whether the input was coming from the forward or the aft end of the system; that is, whether the input was coming from the cockpit or the rudder assembly itself.

Boeing developed a transducer that is placed ''midstream'' in the rudder control system. This specific transducer and its location were driven by the need for the equipment to be retrofitted or installed (on the assembly line) on every design in the Boeing fleet. Boeing's research indicated that a force transducer placed on the rudder pedals themselves could require significant structural redesign of existing airplanes.

[6] If an operator chooses instead to add a second flight data recorder, a FDAU may not be necessary because sufficient recording capacity would exist.

Finally, Boeing was looking for a design and installation that it could develop quickly to meet the needs of operators for compliance with the 1997 DFDR regulations, and that would require the least amount of structural disassembly to install.

The first rudder force transducer was designed for the B–737 NG series airplanes. Although the NPRM for the 1997 regulations (published in July 1996) drove the initial design and timing, Boeing realized that whatever design it settled on would have to work on all of its airplane models.

Boeing currently has available two service bulletins addressing the installation of the rudder force transducer on in-service B–737s. The service bulletin for the B–737–300, –400, and –500 series was released April 15, 1999; the bulletin for the B–737–600, –700, and –800 series was released May 20, 1999. The bulletin for the B–737–100 and –200 series airplanes is in development. In mid-June 1999, Boeing reported that it had approximately 1,000 rudder transducer retrofit kits available, and that for the time being, they were being offered free of charge in order to encourage installation. Boeing stated that few kits had been requested at that time.

NTSB Opinion

The NTSB's April 1999 recommendation indicated only that it wanted the control forces recorded, without specifying a means for doing so. In conversations with NTSB staff in May 1999, it became evident to the FAA that the NTSB would prefer a system that measured the rudder input force at the pedals themselves, an addition of four transducers rather than the one already designed by Boeing. Subsequent discussions between the FAA and the NTSB indicated that the Board is of the opinion that only the installation of four rudder pedal force sensors would meet the intent of its April 16, 1999, recommendation to record rudder input force.

FAA Response

In response to the NTSB's expressed preference, the FAA requested that Boeing estimate the amount of time and cost involved in placing force sensors on each of the four rudder pedals of all B–737 airplanes. By letter dated May 26, 1999, Boeing estimated that it would take approximately 18 to 24 months to develop a service bulletin for the installation of four rudder pedal force transducers. In addition, Boeing estimates that it would take an additional 6 months before retrofit kits to install the transducers would be available.

Boeing also indicated that it does not currently have a viable design solution for the four rudder pedal transducer option that does not involve ''major under floor structural modification,'' that would affect the entire fleet of B–737 airplanes. In conversations with Boeing staff, it was thought that as little as one inch of clearance was available under the rudder pedals, and that additional equipment installed at that location could require that one of the floor beams be moved. Boeing was not immediately able to indicate the estimated costs of such a modification, but the description implies that the cost would be substantial.

The time estimated by Boeing to reengineer the B–737 for four rudder pedal transducers is well beyond the installation dates recommended by the NTSB. Moreover, the fact that the four rudder pedal transducer option might require significant redesign of the airplane structure suggests that the cost of such a modification would be extraordinary.

In a presentation to the FAA and the NTSB in May 1999, Boeing indicated that the rudder transducer data, alone or in combination with other flight recorder data, will satisfy almost all of the concerns expressed by the NTSB for flight control data. The FAA acknowledges that choices have to be made when deciding what equipment is feasible for installation and the level of data that can be provided by different installations.

The FAA acknowledges that there is a difference in the exact nature of the data acquired using Boeing's approved single transducer system and the NTSB's preferred four-pedal sensor retrofit. However, without a better understanding of the incremental benefits the particular data that the four-pedal sensor option would provide and a better estimate of the time and cost that would be required for installation, the FAA cannot decide which option provides the most overall benefit.

The FAA specifically requests comment on the necessity and feasibility of instrumenting all four rudder pedals on B–737 airplanes with force sensors as a means of compliance with paragraph (a)(88). While the FAA has found Boeing's single force transducer to be acceptable for monitoring rudder pedal force, it requests comment on whether this should remain an accepted means of compliance for all B–737 airplanes that have not yet installed the single transducer or otherwise complied with paragraph (a)(88).

If the FAA finds, in light of the comments received, that the four-pedal sensor retrofit is the only way available to determine the source of suspected uncommanded rudder movement, and that any incremental increase in cost and time required to accomplish this retrofit will provide a justifiable benefit, the FAA will propose it as an alternative for B–737 airplanes that have not otherwise complied with paragraph (a)(88) as of November 18, 1999. Any proposal would include an analysis of the costs and benefits of that configuration.

The FAA notes that for the purpose of determining an estimated cost of these proposed regulations, the data for the single Boeing transducer was used for compliance with paragraph (a)(88) because it was the only information available. Those estimates are presented in detail in the regulatory evaluation section of this document. The FAA requests cost data for the four-pedal retrofit, described above, in order to determine whether the incremental increase in benefits that would be provided by that configuration are offset by the additional time and cost that would be needed for compliance.

Measuring Other Control Forces

Paragraph (a)(88) also requires the measurement and recordation of control wheel and control column input forces. While these two measurements have not received the level of attention focused on rudder pedal forces, the FAA understands that there are issues of acceptable means of measuring these forces as well. The FAA specifically requests comment on the means and costs of measuring these control forces under the requirements proposed in this rulemaking.

Change to Current Parameter 88

The NTSB also recommended that control input forces be measured more frequently for B–737 airplanes. This recommendation is being proposed as a change to the sampling interval that would apply to the B–737 only, and would require that control forces be sampled twice per second. This requirement would be added in appendix M, parameter 88, by means of a footnote specifying a shorter interval for B–737 airplanes only. The sampling interval for that parameter would remain unchanged for all other aircraft. Similarly, the text in the ''Remarks'' column for parameter 88 would remain applicable to other aircraft, but would not apply to B–737 airplanes.

Yaw Damper Status

Proposed paragraph (a)(89) would add the recordation of yaw damper status. The intent of this requirement is to record whether the yaw damper is on or off. As described previously, the yaw damper system moves the rudder independent of flightcrew input, and has become a concern in the continuing occurrence of rudder-related incidents.

Yaw Damper Command

Proposed paragraph (a)(90) would add the recordation of yaw damper command. The intent of this is to record the amount of voltage being received by the yaw damper system, which determines how much rudder movement is being commanded. This is an automatic system that is not controlled by cockpit commands, except to turn the system on or off. The flightcrew does not necessarily know what the system is doing since the rudder movement does not feed back through the rudder pedals.

Standby Rudder Status

Proposed paragraph (a)(91) would add the recordation of standby rudder status. The standby rudder system is an alternative source of hydraulic power to the rudder that is used when primary hydraulic power is lost. The intent of this requirement is to record whether the standby rudder system switch is in the on or off position.

Changes to Part 125

The changes proposed for part 121 are also proposed for the corresponding sections of part 125. Specifically, the changes made to § 121.344 also would be made to § 125.226. The changes made to appendix M to part 121 would also be made to appendix E to part 125.

One additional change would be made to part 125. The FAA has determined that for purposes of flight data recordation, there is no difference between a large airplane operated under part 121 and one operated under part 125, *or operated under part 91 under deviation authority from part 125.* Accordingly, the FAA has determined that aircraft that are operating under deviation authority from part 125 must still comply with the flight data recorder requirements of part 125 for the particular aircraft. This requirement would apply to *all* aircraft, not just the B–737.

This requirement is proposed as a new paragraph 125.3(d), which indicates that no deviation authority from the flight data recorder requirements would be granted, and that any previously issued deviation from the FDR requirements of part 125 would no longer be valid. Section 91.609 also will be amended to reflect this requirement.

Any person who operates under deviation authority from part 125 would be subject to the FDR requirements of part 125 applicable to the particular aircraft as of the date of the final rule adopting these proposed regulations. For B–737s, compliance would be required as described in this proposed rule. For all other aircraft, compliance would be required as specified in the applicable subsections of §§ 125.225 or 125.226. An aircraft subject to § 125.226 would have to upgrade its FDR system to meet the requirements of that paragraph by the date specified in the applicable paragraph of that regulation.

For persons operating using deviation authority from part 125, this would be a retrofit requirement, and no current holders of letters of deviation would be ''grandfathered.'' This NPRM serves as notice to current holders of letters of deviation that their deviation authority would be amended pursuant to paragraph 125.3(b).

The FAA specifically requests comments addressing why the flight data recorder requirements of part 125 should not be made applicable to aircraft operated under deviation authority. The FAA also specifically requests comments from affected persons operating their aircraft under deviation authority from part 125 concerning the compliance dates proposed above. If the proposed compliance dates cannot be met, reasons why they cannot be met and acceptable alternatives should be submitted as part of the comment.

TABLE 1.—RULE CHANGES AND COMPLIANCE DATES

Current rule paragraph	Manufacture date/FDAU status in 1996	Number of parameters required in the 1997 rule	1997 rule compliance date	Number of parameters proposed for B–737s
121.344(b)	Before 1991/no FDAU	18	8/1999 through 8/2001	26 by 8/2001, FDAU necessary.
121.344(b)	Before 1991/FDAU	22	8/1999 through 8/2001	26 by 8/2000.
121.344(c)	Before 1991/FDAU plus data bus.	22 plus any capable	8/2001	26 by 8/2000.
121.344(d)	After 1991/with FDAU	34 plus any capable	8/2001	38 by 8/2000.
121.344(e)	After 2000/with FDAU	57 plus any capable	8/2000	61 at manufacture.
121.344(f)	After 2002/with FDAU	88	8/2002	91 at manufacture.

Paperwork Reduction Act

This proposal contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Transportation has submitted the information collection requirements associated with this proposal to the Office of Management and Budget for its review.

Title: Revisions to Digital Flight Data Recorder Regulations for Boeing 737 Airplanes and for Part 125 Operations.

This notice proposes to amend the regulations to add a requirement for all B–737 series airplanes to record additional flight data parameters. The additional parameters to be recorded are not required by the current regulations and would provide the only currently available means of gathering information that the FAA and the NTSB anticipate will help assess the cause of continuing incidents that appear to be related to rudder anomalies on B'737 airplanes.

The respondents are all U.S. certificate holders operating B'737 airplanes under parts 91, 121, 125, and 129.

The required information is electronically recorded on the FDR each time the airplane begins its takeoff roll until it has completed its landing roll and must be kept until the airplane has been operated for 25 hours. The recorded data are overwritten on a continuing basis and are only accessed following an accident. This requirement is a nominal addition to a passive information collection activity and therefore does not contain a measurable hour burden. However, for purposes of the submission to OMB, the FAA has assigned a one hour burden to the request. The measurable burden

associated with this NPRM is the cost to the respondents. The breakdown associated with the cost can be found in the regulatory evaluation summary below.

The agency is soliciting comments to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (for example, permitting electronic submission of responses).

Individuals and organizations may submit comments on the information collection requirement by December 20, 1999, to the address listed in the **ADDRESSES** section of this document.

According to the regulations implementing the Paperwork Reduction Act of 1995 (5 CFR 1320.8(b)(2)(vi)), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless an agency displays a current valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register** after it is approved by the Office of Management and Budget. It should be noted that OMB approval for the activity described above would be for a modification of the existing collection of information for digital flight data recorders under OMB control number 2120–0616.

Compatibility With ICAO Standards

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Regulatory Evaluation

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation). In conducting these analyses, the FAA has determined that this proposed rulemaking: (1) Would be a ''significant regulatory action'' as defined in Executive Order 12866 or as defined in DOT's Regulatory Policies and Procedures; (2) would have a significant economic impact on a substantial number of small entities; (3) would have minimal effects on international trade; and (4) would not contain a significant intergovernmental mandate but would contain a significant private sector mandate. These analyses, contained in the document *Initial Regulatory Evaluation of the Revisions to Digital Flight Data Recorder Rules for Boeing 737 Airplanes and for Part 125 Operations,* which has been placed in the docket, are summarized as follows.

