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Rules and Regulations

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–72–AD; Amendment 39–11523; AD 99–26–04]

RIN 2120–AA64

Airworthiness Directives; Kaman Aerospace Corporation Model K1200 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Emergency Priority Letter Airworthiness Directive (AD) 99–26–04, which was sent previously to all known U.S. owners and operators of Kaman Aerospace Corporation (Kaman) Model K1200 helicopters by individual letters. This AD requires, before the first flight of each day, inspecting for clutch assembly integrity. Replacing any unairworthy clutch assembly with an airworthy clutch assembly is required before further flight. This amendment is prompted by two incidents of engine adapter flange failure and loss of power to the main rotors. The actions specified by this AD are intended to prevent failure of the engine adapter flange, loss of power to the main rotors, and a subsequent forced landing.

DATES: Effective February 8, 2000, to all persons except those persons to whom it was made immediately effective by Emergency Priority Letter AD 99–26–04, issued on December 8, 1999, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before March 24, 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–72–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Wayne E. Gaulzetti, Aerospace Engineer, FAA, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7156, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On December 8, 1999, the FAA issued Emergency Priority Letter AD 99–26–04, applicable to Kaman Model K1200 helicopters, which requires, before the first flight of each day, inspecting for clutch assembly integrity. Replacing any unairworthy clutch assembly with an airworthy clutch assembly is required before further flight. That action was prompted by two incidents of engine adapter flange failure and loss of power to the main rotors. One incident resulted in autorotation into trees with resulting loss of main rotor blades. The second incident resulted in a forced autorotation and damage to the nose landing gear. Subsequent investigation revealed that internal transmission clutch damage caused an engine adapter flange failure. This condition, if not corrected, could result in failure of the engine adapter flange, loss of power to the main rotors, and a subsequent forced landing.

The FAA has reviewed Kaman K–1200 K–MAX Maintenance Manual Temporary Revision (TR) No. 284, dated November 5, 1999, which revises the procedures for engine area daily inspections and TR No. 289, dated November 12, 1999, which describes the method of inspecting the transmission assembly.

Since the unsafe condition described is likely to exist or develop on other Kaman Model K1200 helicopters of the same type design, the FAA issued Emergency Priority Letter AD 99–26–04 to prevent failure of the engine adapter flange, loss of power to the main rotors, and a subsequent forced landing. The AD requires, before the first flight of each day, inspecting for clutch assembly integrity. Replacing any unairworthy clutch assembly with an airworthy clutch assembly is required before further flight. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, inspecting for clutch assembly integrity before the first flight of each day and replacing any unairworthy clutch assembly is required prior to further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on December 8, 1999 to all known U.S. owners and operators of Kaman Model K1200 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

The FAA estimates that 21 helicopters of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per helicopter to inspect the clutch assembly and 5 work hours per helicopter to replace the clutch assembly, if necessary. The average labor rate is $60 per work hour. Required parts, if replacement of a clutch assembly is necessary, will cost approximately $16,000 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $459,500 per year, assuming 300 clutch assembly inspections, per helicopter, per year, and replacement of 5 unairworthy clutch assemblies.

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–72–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 99–26–04 Kaman Aerospace Corporation: Amendment 39–11523. Docket No. 99–SW–72–AD.

Applicability: Model K–1200 helicopters, with clutch assembly, part number (P/N) K974002–701, installed, certificated in any category.

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

Compliance: Required before the first flight of each day.

To prevent failure of the engine adapter flange, loss of power to the main rotors, and a subsequent forced landing, accomplish the following:

(a) Inspect the integrity of the clutch assembly, in a location where background noise would not hinder evaluation, by firmly and uniformly rotating the Kaflex shaft in the anti-rotating direction (counter-clockwise looking forward) while maintaining hand contact. The anti-rotation speed should be approximately one-fourth to one-half revolution per second. An unairworthy clutch will feel rough with a continuous dry ''raspy'' feel and sound, or it may feel as though the clutch has heavy detents or ''catches'' on the interior surface that impede the free rotary motion.