Request for Comments

The FAA requests comments on any and all of its assumptions, methodology, and data used in its economic analyses. The FAA also requests that commenters provide supporting data for their comments.

Data Sources

The principal means of obtaining data for this analysis has been discussions with representatives from Boeing, several airlines that operate Boeing 737s, manufacturers of FDRs and FDAUs, and repair stations that would perform FDR system retrofits. In addition, the Air Transport Association surveyed its members and provided the FAA with data concerning potential compliance costs and out-of-service time that would be associated with the proposed rule. As may be expected, there were some differences in the various estimates. In choosing among these estimates, the FAA has generally selected the median estimates.

Affected Industries

The FAA has estimated that the proposed rule would require that 1,306 U.S.-registered B–737s have their FDR systems retrofitted to record additional flight data parameters. It would further require these additional flight data parameters to be recorded in an estimated 2,144 newly manufactured U.S.-registered B–737s during the 20 years following the promulgation of the proposed rule. Twenty-four U.S. air carriers, 3 foreign U.S. air carriers, and 16 non-air carrier private owners currently operate U.S.-registered B–737s. The proposed rule would also affect transport category airplanes other than B–737s that are operating under part 91 on a deviation authority from part 125. However, as those costs and benefits for this latter group were included in the regulatory evaluation for the FAA's 1997 Digital Flight Data Recorder Rulemaking, they are not again evaluated in this proposed rule. Finally, the proposed rule would affect Boeing's future production B–737s.

Benefits

The principal benefit from increasing the number of flight data parameters recorded would be the increased probability that a future B–737 accident or incident investigation would uncover a previously unknown cause that would not have been discovered in the absence of these additional parameters being recorded. The discovery of this cause, in turn, could lead to corrective actions (for example, an airplane design modification or changes in operating procedures) that would help to prevent similar accidents. As there have been few B–737 accidents whose causes could not be determined (two such accidents in about 92 million B–737 flight hours), the FAA has evaluated the benefits and costs of the proposed rule over a 20-year time period.

In order to quantify the potential benefits of a prevented B–737 accident, the FAA has used the following values: $2.7 million for each prevented fatality and an average of 96 passengers and crew on a B–737, for a resulting total of $259.2 million per airplane; $20 million for a destroyed B–737; $5 million for ancillary damage to ground structures; and $31 million for the resultant government and industry accident investigation. Thus, the average potential benefit from preventing a B–737 in-flight accident would be about $315.2 million.

Compliance Costs

Summary

B–737 operators would incur nearly all of the costs imposed by the proposed rule. These costs would be comprised of both one-time first-year costs and

recurring annual costs. As described in the following paragraphs, the FAA has estimated that the present value of the total costs of compliance with the proposed rule would be about $205.3 million. Of that expenditure, about $158.6. million would be first-year costs to retrofit the current B–737 fleet that would be spent by August 20, 2001. The present value of the increased costs of manufacturing future B–737s over the next 20 years would be about $40.4 million and the present value of the increased annual costs of additional fuel and maintenance of B–737s during the next 20 years would be $6.3 million.

As previously discussed, the FAA revised the flight data recorder rules for many airplanes, including B–737s, in 1997. In the Final Regulatory Evaluation for that final rule, the FAA estimated at that time that the present value in 1997 of the costs to comply with those revision was about $48 million (which is equivalent to $58.8 million in year 2000 present value terms) for B–737 airplane operators and Boeing.[7]

Consequently, if those revisions and this proposed rule are viewed as two parts of one rulemaking extended over time, the FAA has estimated that the present value of the overall compliance costs with these two parts would be about $264.1 million for the B–737 operators and for Boeing.

The per-airplane retrofitting costs for only this proposed rule are have been summarized in Table 2 by B–737 series and by type of FDR system. As can be seen, the individual airplane costs can vary widely; the reasons underlying these differences are discussed in the following paragraphs.

TABLE 2.—PER-AIRPLANE COMPLIANCE COST BY 737 SERIES AND FDR SYSTEM

737 series	Equipment and labor costs	Out-of-service days	Out-of-service lost net revenue	Total costs and lost net revenue
200	$160,200–$176,400	4–7	$250–$800	$160,450–$177,200
200—Advanced (No FDAU)	160,200–176,400	4–7	4,900–8,600	165,100–185,000
200—Advanced (FDAU)	68,800–90,000	2–4	2,450–4,900	71,250–94,900
300 (No FDAU)	175,200–191,400	6–9	20,375–30,550	195,575–221,950
300 (FDAU)	35,100–90,000	2–4	6,800–21,550	41,900–111,550
400 (No FDAU)	160,200–176,400	6–9	17,350–30,350	177,550–206,750
400 (FDAU)	35,100–90,000	2–4	8,675–25,250	43,775–115,250
500 (No FDAU)	175,200–191,400	6–9	20,150–30,200	195,350–221,600
500 (FDAU)	35,100–90,000	2–4	6,700–19,100	41,800–109,100
600	35,100	2–4	15,375–30,750	50,475–65,850
700	35,100	2–4	17,350–34,675	52,450–69,775
800	35,100	2–4	20,800–41,575	55,900–76,675
900	35,100	2–4	21,950–43,875	57,050–78,975

If the 1997 flight data recorder revisions and this proposed rule are viewed as two parts of one rulemaking extended over time, then the per B–737 compliance costs associated with the previous revisions need to be included. However, that Regulatory Evaluation did not disaggregate the compliance costs for individual B–737 series. As a result, the FAA has calculated in the Initial Regulatory Evaluation for this proposed rule that the per B–737 compliance costs associated with the 1997 revisions would be about $45,000.

One-time Compliance Costs to Retrofit B–737s

Types of One-time Compliance Costs

The one-time first-year costs to retrofit B–737s would be: (1) The time to engineer new designs for the retrofitted FDR systems; (2) the equipment and labor costs to retrofit the FDR systems; and (3) the lost net revenue while the airplanes are out of service for a retrofit.

Time to Engineer New Designs for the Retrofitted FDR Systems

There are two general types of engineering design costs associated with the proposed rule. The first type is the manufacturer's or airline's engineering time required to design the FDR system including the parts (that is, the FDR and the FDAU) to be used in a retrofitted B–737 FDR system. The second type is the engineering time required for the airline or repair station to obtain an FAA Supplemental Type Certificate (STC)/ Parts Manufacturing Approval (PMA) for the revised FDR system.

With respect to the FDR manufacturers' engineering costs, industry has reported that the increased number of recorded flight data parameters would require that a solid state FDR (installed to comply with the 1997 DFDR regulations) with a memory capacity of 64 words per second (wps) would need to be increased to 128 wps. This increase would involve a software change that would require FAA approval. The FAA has estimated that these one-time FDR engineering costs would be about $5,000 per airline per B–737 series. The FAA has further estimated that about 40 of these FDR approvals would be required, for a total one-time engineering cost of about $200,000 for the upgraded FDRs.

Although the proposed rule would not specifically mandate a FDAU in every B–737, airline and repair station avionics engineers were unanimous in stating that retrofitting an airplane with a FDAU would be less expensive than retrofitting it with a second FDR system (and coordinating it with the first FDR system) to record the additional flight data parameters. Consequently, the FAA has assumed that an owner of a B–737 that does not have a FDAU would have the FDAU retrofitted in order to keep the airplane in service. Unlike upgrading FDR memory, installing a FDAU would be a substantial modification to the airplane and a FDAU manufacturer has estimated that obtaining FAA approval to integrate its FDAU in an FDR system would take between 16 and 26 weeks and would cost about $200,000 for each airline B–737 series/FDAU combination. However, the FAA has determined that after about five such approvals, a manufacturer could use commonality demonstrations to reduce this estimated time to between 8 and 12 weeks and reduce the estimated cost to about $25,000. It should be noted that several of these applications can be submitted at one time and the applicant would not wait for one airline's FDAU approval

[7] The present value of the total compliance costs for all airplanes affected by the 1997 revisions was estimated to be about $316.3 million (about $387.5 million in year 2000 present value terms).

before submitting the next airline's FDAU for approval. The FAA has estimated that about 40 of these FDAU approvals would be required, for a total one-time engineering cost of about $2.75 million for the FDAU approvals.

With respect to airline or repair station engineering time to obtain an FDR system STC, its engineering staff would need to redesign the entire FDR system, ground test it, flight test it, and submit the drawings and data to the FAA. Airlines have reported that it would take anywhere from 3 months to 1 year to complete the entire engineering/FAA approval process. However, the FAA is concerned that the higher estimates may reflect the worst case. Based on airline reports, the FAA has determined that 4 months would be the average amount of time needed for the entire process. The FAA also has estimated that three industry engineers would work full time on each STC approval. The FAA has used an engineer hourly compensation rate of $100, which includes salary and fringe benefits plus a markup for the hours spent by supervisors, management, legal, etc. Thus, the FAA has estimated that each STC application would cost about $200,000. The FAA has further estimated that about 32 of these STC applications would be made. Thus, the FAA has estimated that the one-time engineering cost for the FDR system STC applications would be about $6.4 million.

Thus, the FAA has estimated that the total one-time engineering costs for obtaining FAA-approved equipment and STCs would be about $9.15 million and would take about 5 months.

Equipment and Labor Costs to Retrofit FDR Systems

The cost of an individual FDR system retrofit will depend on existing equipment and the number of flight data parameters currently recorded on any one airplane. In general, the FDR system components that would be affected by the proposed rule would be the FDR, FDAU, sensors, and wiring.

As noted earlier, the FAA has relied upon industry estimates for the FDR system equipment costs and for the amount of labor time to complete these retrofits. However, the FAA has not used the actual industry labor rates. Instead, the FAA has developed an airplane mechanic hourly compensation rate of $75, which includes salary and fringe benefits plus an adjustment for the otherwise unaccounted hours spent by engineers, supervisors, management, etc., during an FDR system retrofit.

With respect to the FDRs, the FAA has estimated that 156 B–737s would have their FDRs replaced whereas the remaining 1,150 B–737s would have their FDRs upgraded with additional memory. The FAA has determined that a new FDR would cost about $25,000; upgrading the memory of an older FDR that records 18 flight data parameters would cost about $10,000; upgrading the memory of an older FDR that records 22 flight data parameters would cost about $5,000; and upgrading the memory of a newer FDR that records more than 22 parameters would cost about $1,900. Although all FDR systems have an FDR, it would take more labor time to install a new recorder than to upgrade an FDR's memory because the former action would involve more FDR system testing and verifications than would the latter.

Consequently, the FAA has estimated that upgrading to a new recorder would require 32 labor hours to remove the old recorder and to install and to test the new recorder. However, upgrading an FDR would require 16 labor hours because less testing of the FDR system would be needed. Thus, the FAA has estimated that the present value of the equipment cost for replaced or upgraded FDRs would be about $17.2 million.

With respect to the FDAUs, the FAA has estimated that a FDAU would need to be retrofitted into 496 B–737s, whereas the existing FDAUs in 810 B–737s would need to be reprogrammed. In this case, ''FDAU reprogramming'' would involve both hardware modifications and software revisions.

Retrofitting a B–737 with a FDAU would necessitate a complete rerouting of the FDR system wiring because the recorder itself (where the wires formerly terminated) is located in the back of the airplane, while the FDAU would be located in the front of the airplane. Thus, the wiring would now run from the sensors to the FDAU and then back to the recorder. The FAA has determined that a new FDAU would cost about $50,000 while reprogramming an existing FDAU would cost about $10,000. Relying primarily on estimates provided by airlines that have retrofitted FDAUs into their B–737s, the FAA has estimated that this retrofitting would take about 200 labor hours, which includes the associated labor hours to rewire the existing FDR system. The FAA also has estimated that the labor hours to remove, ship to the manufacturer, reinstall, and test a reprogrammed FDAU would take 48 hours for an older FDAU and about 40 hours for a newer FDAU. On that basis, the FAA has estimated that the present value of the FDAU equipment and associated labor costs would be about $37.6 million.

With respect to the additional sensors and wiring, the FAA has divided the equipment and labor costs into two components: (1) The equipment and labor costs to add flight data parameters (a)(19) through (a)(22); and (2) the equipment and labor costs to add the proposed new flight data parameters (a)(89) through (a)(91) and to add flight data parameters found in (a)(88) with the proposed increased sampling rates.

The FAA estimates of the costs of sensors and wiring to add parameters (a)(19) through (a)(22) is based on industry sources that have reported that the sensors to supply the additional flight data parameters to be recorded by the FDR generally cost between $200 and $2,000 each. These additional sensors would also require the addition of wiring to transmit their inputs to the FDAU. The FAA has estimated that the total cost of the sensors and wiring for a B–737 FDR system to add parameters (a)(19) through (a)(22) would be about $20,000.

The FAA has primarily used the estimated labor hours supplied by airlines that have retrofitted flight data parameters (a)(19) through (a)(22) in their B–737s to estimate these costs. On that basis, the FAA has estimated that, in addition to the 200 labor hours associated with the FDAU rewiring, rewiring the sensors and wiring for flight data parameters (a)(19) through (a)(22) would take 200 labor hours for a B–737–200, an Advanced B–737–200, or a B–737–400 and 400 labor hours for a B–737–300 or a B–737–500. Thus, the labor costs of adding flight data parameters (a)(19) through (a)(22) would be about $15,000 for a B–737–200, an Advanced B–737–200, or a B–737–400, while it would be about $30,000 for a B–737–300 or a B–737–500.

Thus, the FAA has estimated that the equipment and labor costs of adding flight data parameters (a)(19) through (a)(22) would be about $35,000 for a B–737–200, an Advanced B–737–200, or a B–737–400 while it would cost about $50,000 for a B–737–300 or a B–737–500.

The primary difficulty in estimating the potential labor hours to retrofit proposed flight data parameters (a)(89) through (a)(91) is that these flight data parameters have not previously been recorded in any B–737. As a result, no engineering analysis has been completed that can serve as an experienced basis for an estimate. Consequently, the FAA has adopted some *preliminary* industry estimates that it would cost about $22,000 for the additional sensors and wiring to retrofit flight data parameters (a)(88) at a higher sampling rate and flight data parameters

(a)(89) through (a)(91) in a B–737 FDR system that now records at least 22 flight data parameters. In addition, the FAA has estimated that this retrofit would involve about 360 labor hours. On that basis, the FAA has estimated that these labor costs would be about $27,000 per airplane.

Thus, the FAA has estimated that the per-airplane equipment and labor costs of adding flight data parameter (a)(88) at a higher sampling rate and parameters (a)(89) through (a)(91) to a B–737 currently recording 22 flight data parameters would be about $49,000.

Finally, the FAA has adopted some *preliminary* industry estimates that it would cost about $12,000 for the additional sensors and wiring to retrofit flight data parameter (a)(88) at a higher sampling rate and flight data parameters (a)(89) through (a)(91) in a B–737 FDR system that now records 88 flight data parameters. In addition, the FAA has estimated that this retrofit would involve about 160 labor hours. On that basis, the FAA has estimated that these labor costs would be about $12,000 per airplane.

Thus, the FAA has estimated that the per-airplane equipment and labor costs of adding flight data parameter (a)(88) at a higher sampling rate and parameters (a)(89) through (a)(91) to a B–737 currently recording 88 flight data parameters would be about $24,000.

Therefore, the FAA has estimated that retrofitting each B–737's sensors and wiring would cost about $84,000 and take about 560 labor hours for a B–737–200 or a B–737–400 without a FDAU; about $100,000 and take about 760 labor hours for a B–737–300 and B–737–500 without a FDAU; about $49,000 and take about 360 labor hours for an older B–737 airplane with a FDAU; and about $24,000 and take about 160 labor hours for a newer B–737 airplane.

As a result, the FAA has estimated that the present value over the next 18 months of the total sensor and wiring costs to retrofit all B–737 FDR systems would be about $69 million.

Net Revenue Loss From Out-of-Service Time

The proposed rule would, effectively, require a B–737 to be taken out of service due to the high number of labor hours for an FDR system retrofit and the fact that only a few mechanics can work on the airplane's FDR system simultaneously because of the limited physical work space. An out-of-service airplane does not generate net revenue and the longer the airplane is out of service, the greater the airline's net revenue loss. However, if a retrofit were completed while the B–737 is undergoing a regularly scheduled maintenance check, only the net revenue lost from any *additional* out-of-service time could be considered a cost of the proposed rule. For example, if an FDR system retrofit would take 6 days and the B–737 is scheduled for a 3-day maintenance check, only the lost net revenue from the additional 3 out-of-service days would be a cost of the proposed rule. Thus, the lost net revenue due to an FDR system retrofit of a given duration depends upon whether the retrofit is performed during a regularly scheduled maintenance check or whether the airplane must be taken out of service solely to perform the retrofit.

The FAA has estimated that retrofitting a B–737 with a FDAU and adding flight data parameters (a)(19) through (a)(22) would require 3 days out-of-service time for a B–737–200, an Advanced B–737–200, or a B–737–400 while it would require 5 days out-of-service time for a B–737–300 or a B–737–500. Based on a *preliminary* industry estimate, the FAA has also estimated that, for B–737s that currently record at least 22 flight data parameters, adding proposed parameters (a)(89) through (a)(91) and flight data parameter (a)(88) with the proposed increased sampling rates, would require 4 days out-of-service time. The FAA has further estimated that a B–737 adding flight data parameters ((a)(19) through (a)(22) and (a)(88) through (a)(91)) would require 7 days out-of-service time if retrofitting a B–737–200, a B–737–200 Advanced, or a B–737–400. It would require 9 days out-of-service time if retrofitting a B–737–300 or a B–737–500. If the retrofit were to be completed during a 3-day maintenance check, the FAA has estimated that the incremental out-of-service times due to the retrofit would be 2 days for a B–737 that has a FDAU, 4 days for a B–737–200 that does not have a FDAU, and 6 days for a B–737–300 or –500 that does not have a FDAU. If the retrofit were to be completed during a 14-day or a 21-day major maintenance check, the FAA has determined that the retrofit would create no incremental out-of-service time.

The FAA has assumed that one 3-day maintenance check will occur every 18 months for each B–737 and that a major 14-day or 21-day maintenance check will occur every 5 years. As detailed in the Initial Regulatory Evaluation, the FAA has developed a probability distribution of the number of these B–737s by series and airplane age that would have had a scheduled 3-day or 14-day maintenance check between the estimated final rule effective date and the various compliance dates. On that basis, the FAA estimated the various numbers of out-of-service days for these airplanes.

In calculating the lost *net* revenue due to out-of-service time, the FAA has taken the approach that an airplane is a piece of capital equipment for which the average net revenue would equal the average price of the airplane multiplied by the average annual risk-free productive rate of return of capital. Using OMB's mandated 7 percent average annual risk-free productive rate of return on capital, the FAA has calculated that the average out-of-service lost net revenue per day ranges from about $400 to about $10,500 per B–737, depending upon the series and its average age. Thus, the FAA has estimated that the present value of the total out-of-service lost net revenue due to retrofitting the B–737 FDR systems would be about $25.2 million.

Total One-Time FDR System Retrofitting Costs

In summary, the FAA has estimated that the present value of the total one-time compliance costs to retrofit all B–737 FDR systems by the proposed compliance dates would be about $155 million.

Annual Costs Resulting From Retrofitting B–737 FDR Systems

The proposed rule also would generate annual compliance costs from (1) The additional airplane weight from the retrofitted FDR system equipment and wiring; and (2) additional maintenance costs annually to validate the FDAU.

The FAA has estimated that the proposed rule would add about 40 pounds to a B–737 without a FDAU currently recording 18 flight data parameters and about 10 pounds to a B–737 currently recording at least 22 flight data parameters. In calculating the estimated additional fuel cost, the FAA has assumed a per-airplane average of 2,800 flight hours per year, a price of $0.61 per gallon of aviation fuel, and 0.23 additional gallons consumed per additional pound per flight hour, resulting in per-airplane annual costs of about $400 for a B–737 that would add 40 pounds and about $100 for a B–737 that would add 10 pounds. On that basis, the FAA has estimated that the present value of the increased fuel consumption over the next 20 years would be about $3.6 million.

The FAA has further estimated that annual validation of a FDAU would cost about $750. This incremental compliance cost would be incurred only for B–737s retrofitted with FDAUs

because the operators of the other B–737s have elected to install this equipment and, therefore, the validation cost would not be attributed to this proposed rule. Based on the number of B–737s that would have had FDAUs retrofitted and their expected retirement rates over the 20-year time period, the FAA has calculated that the present value of this annual FDAU validation over the next 20 years would be about $2.7 million.

Thus, the FAA has estimated that the present value of the annual compliance costs over the next 20 years would be about $6.3 million.

Compliance Costs for Future Manufactured B–737

Installing additional proposed flight data parameters (a)(89) through (a)(91) would also impose compliance costs upon all future manufactured B–737s because, absent the proposed rule, those airplanes would not have been manufactured to record those parameters. However, newly manufactured B–737s are capable of recording all of the additional flight data parameters with the exception of the standby rudder on/off discrete (parameter (a)(91)) and the increase in recording rates of all force information from once per second to twice per second (parameter (a)(88)). As a result, the proposed rule would impose production costs for additional wiring, sensors, and testing as well as a cost to install an upgraded FDR system. There would be no additional costs to upgrade the FDAU because the units currently installed in production are capable of processing these additional flight data parameters. The FAA has estimated that the additional wiring and testing for production would cost about $25,000, a midstream rudder force transducer would cost about $12,000, and the FDR upgrade would cost about $1,900, for a total of $38,900 per future manufactured B–737 beginning in the year 2001. On that basis, the FAA has calculated that the present value of the additional costs for the approximately 2,144 U.S.-registered B–737s to be manufactured during the next 20 years would be about $40.4 million.

Potential Net Revenue Losses Currently Unquantifiable

The FAA's analysis of the net revenue losses for an out-of-service airplane, although appropriate for the individual airplanes within an airline's system, may not capture all of the potential lost revenue when the entire system must comply within a short period of time. In recognition of this potential analytical shortcoming, the FAA had queried airlines concerning the potential system impacts. However, the FAA has also realized that much of the information needed to perform a more complete airline system analysis is proprietary and airlines are extremely reluctant to provide it for fear of the data being inappropriately or inadvertently disseminated to competitors. Nevertheless, following discussions with the aviation industry, the FAA believes that there are two areas of potential economic impact that may need additional investigation, but for which the FAA does not have adequate information.

The first area is that the FAA analysis has assumed that the time to obtain the FAA approvals and the STC would not significantly affect the airlines' abilities to meet the compliance dates. However, there is a possibility that several of the airlines or repair stations would not be able to obtain the requisite FAA approvals to be able to complete these retrofits (particularly those for the proposed new flight data parameters (a)(89) through (a)(91)) in the time between the promulgation of the final rule and the August 18, 2000, or even the August 20, 2001, compliance date. If, in fact, airline maintenance and repair facilities would be overwhelmed with idle B–737s that cannot return to service until they have been retrofitted, then the FAA may have significantly underestimated the actual out-of-service times.

The second area is that the FAA does not have an appropriate model to determine the impact on the number of available flights when, for 18 months, large numbers of airplanes would be taken out of service for several days. For example, there is the possibility that air travel service in certain markets would be disrupted, fares would increase, load factors would increase and flights would become more crowded, some passengers would choose not to fly, some passengers would be unable to obtain flights at the times and dates they are accustomed to flying, flight delays due to weather or mechanical problems would be longer because there would be fewer airplanes available to fill in, etc.