(b) Remove any unairworthy clutch assembly, P/N K974002–701, before further flight and replace with an airworthy clutch assembly.

Note 2: Kaman K–1200 K–MAX Maintenance Manual Temporary Revision (TR) No. 284, dated November 5, 1999, which revises the procedures for engine area daily inspections and TR No. 289, dated November 12, 1999, which describes the method of inspecting the transmission assembly, pertain to the subject of this AD.

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

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

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

(e) This amendment becomes effective on February 8, 2000, to all persons except those persons to whom it was made immediately effective by Emergency Priority Letter AD 99–26–04, issued December 8, 1999, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on January 13, 2000.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–1642 Filed 1–21–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 99N–4955]

Amendment of Various Device Regulations to Reflect Current American Society for Testing and Material Citations

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending certain references in various medical device regulations. The amendments update the references in those regulations to various standards of the American Society for Testing and Materials (ASTM) to reflect the current standards designations. Elsewhere in this issue of the **Federal Register**, FDA is publishing a companion proposed rule, under FDA's usual procedures for notice-and-comment, to provide a procedural framework to finalize the rule in the event that the agency receives any significant adverse comment and withdraws the direct final rule.

DATES: The rule is effective June 7, 2000. Submit written comments on or before

April 10, 2000. If FDA receives no significant adverse comments within the specified comment period, the agency intends to publish in the **Federal Register** a document confirming the effective date of the direct final rule within 30 days after the comment period on this direct final rule ends. If the agency receives any adverse comments, FDA intends to withdraw this final rule by publication in the **Federal Register** of a document within 30 days after the comment period ends. The Director of the Office of the **Federal Register** approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in § 801.410(d)(2) (21 CFR 801.410(d)(2)) and § 801.430(f)(2) (21 CFR 801.430(f)(2), effective June 7, 2000.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy, Planning, and Legislation (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

SUPPLEMENTARY INFORMATION:

I. Background

The ASTM notified FDA that ASTM had been working on a project to help Federal agencies update and maintain the ASTM standards that are referenced in the Code of Federal Regulations (CFR's). Use of consensus standards such as those developed by ASTM is consistent with the purposes of the National Technology Transfer and Advancement Act of 1995, signed into law on March 7, 1996 (Public Law 104–113). As part of the ASTM project, ASTM informed FDA that many ASTM standards cited in FDA's food additive and device regulations were out-of-date and provided a list of standards with their current year designations. ASTM listed 58 different regulations which, in its opinion, needed to be updated.

FDA examined the ASTM's documentation and, upon closer examination, found that 56 of the 58 different FDA regulations identified by ASTM cited obsolete ASTM standards or that, in some cases, cited ASTM standards that had been withdrawn. Most regulations involved direct and indirect food additives, although two of the affected regulations involved medical devices. Consequently, through this rulemaking, FDA is revising the device regulations identified by ASTM that contain obsolete or withdrawn ASTM standards to reflect the current ASTM standards designations. FDA will update the citations for the food additive regulations in a separate rulemaking.

This direct final rule amends §§ 801.410(d)(2) and 801.430(f)(2) by incorporating by reference into the regulation the updated standard as follows:

- Section 801.410 *Use of impact-resistant lenses in eyeglasses and sunglasses*—The agency is amending paragraph (d)(2) by removing ''ASTM Method D 1415–68 'Test for International Hardness of Vulcanized Rubber,' '' and by adding in its place ''ASTM Method D 1415–88, Standard Test Method for Rubber Property—International Hardness,'' and also by removing ''ASTM Method D 412–68 'Tension Test of Vulcanized Rubber,' '' and by adding in its place ''ASTM Method D 412–97, Standard Test Methods for Vulcanized Rubber and Thermoplastic Rubbers and Thermoplastic Elastomers—Tension,''.
- Section 801.430 *User labeling for menstrual tampons*—The agency is amending paragraph (f)(2) by removing ''(ASTM), D 3492–83, 'Standard Specification for Rubber Contraceptives (Condoms)'' ' and by adding in its place ''(ASTM) D 3492–96, Standard Specification for Rubber Contraceptives (Male Condoms)''.