In order to attempt to develop some estimates of the economic impacts of these economic effects that have not been quantified, the FAA specifically requests comments and supporting data on the magnitude of these potential effects, including any presumptions applicable to an individual operator or the industry as a whole.

Benefit-Cost Comparison of the Proposed Rule

In comparing the estimated benefits and costs, the FAA has determined that if the proposed rule would prevent one accident during the first 6 years after it would be promulgated, the benefits would be greater than the costs. However, there is uncertainty about this estimate because it depends on whether the future is adequately modeled by past events and the amount of the currently unquantifiable net revenue losses. As a result, the FAA has determined that it is in general agreement with the NTSB recommendations that this information is needed.

Alternatives to the Proposed Rule

The FAA has determined that its responsibilities under the Regulatory Flexibility Act and the Unfunded Mandates Act require an analysis of alternatives to the proposed rule for each purpose. Rather than repeating the alternatives in each of those two sections, they are listed in this separate section for reference.

The FAA has evaluated three alternatives to the proposed rule. In formulating the alternatives, the FAA focused on its responsibility for aviation safety and its particular obligation under 49 U.S.C. 44717 to ensure the continuing airworthiness of airplanes. As a result, the three evaluated alternatives to the proposed rule differ only with respect to the dates of compliance—not on the content of the proposed rule.

Alternative 1

Require all B–737s that currently have FDAUs (not just those B–737s that had a FDAU installed prior to July 16, 1996) to record all of the proposed flight data parameters by August 18, 2000, rather than by August 20, 2001. This would shorten the compliance date for an estimated 197 B–737s by one year. Alternative 1 would increase compliance costs not because the actual retrofitting costs would change but because the lost net revenue from out-of-service time would be greater for some airplanes. A shorter compliance time increases the likelihood that the retrofit would be done as a special project and not as part of a regularly scheduled maintenance check. On that basis, the FAA has estimated that Alternative 1 would increase first-year compliance costs by $2.4 million above those costs associated with the proposed rule. However, this alternative could be considerably more expensive than the proposed rule, particularly if the idle airplane and scheduling costs that the

FAA could not quantify are substantial. In that case, the shorter the compliance period, the greater the idle airplane costs and scheduling costs. As a result, in comparison to Alternative 1, the proposed rule would offer considerably more relief to the airlines than is evidenced by the quantified difference between them.

Alternative 1 would not significantly increase the estimated quantitative benefits because the probability of one of these 197 airplanes having an accident whose probable cause would not have been determined within a one-year timeframe is remote. As a result, the FAA has determined that a commensurate increased level of benefits would not match the increased cost of this Alternative 1.

Alternative 2

Delay the compliance date for all B–737s to August 20, 2001. This would extend the compliance date by one year for about 292 airplanes. The FAA has determined that Alternative 2 could reduce compliance costs by about $7.3 million. This alternative would provide all B–737 operators with greater scheduling flexibility in determining when to have the airplane retrofitted. A greater number of these operators would be able to delay compliance until a regularly scheduled maintenance check and, thereby, reduce the lost revenue from out-of-service time. However, the FAA must also note that the converse to the effect described under Alternative 1 would be a factor. Again, the greater the unquantified costs, the greater the reduction in costs associated with delaying compliance dates. As Alternative 2 would allow greater flexibility than the proposed rule, the estimated compliance cost reduction from Alternative 2 could be substantially underestimated.

However, Alternative 2 could reduce the expected quantitative benefits. There is a probability that one of these 292 airplanes could have an accident or an incident whose cause would have been discovered only if the additional flight data parameters had been recorded. In light of the fact that the NTSB has recommended the August 18, 2000, compliance date, the FAA has decided to meet the majority of the NTSB recommendations and not propose a later compliance date for all B–737s.

Alternative 3

Delay the proposed compliance date for every B–737 until either its next scheduled major (4 days or more) maintenance check or by August 18, 2004. Alternative 3 would give an operator its maximum retrofitting scheduling flexibility. As the FAA has determined that nearly every B–737 will have at least one scheduled major maintenance check within any 5-year time period, Alternative 3 would allow the operator to perform the retrofit during a scheduled major maintenance check, which would eliminate the additional out-of-service time and, hence, the potential lost net revenue from compliance with the proposed rule. In addition, Alternative 3 would spread the cost of the retrofits over a 5-year time period. By doing so, the present value of the compliance cost from Alternative 3 would be about $172.8 million, which would be about $32.6 million less than the compliance cost of the proposed rule. Further, the FAA reiterates that the greater the unquantified costs, the greater the reduction in costs associated with delaying compliance dates. As Alternative 3 would allow greater flexibility than the proposed rule, the estimated compliance cost reduction associated with Alternative 3 could be substantially underestimated.

Alternative 3 would reduce the expected quantitative benefits because it would reduce the number of flight hours that the B–737 fleet would have recorded the additional flight data parameters by about 6.6 million flight hours during those 4.5 years. Further, it would reduce the cumulative probability that the additional recorded flight data parameters from an accident or incident involving a B–737 could provide information that would result in preventive regulatory or industry action. Consequently, since the FAA agrees with the NTSB recommendation that this information is important, the FAA has not proposed the delayed compliance date presented in Alternative 3.

Thus, in comparison to the one higher cost alternative and the two lower cost alternatives evaluated by the FAA, the FAA has determined that the proposed rule would be the best method to address this safety issue.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a Regulatory Flexibility Analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the Act provides that the head of the agency may so certify, and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Recently, the Office of Advocacy of the Small Business Administration (SBA) published new guidance for Federal agencies in responding to the requirements of the Regulatory Flexibility Act. Application of that guidance to the proposed rule indicates that it could have a significant economic impact on a substantial number of small airlines. Accordingly, a complete initial regulatory flexibility analysis was conducted for the proposed rule and is summarized as follows:

Reasons Why the FAA is Considering the Proposed Rule

The flight data being recorded have not been sufficiently comprehensive to determine the causes of several B–737 accidents and incidents. As a result, the FAA and the aviation industry have been unable to develop specific actions that may prevent similar future B–737 accidents and incidents.

The Objectives and Legal Basis for the Proposed Rule

The objective of the proposed rule is to require the B–737 fleet to record additional flight data parameters that may help determine the cause(s) of a B–737 accident, and, thereby allow the development of regulatory and industry actions that could prevent similar future accidents. The legal basis for the proposed rule is 49 U.S.C. 44901 *et seq.* As a matter of policy, the FAA must, as its highest priority (49 U.S.C. 40101 (d)), maintain and enhance safety and security in air commerce.

All Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

The FAA is unaware of any federal rules that would duplicate, overlap, or conflict with the proposed rule.

A Description and an Estimate of the Number of Small Entities to Which the Proposal Would Apply

The proposed rule would apply to the operators of all U.S.-registered B–737 airplanes operated under part 91, part 121, part 125, or under part 129.

Nearly all of the 16 operators flying B–737s under part 91 (under deviation authority from part 125) use the airplane as an ancillary part of their primary business (for example, oil, automobile manufacturing, etc.). As a result, these operators are distributed across a spectrum of Standard Industrial Classification (SIC) codes, and, as listed in the Initial Regulatory Evaluation, few are small businesses.

The FAA has determined that the 3 non-U.S. operators of U.S.-registered B–737s operating under part 129 are not small entities.

However, as seen shown in Table 2, based on a SBA definition that a small airline has fewer than 1,500 employees, the FAA has determined that 14 small airlines (assuming Accessair is a small airline and noting that Metrojet is owned by USAirways) operating under part 121 would be affected by the proposed rule. The number of affected B–737s reported in Table 3 is an FAA estimate of the number of those airplanes by airline on August 2000.

TABLE 3.—AFFECTED AIRLINES BY NUMBER OF B–737S

Operator	Number of B–737	Number of employees	Operating revenues (in $ millions)	Net profit (in $ millions)
Southwest	322	19,933	3,438.762	413.602
USAirways	205	43,100	8,556.000	965.182
United	190	76,000	17,472.106	774.128
Continental	185	40,700	7,155.384	389.816
Delta	90	58,097	14,584.906	1,073.535
America West	70	10,013	1,962.480	104.350
Alaska	50	10,137	1,553.158	106.162
Aloha	20	2,365	231.141	6.278
Frontier	19	440	174.713	(3.308)
Metrojet	15	.....	.....	.....
Winair	12	52	4.939	(1.150)
Vanguard	10	480	97.755	(7.460)
Airtran	9	600	.....	(6.985)
Eastwind	6	800	22.641	(8.684)
Pro Air	6	110	11.247	(18.849)
Accessair	3	.....	.....	.....
Pace	3	20	4.914	0.256
Casino Express	2	102	15.692	(2.676)
Ryan Int	2	575	138.769	.....
American	1	111,300	16,394.548	1,097.339
Lorair	1	23	.....	.....
Nations Air	1	154	6.724	0.299
North American	1	127	61.473	1.434
Sierra Pacific	1	35	6.650	0.631
Total	.....	.....	.....	.....

The Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

Existing 14 CFR part 43, in part, already prescribes the content, form, and disposition of maintenance, preventive maintenance, rebuilding, and alteration records for any aircraft having a U.S. airworthiness certificate or any foreign-registered aircraft used in common carriage under part 121. There would be one-time paperwork costs of about $9.15 million to obtain FAA parts approvals and STCs for the modified FDR systems, but nearly all of these costs would be incurred by large airlines and large repair stations and large parts manufacturers. Finally, the proposed rule would necessitate minimal additional annual maintenance, which would require minutes of annual recordkeeping per airplane and negligible recordkeeping costs.

Regulatory Flexibility Cost Analysis

The compliance costs associated with the proposed rule are almost completely specific to an individual airplane. There would be minimal economies of scale in completing the FDR system retrofits. Thus, the compliance cost for an individual B–737 is largely independent of the size of the airline. The estimated present value of the compliance costs per B–737 by series and FDR system capability is summarized in Table 1. However, if the 1997 flight data recorder revisions and this proposed rule are viewed as two parts of one rulemaking extended over time, then the estimated per airplane cost would be increased by about $45,000.

Affordability Analysis

As seen in Table 2, the FAA has obtained 1997 net profit data for 11 of the 14 affected small airlines, although the FAA lacks detailed financial data for most of them. Of those 11 small airlines, 7 reported losses. Of the remaining 4 small airlines, the compliance costs would have turned one airline's positive profit into a loss, cut another's profit in half, and reduced the others' profits by 16 percent and by 7 percent. When coupled with the costs to comply with the 1997 flight data recorder revisions, these profits would have been further reduced and the losses would have been further increased. Consequently, the FAA has concluded that some of these small airlines may face financial difficulties in offsetting these compliance costs. The FAA solicits comments on the affordability of the

proposed rule for small airlines and requests that all comments be accompanied with clear supporting data.

Disproportionality Analysis

As noted earlier in this regulatory flexibility cost analysis, the incremental compliance costs for a B–737 operated by a large airline and those costs for an identical B–737 operated by a small airline would be nearly identical. However, to the extent that financing charges tend to be larger for a small airline than for a large airline with a better-established credit line, the financing costs for the retrofit would be disproportionally larger for a small airline than for a large airline. The FAA does not have information concerning this potential impact. Nevertheless, the significant disproportionality that may occur would depend upon the percentage of an airline's fleet that is composed of B–737s. The higher the percentage of B–737s, the greater the impact of this proposed rule on that airline. In reviewing the composition of these various fleets, the FAA has determined that there is not a significant difference, on average, between the group of large airlines and the group of small airlines—although there are certainly differences among individual airlines. As a result, small airlines operating B–737s would not be disadvantaged, as a group, relative to the group of large airlines operating B–737s.

Competitiveness Analysis

The proposed rule would impose significant first-year costs on all operators of B–737s and, as a consequence, may affect the relative position of these airlines in their markets. As the proposed rule would impose no costs on other small operators using McDonnell Douglas or Airbus airplanes, the FAA has determined that there could be a significantly adverse competitiveness effect on certain small (and large) airlines that operate B–737s. The principle beneficiaries would be other small and large airlines that do not operate B–737s.