In addition, FDA is updating in § 801.410(d)(2) the address for the American Society for Testing and Materials.

II. Additional Information

In the **Federal Register** of November 21, 1997 (62 FR 62466), FDA described when and how it will employ direct final rulemaking. FDA believes this rule is appropriate for direct final rulemaking because FDA views this rule as making noncontroversial amendments to existing regulations, i.e., adopting revised ASTM methods for certain medical device regulations, and FDA anticipates no significant adverse comments. Consistent with FDA's procedures on direct final rulemaking, elsewhere in this issue of the **Federal Register**, FDA is publishing a companion proposed rule to amend the relevant medical device regulations. The companion proposed rule is substantially identical to the direct final rule. The companion proposed rule provides a procedural framework within which the rule may be finalized in the event the direct final rule is withdrawn because of any significant adverse comments. The comment period for the direct final rule runs concurrently with the comment period of the companion proposed rule. Any comments received under the companion proposed rule will be considered as comments regarding the direct final rule.

FDA is providing a comment period on the direct final rule of 75 days after January 24, 2000. If the agency receives any significant adverse comments, FDA intends to withdraw this final rule by publication in the **Federal Register** of a document within 30 days after the comment period ends. A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without change. In determining whether a significant adverse comment is sufficient to terminate a direct final rulemaking, FDA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. In addition, if a significant adverse comment applies to an amendment, paragraph, or section of this rule and that provision can be severed from the remainder of the rule, FDA may adopt as final those provisions of the rule that are not the subject of a significant adverse comment.

If FDA withdraws the direct final rule, all comments received will be considered under the companion proposed rule in developing a final rule under the usual notice-and-comment procedures under the Administrative Procedure Act (5 U.S.C. 552 *et seq.*). If FDA receives no significant adverse comments during the specified comment period, FDA intends to publish a confirmation notice in the **Federal Register** within 30 days after the comment period ends. FDA intends to make the direct final rule effective June 7, 2000.

III. Environmental Impact

The agency has determined, under 21 CFR 25.30(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and

benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. The revised ASTM standard citations that FDA is adopting in the medical device regulations reflect minor changes to the currently listed methods in those regulations. The updated citations are the result of periodic reapprovals of long-standing test methods or standards and should have no significant adverse impact on those who use the standard. Thus, the rule is not a significant regulatory action as defined in Executive Order 12866, and so is not subject to review under the Executive Order.

Under section 603(a) of the Regulatory Flexibility Act (RFA), for any proposed rule for which the agency is required by section 553 of the Administrative Procedure Act or any other law to publish a general notice of proposed rulemaking, the agency is required to analyze regulatory options that would minimize any significant economic impact of a rule on small entities. The agency has published, in the companion proposed rule published elsewhere in this **Federal Register**, an initial regulatory flexibility analysis. Because the companion proposed rule is a proposed rule for which a general notice of proposed rulemaking is required, and therefore is subject to the RFA, the agency will consider any comments it receives on the initial regulatory flexibility analysis in the companion proposed rule when deciding whether to withdraw this direct final rule.

V. Paperwork Reduction Act of 1995

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

Interested persons may, on or before April 10, 2000, submit to the Dockets Management Branch (address above) written comments regarding this final rule. The comment period runs concurrently with the comment period for the companion proposed rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. All comments received will be considered as comments regarding the proposed rule and this direct final rule. In the event that the direct final rule is withdrawn, all comments received regarding the companion proposed rule and the direct final rule will be considered as comments on the proposed rule.