Business Closure Analysis

The FAA is unable to determine with certainty whether any of these small airlines would close their operations. Many very small operations (1 to 4 airplanes) operate very close to the margin, as evidenced by their constant exit from and entry into various markets. As noted, most of the small airlines reported losses, but, in the absence of sufficiently detailed financial data, the FAA cannot determine which, if any, of these small airlines would close due to the proposed rule.

Description of Alternatives

The three alternatives evaluated by the FAA are discussed in an earlier preamble section. As described, delaying the compliance dates would provide some relief to the affected small and large airlines. However, the proposed rule would still provide a competitive advantage to airlines operating airplanes other than B–737s over small and large airlines that operate B–737s.

Special Considerations

Although the proposed rule would have a significant economic impact on small airlines, the FAA has not exempted them from the proposed rule. The principal reason for not exempting them is that B–737 accidents and incidents whose causes have not been determined are not related to the size of the operator; both large and small airlines have been affected. For example, incidents have occurred to B–737s operated by small airlines. In particular, the 1996 Eastwind B–737 incident is very similar to the United and USAir B–737 accidents. The Eastwind airplane recorded only 11 flight data parameters and, consequently, that incident's cause has not been fully determined. Thus, the FAA has determined that special considerations for small airlines would not be appropriate.

Conclusion

The FAA has determined that there are no viable alternatives to the proposed rule for small airlines. Consequently, the FAA has concluded that exempting B–737s or delaying compliance dates for B–737s operated by small airlines would be an inappropriate action and inconsistent with the FAA mandate to ensure aviation safety. The FAA requests comments on this initial regulatory flexibility analysis and requests commenters to supply supporting data for the comments.

International Trade Impact Assessment

Consistent with the Administration's belief in the general superiority, desirability, and efficacy of free trade, it is the policy of the Administrator to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and those affecting the import of foreign goods and services into the United States.

In accordance with that policy, the FAA is committed to develop as much as possible its aviation standards and practices in harmony with its trading partners. Significant cost savings can result from this harmonization, both to American companies doing business in foreign markets, and foreign companies doing business in the United States.

This proposed rule would have a minimal impact on international trade. Although it would increase the cost of manufacturing a future B–737 by about $39,000, the FAA does not believe that this increase would have a significantly negative effect on Boeing's future domestic or international markets for the B–737.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon state, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

Under 49 U.S.C. 40101(d)(1), the FAA Administrator is required to consider the following matter, among others, as being in the public interest: maintaining and enhancing safety and security as the highest priorities in air commerce. Additionally it is the Administrator's statutory duty to perform the responsibilities ''in a way that best tends to reduce or eliminate the

possibility or recurrence of accidents in air transportation.'' (See 49 U.S.C. 44701(c).)

The FAA has determined that this proposed rule would not contain a significant intergovernmental mandate as defined by the Act because the FAA has no knowledge of any State, local, or tribal government operating a B–737.

However, the FAA has determined that this proposed rule would contain a significant private sector mandate as defined by the Act because the compliance costs over the first 18 months would be about $243 million for the private sector. Thus, the FAA has evaluated the three previously described alternatives in order to determine if the burden could be reduced in a manner consistent with the FAA's mandate to provide aviation safety. Of the three alternatives, only Alternative 3 (delaying compliance until a scheduled major maintenance check) would lower the compliance costs below $100 million for every year. Nevertheless, for the reasons discussed in that earlier section, the FAA has determined that Alternative 3 would not attain the same level of B–737 risk reduction at a lower cost than the proposed rule.

Federalism Implications

The regulations proposed herein would not have a substantial direct effect 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.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (42 U.S.C. 6362). It has been determined that it is not a major regulatory action under the provisions of EPCA.

Comment Period

Comments on this proposed rule must be received by the agency within 30 days of the date of publication of this document. The FAA understands that this does not allow affected operators and other interested parties much time to gather and submit the information requested by the FAA. However, the agency has determined that it is more important to give affected operators the maximum available time to comply with the new requirements once a final rule is adopted. The FAA generally agrees with the NTSB that B–737 airplanes be retrofitted to record the additional flight data by August 18, 2000. The FAA has determined that the short time available requires that the comment period on this rule be kept to a minimum. The FAA also notes that there has been considerable publicity concerning the NTSB recommendations, and that questions addressed to the FAA indicate that the recommended actions and the issues surrounding them are well known.

For these reasons, the FAA strongly encourages commenters to submit their comments as soon as possible. Late-filed comments will be considered to the extent that they do not unnecessarily delay the promulgation of a final rule.

List of Subjects

14 CFR Part 91

Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aviation safety, Air transportation, Reporting and recordkeeping requirements.

14 CFR Part 125

Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 91, 121, and 125 of Title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44701, 44705, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 44901, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

2. Section 91.609 is amended by adding a new paragraph (h) to read as follows:

§ 91.609 Flight recorders and cockpit voice recorders.

* * * * *

(h) An aircraft operated under this part under deviation authority from part 125 of this chapter must comply with all of the applicable flight data recorder requirements of part 125 applicable to the aircraft, notwithstanding such deviation authority.

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

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

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

4. Section 121.344 is amended in paragraph (a) by removing the word ''and'' after paragraph (a)(87); by removing the period after paragraph (a)(88) and adding a semicolon in its place; and by adding new paragraphs (a)(89), (90), and (91), (d)(3), (e)(3) and (m); and by revising paragraphs (b) introductory text, (c) introductory text, and (f) to read as follows:

§ 121.344 Digital flight data recorders for transport category airplanes.

(a) * * *

(89) Yaw damper status;

(90) Yaw damper command; and

(91) Standby rudder status.

(b) Except for Boeing 737 model airplanes, for all turbine-engine powered transport category airplanes manufactured on or before October 11, 1991, by August 20, 2001—

* * * * *

(c) Except for all Boeing 737 model airplanes, for all turbine-engine powered transport category airplanes manufactured on or before October 11, 1991—

* * * * *

(d) * * *

(3) In addition to the requirements of paragraphs (d)(1) and (d)(2) of this section, all Boeing 737 model airplanes also must comply with the requirements of paragraph (m)(1) or (m)(2) of this section, as applicable.

* * * * *

(e) * * *

(3) In addition to the requirements of paragraphs (e)(1) and (e)(2) of this section, all Boeing 737 model airplanes, also must comply with the requirements of paragraph (m)(1) of this section.

(f) For all turbine-engine powered transport category airplanes manufactured after August 19, 2002—

(1) The parameters listed in paragraphs (a)(1) through (a)(88) of this section must be recorded within the ranges, accuracies, resolutions and recording intervals specified in appendix M to this part.

(2) In addition to the requirements of paragraph (f)(1) of this section, all Boeing 737 model airplanes, also must also comply with the requirements of paragraph (m)(1) of this section.

* * * * *

(m) In addition to all other applicable requirements of this section, all Boeing 737 model airplanes must record the parameters listed in paragraphs (a)(1) through (a)(22) and (a)(88) through (a)(91) of this section, within the ranges, accuracies, resolutions, and recording intervals specified in appendix M to this part, in accordance with the following schedule:

(1) All Boeing 737 model airplanes equipped with a flight data acquisition unit of any type as of July 16, 1996, or manufactured after July 16, 1996, must comply by August 18, 2000.

(2) All Boeing 737 model airplanes not equipped with a flight data acquisition unit of any type as of July 16, 1996, must comply by August 20, 2001.

5. Appendix M to part 121 is amended by revising item 88 and adding items 89 through 91 to read as follows:

Appendix M to Part 121—Airplane Flight Recorder Specification—Continued

* * * * * * *

Parameter	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
88. All cockpit flight control input forces (control wheel, control column, rudder pedal).[14]	Full range ..... Control wheel ±70 lbs. Control column ±85 lbs. Rudder pedal ±70 lbs.	±5%	1	0.2% of full range	For fly-by-wire flight control systems, where flight control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1.
89. Yaw damper status.	Discrete (on/off)	.....	0.5	.....	
90. Yaw damper command.	Full range	As installed	0.5	1% of full range	
91. Standby rudder status.	Discrete (on/off)	.....	0.5	.....	

[14] For all Boeing 737 model airplanes, the seconds per sampling interval is 0.5 per control input; remarks do not apply.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGER OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

6. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

7. Section 125.3 is amended by adding a new paragraph (d) to read as follows:

§ 125.3 Deviation authority.

* * * * *

(d) No deviation authority from the flight data recorder requirements of this part will be granted. Any previously issued deviation from the flight data recorder requirements of this part is no longer valid.

8. Section 125.226 is amended in paragraph (a) by removing the word ''and'' after paragraph (a)(87); by removing the period after paragraph (a)(88) and adding a semicolon in its place; by adding new paragraphs (a)(89), (90), and (91), (d)(3), (e)(3), and (m); and by revising paragraphs (b) introductory text, (c) introductory text, and (f) to read as follows:

§ 125.226 Digital flight data recorders.

(a) * * *

(89) Yaw damper status;

(90) Yaw damper command; and

(91) Standby rudder status.

(b) Except for Boeing 737 model airplanes, for all turbine-engine powered transport category airplanes manufactured on or before October 11, 1991, by August 20, 2001—

(c) Except for all Boeing 737 model airplanes, for all turbine-engine powered transport category airplanes

manufactured on or before October 11, 1991—

(d) * * *

(3) In addition to the requirements of paragraphs (d)(1) and (d)(2) of this section, all Boeing 737 model airplanes also must comply with the requirements of paragraph (m)(1) or (m)(2) of this section, as applicable.

(e) * * *

(3) In addition to the requirements of paragraphs (e)(1) and (e)(2) of this section, all Boeing 737 model airplanes, also must comply with the requirements of paragraph (m)(1) of this section.

(f) For all turbine-engine powered transport category airplanes manufactured after August 19, 2002—

(1) The parameters listed in paragraphs (a)(1) through (a)(88) of this section must be recorded within the ranges, accuracies, resolutions and recording intervals specified in appendix E to this part.

(2) In addition to the requirements of paragraph (f)(1) of this section, all Boeing 737 model airplanes must also comply with the requirements of paragraph (m)(1) of this section.

* * * * *

(m) In addition to all other applicable requirements of this section, all Boeing 737 model airplanes must record the parameters listed in paragraphs (a)(1) through (a)(22) and (a)(88) through (a)(91) of this section, within the ranges, accuracies, resolutions, and recording intervals specified in appendix E to this part, in accordance with the following schedule:

(1) All Boeing 737 model airplanes equipped with a flight data acquisition unit of any type as of July 16, 1996, or manufactured after July 16, 1996, must comply by August 18, 2000.

(2) All Boeing 737 model airplanes not equipped with a flight data acquisition unit of any type as of July 16, 1996, must comply by August 20, 2001.

9. Appendix E to part 125 is amended by revising item 88, and adding items 89 through 91 to read as follows:

Appendix E to Part 125—Airplane Flight Recorder Specification—Continued

* * * * * * *

Parameter	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
88. All cockpit flight control input forces (control wheel, control column, rudder pedal).[14].	Full range ..... Control wheel ±70 lbs. Control column ±85 lbs. Rudder pedal ±165 lbs.	±5%	1	0.2% of full range	For fly-by-wire flight control systems, where flight control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1.
89. Yaw damper status.	Discrete (on/off)	.....	0.5	.....	
90. Yaw damper command.	Full range	As installed	0.5	1% of full range	
91. Standby rudder status.	Discrete (on/off)	.....	0.5	.....	

[14] For all Boeing 737 model airplanes, the seconds per sampling interval is 0.5 per control input; remarks do not apply.

Issued in Washington, DC, on November 9, 1999.

Ronald T. Wojnar,

Acting Director, Aircraft Certification Service.