List of Subjects in 21 CFR Part 801

Hearing aids, Incorporation by reference, Medical devices, Professional and patient labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 801 is amended as follows:

PART 801—LABELING

1. The authority citation for 21 CFR part 801 continues to read as follows:

Authority : 21 U.S.C. 321, 331, 351, 352, 360i, 360j, 371, 374.

§ 801.410 [Amended]

2. Section 801.410 *Use of impact-resistant lenses in eyeglasses and sunglasses* is amended in paragraph (d)(2) by removing ''ASTM Method D 1415–68 'Test for International Hardness of Vulcanized Rubber,' '' and by adding in its place ''ASTM Method D 1415–88, Standard Test Method for Rubber Property—International Hardness,''; by removing ''ASTM Method D 412–68 'Tension Test of Vulcanized Rubber,' '' and by adding in its place ''ASTM Method D 412–97, Standard Test Methods for Vulcanized Rubber and Thermoplastic Rubbers and Thermoplastic Elastomers—Tension,''; and by removing ''1916 Race St., Philadelphia, PA 19103, or available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC 20408.)'' and by adding in its place ''100 Barr Harbor Dr., West Conshohocken, Philadelphia, PA 19428, or available for inspection at the Center for Devices and Radiological Health's Library, 9200 Corporate Blvd., Rockville, MD 10850, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.''

§ 801.430 [Amended]

3. Section 801.430 *User labeling for menstrual tampons* is amended in paragraph (f)(2) by removing ''(ASTM), D 3492–83, 'Standard Specification for Rubber Contraceptives (Condoms)' '' and by adding in its place ''(ASTM) D 3492–96, 'Standard Specification for Rubber Contraceptives (Male Condoms)' ''; and by revising the footnote to read ''Copies of the standard are available from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428, or available for inspection at the Center for Devices and Radiological Health's Library, 9200 Corporate Blvd., Rockville, MD 10850, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.''

Dated: December 29, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–1404 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8863]

RIN 1545–AX64

Stock Transfer Rules: Supplemental Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that provide an election for certain taxpayers engaged in certain exchanges described in section 367(b). These regulations provide guidance for taxpayers that make the specified election in order to determine the extent to which income must be included and certain corresponding adjustments must be made. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date.* These regulations are effective as of February 23, 2000.

Applicability Date. These regulations apply to section 367(b) exchanges that occur on or after February 23, 2000.

FOR FURTHER INFORMATION CONTACT: Mark D. Harris, (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the

Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1666. Responses to this collection of information is mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On December 27, 1977, the IRS and Treasury issued proposed and temporary regulations under section 367(b) of the Internal Revenue Code (Code). Subsequent guidance updated and amended the 1977 temporary regulations (the 1977 regulations) several times over the next 14 years. On August 26, 1991, the IRS and Treasury issued proposed regulations §§ 1.367(b)–1 through 1.367(b)–6 (the 1991 proposed regulations). Comments to the 1991 proposed regulations were received, and a public hearing was held on November 22, 1991. In June of 1998, the IRS and Treasury issued final regulations under sections 367(a) and (b) (the 1998 regulations). The 1998 regulations addressed transactions under section 367(b) only to the extent the transactions are also subject to the stock transfer rules of section 367(a). Thus, the 1977 regulations have remained in effect to the extent not superseded by the 1998 regulations. The preamble to the 1998 regulations stated that the IRS and Treasury would issue guidance at a later date to address the portions of the 1991 proposed regulations related to section 367(b) that were not addressed in the 1998 regulations.

The IRS and Treasury adopted §§ 1.367(b)–1 through 1.367(b)–6 as final regulations under section 367(b) (see final section 367(b) regulations published elsewhere in this issue of the **Federal Register**). These temporary regulations relate to certain provisions of the 1991 proposed regulations not adopted in the final section 367(b) regulations (published elsewhere in this issue of the **Federal Register**).