[FR Doc. 99–29758 Filed 11–17–99; 8:45 am]

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federal register

Thursday
November 18, 1999

Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV99–905–3 FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule limiting the volume of small red seedless grapefruit entering the fresh market under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. The marketing order is administered locally by the Citrus Administrative Committee (committee). This rule continues to limit the volume of sizes 48 and/or size 56 red seedless grapefruit handlers can ship during the remainder of the first 11 weeks of the 1999-2000 season. Through week 7, which ended November 7, the percentage was 37 percent. For the last four weeks (November 8 through December 5), the percentage is 32 percent. This limitation is designed to provide a sufficient supply of small sized red seedless grapefruit to meet market demand, without saturating all markets with these small sizes. This rule should help stabilize the grapefruit market and improve grower returns.

EFFECTIVE DATE: Effective November 19, 1999.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: (863) 299–4770, Fax: (863) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 690–3919, Fax: (202) 720–5698.

Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698 or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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 continues to limit the volume of sizes 48 and/or size 56 red seedless grapefruit handlers can ship during the remainder of the first 11 weeks of the 1999–2000 season which began September 20. 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.

The order provides for the establishment of grade and size requirements for Florida citrus, with the concurrence of the Secretary. These grade and size requirements are designed to provide fresh markets with citrus fruit of acceptable quality and size. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of growers, handlers, and consumers, and is designed to increase returns to Florida citrus growers. The current minimum grade standard for red seedless grapefruit is U.S. No. 1, and the minimum size requirement is size 56 (at least 3 5/16 inches in diameter).

Section 905.52 of the order provides authority to limit shipments of any grade or size, or both, of any variety of Florida citrus. Such limitations may restrict the shipment of a portion of a specified grade or size of a variety. Under such a limitation, the quantity of such grade or size that may be shipped by a handler during a particular week is established as a percentage of the total shipments of such variety by such handler in a prior period, established by the committee and approved by the Secretary, in which the handler shipped such variety.

Section 905.153 of the regulations provides procedures for limiting the volume of small red seedless grapefruit entering the fresh market (64 FR 51888; September 27, 1999). The procedures specify that the committee may recommend that only a certain percentage of sizes 48 and/or 56 red seedless grapefruit be made available for shipment into fresh market channels for any week or weeks during the regulatory period. The regulation period is 11 weeks long and begins the third Monday in September. Under such a limitation, the quantity of sizes 48 and/or 56 red seedless grapefruit that may be shipped by a handler during a regulated week is calculated using the recommended percentage. By taking the recommended weekly percentage times the average weekly volume of red grapefruit handled by such handler in the previous five seasons, handlers can calculate the volume of sizes 48 and/or 56 they may ship in a regulated week.

This rule limits the volume of small red seedless grapefruit that can enter the fresh market for the remaining weeks of the 11 week period which began the week of September 20, 1999. This rule continues in effect the interim final rule which established the weekly percentage for the first two weeks (September 20 through October 3) at 45 percent; for the third week (October 4 through October 10) at 40 percent; for the fourth through seventh weeks (October 11 through November 7) at 37 percent; and for the last four weeks (November 8 through December 5) at 32 percent. These percentages are different from those originally recommended by the committee on April 1, 1999. At that time, the committee unanimously voted to establish a weekly percentage of 25 percent for each of the 11 weeks. The committee's initial recommendation was issued as a proposed rule published on August 26, 1999 (64 FR 46603). No comments were received during the comment period which expired on September 10, 1999. The committee subsequently met on August 31, 1999, and unanimously recommended adjusting the proposed percentages. The committee's recommendation was

issued as an interim final rule published on September 17, 1999 (64 FR 50419). Comments on that action were invited until September 27, 1999. No comments were received.

This action is similar to actions taken in the previous two seasons (1997–98 and 1998–99). Prior to those two years, no weekly percentages were established. During the three seasons prior to implementation of weekly percentage regulations (1994–95, 1995–96, and 1996–97), returns for red seedless grapefruit had been declining, often not returning the cost of production. On-tree prices for red seedless grapefruit had fallen steadily from $9.60 per carton (1⅗ bushel) during the 1989–90 season, to $3.45 per carton during the 1994–95 season, to a low of $1.41 per carton during the 1996–97 season.

The committee determined that one problem contributing to the market's condition was the excessive number of small sized grapefruit shipped early in the marketing season. In the 1994–95, 1995–96, and 1996–97 seasons, sizes 48 and 56 accounted for 34 percent of total shipments during the 11 week regulatory period, with the average weekly percentage exceeding 40 percent of shipments. This contrasts with sizes 48 and 56 representing only 26 percent of total shipments for the remainder of the season. While there is a market for early grapefruit, the shipment of large quantities of small red seedless grapefruit in a short period oversupplies the fresh market for these sizes and negatively impacts the market for all sizes.

For the majority of the season, larger sizes return higher prices than smaller sizes. However, there is a push early in the season to get fruit into the market to take advantage of the high prices available at the beginning of the season. The early season crop tends to have a greater percentage of small sizes. This creates a glut of smaller, lower priced fruit on the market, driving down the price for all sizes. Early in the season, larger sized fruit commands a premium price. In some cases, the f.o.b. price is $4 to $6 a carton more than for the smaller sizes. In early October, the f.o.b. price for a size 27 averages around $10.00 per carton. This compares to an average f.o.b. price of $5.50 per carton for size 56. By the end of the 11 week period covered in this rule, the f.o.b. price for large sizes drops to within $2 of the f.o.b. price for small sizes.

In the three seasons prior to 1997–98, prices of red seedless grapefruit fell from a weighted average f.o.b. price of $7.80 per carton to an average f.o.b. price of $5.50 per carton during the period covered by this rule. Even though later in the season the crop sized to naturally limit the amount of smaller sizes available for shipment, the price structure in the market had already been negatively affected. During those three seasons, the market did not recover, and the f.o.b. price for all sizes fell to around $5.00 to $6.00 per carton for most of the rest of the season.

The committee believes that the over shipment of smaller sized red seedless grapefruit early in the season contributes to below production cost returns for growers and lower on-tree values. An economic study done by the University of Florida—Institute of Food and Agricultural Sciences (UF-IFAS) in May 1997, found that on-tree prices had fallen from a high near $7.00 per carton in 1991–92 to around $1.50 per carton for the 1996–97 season. The study projected that if the industry elected to make no changes, the on-tree price would remain around $1.50 per carton. The study also indicated that increasing minimum size restrictions could help raise returns.

To address this issue, the committee voted to utilize the provisions of § 905.153, and establish a weekly percentage of size regulation during the first 11 weeks of the 1997–98 and 1998–99 seasons. The initial recommendations from the committee were to set the weekly percentage at 25 percent for each of the 11 weeks. As more information on the crop became available, and as the season progressed, the committee met and adjusted its recommendations for the weekly percentages. The committee considered information from past seasons, crop estimates, fruit size, and other information to make its recommendations. The committee has since used this regulation to the betterment of the industry. Prices have increased, and movement has been more stable. Actual weekly percentages established during the 11 week period during the 1997–98 season were 50 percent for the first 3 weeks, and 35 percent for the other 8 weeks. Actual weekly percentages established during the 11 week period during the 1998–99 season were 37 percent for the first 3 weeks, and 32 percent for the other 8 weeks.

In making its recommendation for the 1999–2000 season, the committee reviewed its experiences in past seasons. The committee believes establishing weekly percentages during the last two seasons was successful. The committee examined shipment data covering the 11 week regulatory period for the last two regulated seasons and the three prior seasons. The information contained the amounts and percentages of sizes 48 and 56 shipped during each week and weekly f.o.b. price figures. During the 11 week period, the regulations were successful at helping maintain prices at a higher level than previously, and sizes 48 and 56 by count and as a percentage of total shipments were reduced. During the first 11 weeks of the 1996–97 season, shipments of sizes 48 and 56 were 3,076,474 cartons, or 40 percent of total shipments. In the first 11 weeks of the last two seasons, under regulation, shipments of sizes 48 and 56 averaged 2,517,080 cartons and accounted for 33 percent of total shipments.

In comparison with f.o.b. prices from the 1996–97 season, for weeks when pricing information was available (weeks 6 through 11), last season's numbers were higher in five of the six weeks. The average f.o.b. prices for these weeks were $6.28 for the 1996–97 season, $6.55 for the 1997–98 season, and $7.63 for the 1998–99 season. Total fresh shipments for the 1998–99 season are estimated at 14.6 million cartons of red grapefruit.

The committee was concerned that the glut of smaller, lower priced fruit on the early market was driving down the price for all sizes. There was a steep decline in prices for larger sizes in previous seasons. During the six weeks from mid-October through November, prices for sizes 23, 27, 32, and 36 fell by 28, 27, 21, and 20 percent, respectively, during the 1996–97 season, the last season prior to establishing percentage size regulations. Prices for the same sizes fell only 13, 11, 14, and 11 percent, respectively, during the same period last season with regulation. In fact, prices for all sizes were firmer during this period last season when compared to the 1996–97 season, with the weighted average price dropping only 11 percent during this period as compared to 22 percent during the 1996–97 season.

An economic study done by Florida Citrus Mutual (Lakeland, Florida) in April 1998, found that the weekly percentage regulation had been effective. The study stated that part of the strength in early season pricing appeared to be due to the use of the weekly percentage rule to limit the volume of sizes 48 and 56. It said that prices were generally higher across the size spectrum with sizes 48 and 56 having the largest gains, and larger sized grapefruit registering modest improvements. The rule shifted the size distribution toward the higher priced, larger sized grapefruit which helped raise weekly average f.o.b. prices. It further stated that sizes 48 and 56 grapefruit accounted for around 27

percent of domestic shipments during the same 11 weeks during the 1996–97 season. Comparatively, sizes 48 and 56 accounted for only 17 percent of domestic shipments during the same period in 1997–98, as small sizes were used to supply export customers with preferences for small sized grapefruit.

The committee initially recommended that the weekly percentage of size regulation be set at 25 percent for each week during the regulatory period. Members believed that the problems associated with an uncontrolled volume of small sizes entering the market early in the season would recur without such action. The committee thought that to provide the most flexibility, the weekly percentage should be set at 25 percent for each of the 11 weeks in the regulated period. The committee believes it is best to set regulation at the most restrictive level, and then relax the percentage as warranted by conditions later in the season. The committee intends to meet on a regular basis early in the season to consider adjustments in the weekly percentage rates, as was done in the previous two seasons.

In its discussion, the committee recognized the need for and the benefits of the weekly percentage regulation. The committee recommended establishing the base percentage at 25 percent for each of the regulation weeks. This is as restrictive as § 905.153 will allow.

In making its initial recommendation, the committee considered that by establishing regulation at 25 percent, they could meet again in August and subsequent months and use the best information available to help the industry and the committee make the most informed decisions as to whether the established percentages are appropriate.

Based on this information and the experiences from past seasons, the committee agreed to establish the initial weekly percentages at the most restrictive level. They could then meet in late August, or in September and October, as needed, when additional information is available, and determine whether the set percentage levels are appropriate. They said this is essentially what was done in the prior two years, and it had been very successful. For example, the committee met in May 1998, and recommended a weekly percentage of 25 percent for each of the first 11 weeks of the 1998–99 season. In September 1998, the committee met again, and recommended that the weekly percentage be relaxed. Any changes to the weekly percentages established by this rule for 1999–2000 would require additional rulemaking and the approval of the Secretary.

The committee noted that more information helpful in determining the appropriate weekly percentages will be available after August 1999. At the time of the April 1999 meeting, grapefruit had not yet begun to size, giving little indication as to the distribution of sizes. Only the most preliminary of crop estimates was available, with the official estimate not to be issued until October 1999.

The committee met again on August 31, 1999, and revisited the weekly percentage issue and reviewed information it had acquired since its April 6, 1999, meeting. At the meeting, the committee unanimously recommended that the weekly percentages be changed from 25 percent for each of the 11 regulated weeks to 45 percent for the first two weeks (September 20 through October 3); 40 percent for the third week (October 4 through October 10); 37 percent for the fourth through seventh weeks (October 11 through November 7); and 32 percent for the last four weeks (November 8 through December 5).

In its discussion of these changes, the committee reviewed the initial percentages recommended and the current state of the crop. The committee also re-examined shipping information from past seasons, looking particularly at volume across the 11 weeks. Based on this review, the committee agreed that setting the weekly percentage at 25 percent would be too restrictive.

During deliberations in past seasons as to weekly percentages, the committee considered how past shipments had affected the market. Based on available statistical information, the committee members believed that once shipments of sizes 48 and 56 reach levels above 250,000 cartons a week, prices declined on those and most other sizes of red seedless grapefruit. The committee believed that if shipments of small sizes could be maintained at around 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase.

As is the case for the 1999–2000 season, they wanted to recommend a weekly percentage that would provide a sufficient volume of small sizes without adversely impacting the markets for larger sizes. They also originally recommended that the percentage for each of the 11 weeks be established at the 25 percent level. This percentage, when combined with the average weekly shipments for the total industry, provided a total industry allotment that would approach the 250,000 carton mark during the regulated weeks without exceeding it.

While the committee did eventually vote last season to increase the weekly percentages, shipments of sizes 48 and 56 during the 11 weeks regulated during the 1998–99 season were lower by count and by percentage than in the unregulated seasons of 1994–95 through 1996–97. This may have contributed to the success of the regulation.

In setting the weekly percentage for each week at 25 percent for the 1999–2000 season, the total available allotment would have approximated 234,000 (25 percent of the total industry base of 937,257 cartons). The committee thus believed that the percentages should be increased, as was done last season. While satisfied with the level of regulation last season (37 percent for the first 7 weeks and 32 percent for the last 4 weeks), the committee believed that the unique circumstances for 1999–2000 warranted more liberal percentages during the first 3 weeks of the 1999–2000 season.

The committee still projects fresh shipments of red seedless grapefruit during 1999–2000 to be equal to or lower than in previous seasons. The quality of the crop is anticipated to be normal or above normal, although shape of the fruit is estimated to be below normal. All growing districts appear to be affected by poorly shaped fruit, which could reduce the packout percentages for the 1999–2000 crop. The smaller sizes were expected to be the better shaped fruit during the first part of the season, which supports allowing ample shipments of the smaller sizes.

At the time the Committee made its recommendations, the individual fruit size for the 1999–2000 crop was projected to be a little smaller than normal, but not as small as last season. Additionally, the lack of rain during much of the growing season delayed the maturity of the crop and early shipments were expected to be lower than in previous seasons. Unusual weather patterns in the past eight months resulted in multiple blooms in most groves in Florida. The problem with multiple blooms is that it is difficult for fruit harvesters to determine which of the fruit is mature. This was expected to cause a higher percentage of smaller sizes to be harvested early in the season, because the small fruit tends to mature earlier. Therefore, the committee recommended a higher percentage in the first three weeks of the season than in later weeks.

The situation was complicated by the ongoing economic problems affecting the European and Asian markets. In past seasons, the European market has shown a strong demand for the smaller sized red seedless grapefruit. The

reduction in shipments to these areas experienced during the last two years is expected to continue during the upcoming season. This reduction in demand could result in a greater amount of small sizes for remaining markets to absorb. These factors increase the need for restrictions to prevent the volume of small sizes from overwhelming all markets.

Therefore, this rule continues in effect the interim final rule which established the weekly percentage at 45 percent for the first two weeks (September 20 through October 3); 40 percent for the third week (October 4 through October 10); 37 percent for the fourth through seventh weeks (October 11 through November 7); and 32 percent for the last four weeks (November 8 through December 5). The committee plans to meet as needed during the remainder of the 11 week period to work to ensure that the weekly percentages are at the appropriate levels. If crop and market conditions should change, the percentages could be changed to provide for the shipment of more small sizes during the remainder of the 11 week regulatory period.

Under § 905.153, the quantity of sizes 48 and/or 56 red seedless grapefruit that may be shipped by a handler during a regulated week would be calculated using the recommended percentage of 45, 40, 37, or 32 percent, depending on the regulated week. By taking the weekly percentage times the average weekly volume of red grapefruit handled by such handler in the previous five seasons, handlers can calculate the volume of sizes 48 and/or 56 they may ship in a regulated week.

An average week has been calculated by the committee for each handler using the following formula. The total red seedless grapefruit shipments by a handler during the 33 week period beginning the third Monday in September and ending the first Sunday in May during the previous five seasons are added and divided by five to establish an average season. This average season is then divided by the 33 weeks to derive the average week. This average week would be the base for each handler for each of the 11 weeks of the regulatory period. The weekly percentage, in this case 45, 40, 31, or 32 percent, is multiplied by a handler's average week. The product is that handler's allotment of sizes 48 and/or 56 red seedless grapefruit for the given week.

Under this rule, the calculated allotment is the amount of small sized red seedless grapefruit a handler may ship. If the minimum size established under § 905.52 remains at size 56, handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments are within the established limits. If the minimum size under the order is 48, handlers can fill their allotment with size 48 fruit such that the total of these shipments is within the established limits. The committee staff would perform the specified calculations and provide them to each handler.

To illustrate, suppose Handler A shipped a total of 50,000 cartons, 64,600 cartons, 45,000 cartons, 79,500 cartons, and 24,900 cartons of red seedless grapefruit in the last five seasons, respectively. Adding these season totals and dividing by five, yields an average season of 52,800 cartons. The average season would then be divided by 33 weeks to yield an average week, in this case, 1,600 cartons. This would be Handler A's base. Using the first week of the regulatory period as an example, the weekly percentage of 45 percent was applied to this amount. This provided the handler with a weekly allotment of 720 cartons ($1,600 \times .45$) of sizes 48 and/or 56. Similar calculations, using the appropriate weekly percentage, will be performed for the balance of the regulatory period.

The average week for handlers with less than five previous seasons of shipments is calculated by the committee by averaging the total shipments for the seasons they did ship red seedless grapefruit during the immediately preceding five years and dividing that average by 33. New handlers with no record of shipments have no prior period on which to base their average week. Such new handlers can ship small sizes equal to 45, 40, 37, or 32 percent of their total volume of shipments during their first shipping week (depending on when they begin shipping). Once a new handler has established shipments, their average week will be calculated as an average of the weeks they have shipped during the current season.

The interim final rule established a weekly percentage of 45 percent for the first two weeks (September 20 through October 3); 40 percent for the third week (October 4 through October 10); 37 percent for the fourth through the seventh weeks (October 11 through November 7); and 32 percent for the last four weeks of the regulatory period (November 8 through December 5). The regulatory period begins the third Monday in September. Each regulation week begins Monday at 12:00 a.m. and end at 11:59 p.m. the following Sunday, since most handlers keep records based on Monday being the beginning of the work week. If necessary, the committee could meet and recommend a different percentage for any given week or weeks of the regulatory period. Any such recommendation would require approval of the Secretary.

The rules and regulations contain a variety of provisions designed to provide handlers with some marketing flexibility. When regulation is established by the Secretary for a given week, the committee calculates the quantity of small red seedless grapefruit which may be handled by each handler. Section 905.153(d) provides allowances for overshipments, loans, and transfers of allotment. These allowances are intended to allow handlers the opportunity to supply their markets while limiting the impact of small sizes on a weekly basis.

During any week for which the Secretary has fixed the percentage of sizes 48 and/or 56 red seedless grapefruit, any handler can handle an amount of sizes 48 and/or 56 red seedless grapefruit not to exceed 110 percent of their allotment for that week. The quantity of overshipments (the amount shipped in excess of a handler's weekly allotment) is deducted from the handler's allotment for the following week. Overshipments are not allowed during week 11 because there will be no allotments the following week from which to deduct the overshipments.

If handlers fail to use their entire allotments in a given week, the amounts undershipped are not carried forward to the following week. However, a handler to whom an allotment has been issued can lend or transfer all or part of such allotment (excluding the overshipment allowance) to another handler. In the event of a loan, each party must, prior to the completion of the loan agreement, notify the committee of the proposed loan and date of repayment. If a transfer of allotment is desired, each party will promptly notify the committee so that proper adjustments of the records can be made. In each case, the committee confirms in writing all such transactions prior to the following week. The committee can also act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotment. Repayment of an allotment loan is at the discretion of the handlers party to the loan.

The committee computes each handler's allotment by multiplying the handler's average week by the percentage established by regulation for that week. The committee notifies each handler prior to that particular week of the quantity of sizes 48 and 56 red seedless grapefruit such handler can handle during a particular week, making

the necessary adjustments for overshipments and loan repayments.

The committee chose to use the past five seasons to provide the most accurate picture of an average season. When recommending procedures for establishing weekly percentage of size regulation for red seedless grapefruit, the committee discussed several methods of measuring a handler's volume to determine this base. It was decided that shipments for the five previous years and for the 33 weeks beginning the third Monday in September to the first Sunday the following May should be used for calculation purposes.

Thus, allotment is based on a 33 week period of shipments, not just a handler's early shipments. This was done specifically to accommodate small shippers or light volume shippers, who may not have shipped many grapefruit in the early season. The use of an average week based on 33 weeks also helps adjust for variations in growing conditions that may affect when fruit matures in different seasons and growing areas. After considering different ways to calculate the average week, the committee settled on this definition of prior period as the method that provides each handler with an equitable base from which to establish shipments.

The procedures under this rule provide flexibility through several different options. Handlers can transfer, borrow, or loan allotment based on their needs in a given week. Handlers also have the option of over shipping their allotment by 10 percent in a week, as long as the overshipment is deducted from the following week's shipments. Statistics show that in none of the regulated weeks in past seasons was the total available allotment used. Approximately 190 loans and transfers were utilized last season. To facilitate this process, the committee staff provides a list of handler names and telephone numbers to help handlers find possible sources of allotment if needed for loan or trade. Also, this regulation only restricts shipments of small sized red grapefruit. There are no volume restrictions on larger sizes.

After considering the available information, the committee determined that the interim final rule was needed to regulate shipments of small red seedless grapefruit during the 1999–2000 season.

Continuation of the percentage size regulation for the remainder of the 11 week period does not affect the provision that handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day exempt from regulatory requirements. Fruit shipped in gift packages that are individually addressed and not for resale, and fruit shipped for animal feed are also exempt from handling requirements under specific conditions. Also, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements under the order.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including grapefruit, imports of that commodity must meet the same or comparable requirements. This rule does not change the minimum grade and size requirements under the order, only the percentages of sizes 48 and/or 56 red grapefruit that may be handled. Therefore, no change is necessary in the grapefruit import regulations as a result of this action.

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

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

There are approximately 80 grapefruit handlers subject to regulation under the order and approximately 11,000 growers of citrus in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (SBA) 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 (13 CFR 121.601).

Based on industry and committee data, the average annual f.o.b. price for fresh Florida red grapefruit during the 1998–99 season was around $7.20 per 4/5 bushel carton, and total fresh shipments for the 1998–99 season are estimated at 14.6 million cartons of red grapefruit. Approximately 20 percent of all handlers handled 60 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 80 percent of grapefruit handlers could be considered small businesses under SBA's definition, and about 20 percent of the handlers could be considered large businesses. The majority of Florida grapefruit handlers and growers may be classified as small entities.

Under the authority of § 905.52 of the order, this rule continues to limit the volume of small red seedless grapefruit entering the fresh market during the remainder of the first 11 weeks of the 1999–2000 season, that began the third Monday in September. This rule utilizes the provisions of § 905.153, and it continues in effect the percentages established for the remainder of the 11 week regulatory period. The interim final rule established a weekly percentage of 45 percent for the first two weeks of the regulatory period (September 20 through October 3); 40 percent for the third week (October 4 through October 10); 37 percent for the fourth through the seventh weeks (October 11 through November 7); and 32 percent for the last four weeks (November 8 through December 5). This was a change from the committee's original recommendation of a 25 percent weekly percentage for each of the 11 weeks. Under this limitation, the quantity of sizes 48 and/or 56 red seedless grapefruit that may be shipped by a handler during a particular week is calculated using the established percentage.

By taking the established percentage times the average weekly volume of red grapefruit handled by such handler in the previous five seasons, the committee calculates a handler's weekly allotment of small sizes. This final rule continues in effect the interim final rule which established the weekly percentage at 45 percent for the first two weeks (September 20 through October 3); 40 percent for the third week (October 4 through October 10); 37 percent for the fourth through seventh weeks (October 11 through November 7); and 32 percent for the last four weeks (November 8 through December 5). This rule will continue to provide a supply of small sized red seedless grapefruit sufficient to meet market demand, without saturating all markets with these small sizes. It also will help stabilize the market and improve grower returns during the early part of the season.

The weekly percentage of 25 percent, when combined with the average weekly shipments for the total industry, would have provided a total industry allotment of nearly 235,000 cartons of sizes 48 and/or 56 red seedless grapefruit per regulated week. If a 25 percent restriction on small sizes had been applied during the 11 week period in the three seasons prior to the 1997–

98 season, an average of 4.2 percent of overall shipments during that period would have been affected. This rule affects even fewer shipments by continuing to establish less restrictive weekly percentages. In addition, a large percentage of this volume most likely could have been replaced by larger sizes. Under this rule, a sufficient volume of small sized red grapefruit will be allowed into all channels of trade, and allowances will be in place to help handlers address any market shortfall. Therefore, the overall impact on total seasonal shipments and on industry costs should be minimal.

The early season crop tends to have a greater percentage of small sizes. This creates a glut of smaller, lower priced fruit, driving down the price for all sizes. Early in the season, larger sized fruit commands a premium price. In some cases, the f.o.b. price is $4 to $6 a carton more than for the smaller sizes. In early October, the f.o.b. price for a size 27 averages around $10.00 per carton. This compares to an average f.o.b. price of $5.50 per carton for size 56. By the end of the 11 week period covered in this rule, the f.o.b. price for large sizes typically drops to within $2 of the f.o.b. price for small sizes.

The overshipment of smaller sized red seedless grapefruit early in the season has contributed to below production cost returns for growers and lower on tree values. An economic study done by the University of Florida—Institute of Food and Agricultural Sciences (UF–IFAS) in May 1997, found that on tree prices had fallen from a high near $7.00 per carton in 1991–92 to around $1.50 per carton for the 1996–97 season. The study projected that if the industry elected to make no changes, the on tree price would remain around $1.50 per carton. The study also indicated that increasing minimum size restrictions could help raise returns.

This regulation will continue to have a positive impact on affected entities. The purpose of this rule is to help stabilize the market and improve grower returns by limiting the volume of small sizes marketed early in the season. There are no volume restrictions on larger sizes. Therefore, larger sizes could be substituted for smaller sizes with a minimal effect on overall shipments. While this rule may necessitate spot picking, which could entail slightly higher harvesting costs, many in the industry are already using the practice. In addition, because this regulation is only in effect for part of the season, the overall effect on costs is minimal. This rule is not expected to appreciably increase costs to producers.

This rule will continue to help limit the effects of an over supply of small sizes early in the season. Similar rules were enacted successfully the last two seasons. During the 11 week period, the regulations were successful in helping maintain prices at a higher level than in prior seasons, and sizes 48 and 56 by count and as a percentage of total shipments were reduced. Therefore, this action should have a positive impact on grower returns.

For the weeks when pricing information was available, last season's prices were higher in five of the six weeks when compared with f.o.b. prices from the 1996–97 season. The average f.o.b. for these weeks was $6.28 for the 1996–97 season, $6.55 for the 1997–98 season, and $7.63 for the 1998–99 season.

The rules were also successful in reducing the steep drop in prices for larger sizes that had occurred in previous seasons. During the six weeks from mid-October through November, prices for sizes 23, 27, 32, and 36 fell by 25, 25, 20, and 14 percent, respectively, during the 1997–98 season. Prices for the same sizes fell only 13, 11, 14, and 11 percent, respectively, during the same period last season with regulation. Prices for all sizes were firmer during this period last season when compared to the 1996–97 season, with the weighted average price dropping only 11 percent during this period last season as compared to 22 percent during the 1996–97 season.

An economic study done by Florida Citrus Mutual (Lakeland, Florida) in April 1998, found that the weekly percentage regulation had been effective. The study indicated that part of the strength in early season pricing appeared to be due to the use of the weekly percentage rule to limit the volume of sizes 48 and 56. Prices were generally higher across the size spectrum, with sizes 48 and 56 having the largest gains and larger sized grapefruit registering modest improvements.

The report also stated that sizes 48 and 56 grapefruit accounted for around 27 percent of domestic shipments during the 11 weeks during the 1996–97 season, compared to only 17 percent during the 1997–98 season, as small sizes were used to supply export customers with preferences for small sized grapefruit.

Over 50 percent of red seedless grapefruit are shipped to the fresh market. Because of reduced demand and an oversupply, the processing outlet is not currently profitable. Consequently, it is essential that the market for fresh red grapefruit be fostered and maintained. Any costs associated with this action will only be for the 11 week regulatory period. However, benefits from this action could stretch throughout the entire 33 week season.

This rule is intended to stabilize the market during the early season and increase grower returns. Information available from the last two seasons suggests that the regulation could do both. A stabilized price that returns a fair market value would be beneficial to both small and large growers and handlers. The opportunities and benefits of this rule are expected to be available to all red seedless grapefruit handlers and growers regardless of their size of operation. Accordingly, this action would provide the most beneficial results for the industry given any other alternatives.

Handlers utilizing the flexibility of the loan and transfer aspects of this action would be required to submit a form to the committee. Moreover, handlers will be required to submit a form to the committee on their daily shipments of sizes 48 and/or 56 red seedless grapefruit, and new handlers also will have to submit a registration form to ship fruit pursuant to any allotment percentage established by the Secretary. The rule would increase the reporting burden on approximately 80 handlers of red seedless grapefruit who would be taking about 0.05 hour to complete each report regarding allotment loans or transfers, and shipments. New handlers without a record of shipments registering with the committee will take about 0.03 of an hour to complete the ''new handler'' registration form. The information collection requirements contained in § 905.153 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and assigned OMB number 0581-0094. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.750 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

The committee's meetings were widely publicized throughout the citrus industry and all interested persons were invited to attend the meetings and participate in committee deliberations

on all issues. Like all committee meetings, the April 6, 1999, and August 31, 1999, meetings were public meetings and all entities, both large and small, were able to express views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on September 17, 1999. Copies of the rule were mailed by the Committee's staff to all Committee members and grapefruit handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 10-day comment period which ended September 27, 1999. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (64 FR 50419, September 17, 1999) will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined 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 volume limitations implemented by this action apply through December 5, 1999; (2) written comments were invited on this action and no comments were received; and (3) no useful purpose would be served by delayed the effective date of this rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 905 which was published at 64 FR 50419 on September 17, 1999, is adopted as a final rule without change.

Dated: November 12, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–30168 Filed 11–17–99; 8:45 am]

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federal register

Thursday
November 18, 1999

Part V

The President

Executive Order 13141—Environmental Review of Trade Agreements

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Presidential Documents

Title 3—

The President

Executive Order 13141 of November 16, 1999

Environmental Review of Trade Agreements

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further the environmental and trade policy goals of the United States, it is hereby ordered as follows:

Section 1. *Policy.* The United States is committed to a policy of careful assessment and consideration of the environmental impacts of trade agreements. The United States will factor environmental considerations into the development of its trade negotiating objectives. Responsible agencies will accomplish these goals through a process of ongoing assessment and evaluation, and, in certain instances, written environmental reviews.

Sec. 2. *Purpose and Need.* Trade agreements should contribute to the broader goal of sustainable development. Environmental reviews are an important tool to help identify potential environmental effects of trade agreements, both positive and negative, and to help facilitate consideration of appropriate responses to those effects whether in the course of negotiations, through other means, or both.

Sec. 3. (a) *Implementation.* The United States Trade Representative (Trade Representative) and the Chair of the Council on Environmental Quality shall oversee the implementation of this order, including the development of procedures pursuant to this order, in consultation with appropriate foreign policy, environmental, and economic agencies.

(b) *Conduct of Environmental Reviews.* The Trade Representative, through the interagency Trade Policy Staff Committee (TPSC), shall conduct the environmental reviews of the agreements under section 4 of this order.

Sec. 4. *Trade Agreements.*

(a) Certain agreements that the United States may negotiate shall require an environmental review. These include:

(i) comprehensive multilateral trade rounds;

(ii) bilateral or plurilateral free trade agreements; and

(iii) major new trade liberalization agreements in natural resource sectors.

(b) Agreements reached in connection with enforcement and dispute resolution actions are not covered by this order.

(c) For trade agreements not covered under subsections 4(a) and (b), environmental reviews will generally not be required. Most sectoral liberalization agreements will not require an environmental review. The Trade Representative, through the TPSC, shall determine whether an environmental review of an agreement or category of agreements is warranted based on such factors as the significance of reasonably foreseeable environmental impacts.

Sec. 5. *Environmental Reviews.*

(a) Environmental reviews shall be:

(i) written;

(ii) initiated through a **Federal Register** notice, outlining the proposed agreement and soliciting public comment and information on the scope of the environmental review of the agreement;

(iii) undertaken sufficiently early in the process to inform the development of negotiating positions, but shall not be a condition for the timely tabling of particular negotiating proposals;

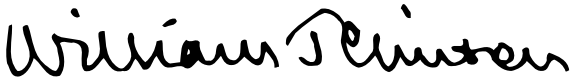
(iv) made available in draft form for public comment, where practicable; and

(v) made available to the public in final form.

(b) As a general matter, the focus of environmental reviews will be impacts in the United States. As appropriate and prudent, reviews may also examine global and transboundary impacts.

Sec. 6. *Resources.* Upon request by the Trade Representative, with the concurrence of the Deputy Director for Management of the Office of Management and Budget, Federal agencies shall, to the extent permitted by law and subject to the availability of appropriations, provide analytical and financial resources and support, including the detail of appropriate personnel, to the Office of the United States Trade Representative to carry out the provisions of this order.

Sec. 7. *General Provisions.* This order is intended only to improve the internal management of the executive branch and does not create any right, benefit, trust, or responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.



THE WHITE HOUSE,
November 16, 1999.

[FR Doc. 99–30346
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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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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. 441/P.L. 106–95

Nursing Relief for Disadvantaged Areas Act of 1999 (Nov. 12, 1999; 113 Stat. 1312)

H.R. 609/P.L. 106–96

To amend the Export Apple and Pear Act to limit the applicability of the Act to apples. (Nov. 12, 1999; 113 Stat. 1321)

H.R. 915/P.L. 106–97

To authorize a cost of living adjustment in the pay of administrative law judges. (Nov. 12, 1999; 113 Stat. 1322)

H.R. 974/P.L. 106–98

District of Columbia College Access Act of 1999 (Nov. 12, 1999; 113 Stat. 1323)

H.R. 2303/P.L. 106–99

History of the House Awareness and Preservation Act (Nov. 12, 1999; 113 Stat. 1330)

H.R. 3122/P.L. 106–100

To permit the enrollment in the House of Representatives Child Care Center of children of Federal employees who are not employees of the legislative branch. (Nov. 12, 1999; 113 Stat. 1332)

H.J. Res. 54/P.L. 106–101

Granting the consent of Congress to the Missouri-Nebraska Boundary Compact. (Nov. 12, 1999; 113 Stat. 1333)

S. 900/P.L. 106–102

Gramm-Leach-Bliley Act (Nov. 12, 1999; 113 Stat. 1338)

H.R. 348/P.L. 106–103

To authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs. (Nov. 13, 1999; 113 Stat. 1482)

H.R. 3061/P.L. 106–104

To amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act. (Nov. 13, 1999; 113 Stat. 1483)

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