General Purpose

These temporary regulations address the elimination of an election available to certain taxpayers under the 1991 proposed regulations that was not adopted in the final section 367(b) regulations (published elsewhere in this issue of the **Federal Register).**

Specific Provisions

A. § 1.367(b)–3T(b)(4): Election of Taxable Exchange Treatment

Section 1.367(b)–3 of the 1991 proposed regulations addressed transactions in which a foreign corporation transfers assets to a domestic corporation pursuant to a Subchapter C nonrecognition provision. These transactions include a section 332 liquidation of a foreign corporation into a domestic parent corporation and an asset reorganization, such as a C, D or F reorganization, of a foreign corporation into a domestic corporation. The 1991 proposed regulations required a U.S. shareholder of a foreign acquired corporation (or, in certain cases, a foreign subsidiary of the U.S. shareholder) to currently include in income the allocable portion of the foreign acquired corporation's earnings and profits accumulated during the U.S. shareholder's holding period (all earnings and profits amount). The final section 367(b) regulations (published elsewhere in this issue of the **Federal Register**) adopted this general rule.

Sections 7.367(b)–5(b) and 7.367(b)–7(c)(2)(ii) of the 1977 regulations and § 1.367(b)–3(b)(2)(iii) of the 1991 proposed regulations provided an exception to this rule, which permitted an exchanging shareholder to elect to recognize the gain (but not the loss) that it realizes in the exchange (taxable exchange election), rather than include the all earnings and profits amount in income. To the extent the all earnings and profits amount exceeds a shareholder's stock gain, the 1991 proposed regulations further required the foreign acquired corporation to reduce various tax attributes that would otherwise carryover to the domestic acquiring corporation (attribute reduction regime). The final regulations (published elsewhere in this issue of the **Federal Register**) did not adopt the taxable exchange election.

In order to provide taxpayers an opportunity to comment on this change, these temporary regulations provide the taxable exchange election in modified form. The modified election permits an exchanging shareholder to elect to treat a transaction as a taxable exchange, but limits application of the attribute reduction regime to a section 332 liquidation or to an inbound asset reorganization in which the foreign acquired corporation is wholly owned (directly or indirectly) by one U.S. person.

These temporary regulations apply to section 367(b) exchanges that occur between February 23, 2000, and February 23, 2001.

Further Explanation

For a more detailed discussion regarding section 367(b), see the final section 367(b) regulations published elsewhere in this issue of the **Federal Register**.

Special Analyses

It has been determined that these Temporary regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Further it is hereby certified pursuant to sections 603(a) and 605(b) of the Regulatory Flexibility Act that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the number of section 367(b) exchanges that require reporting under these regulations is estimated to be only 20 per year. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

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

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.367(b)–3T also issued under 26 U.S.C. 367(a) and (b). * * *

Par. 2. Section 1.367(b)–3T is added to read as follows:

§ 1.367(b)–3T Repatriation of foreign corporate assets in certain nonrecognition transactions (temporary).

(a) through (b)(3). [Reserved]. For further guidance, see § 1.367(b)–3(a) through (b)(3).

(4) *Election of taxable exchange treatment*—(i) *Rules*—(A) *In general.* In lieu of the treatment prescribed by § 1.367(b)–3(b)(3)(i), an exchanging shareholder described in § 1.367(b)–3(b)(1) may instead elect to recognize the gain (but not loss) that it realizes in the exchange (taxable exchange election). To make a taxable exchange election, the following requirements must be satisfied—

(*1*) The exchanging shareholder (and its direct or indirect owners that would be affected by the election, in the case of an exchanging shareholder that is a foreign corporation) reports the exchange in a manner consistent therewith (see, e.g., sections 954(c)(1)(B)(i), 1001 and 1248);

(*2*) The notification requirements of paragraph (b)(4)(i)(C) of this section are satisfied; and

(*3*) The adjustments described in paragraph (b)(4)(i)(B) of this section are made when the following circumstances are present—

(*i*) The transaction is described in section 332 or is an asset acquisition described in section 368(a)(1), with regard to which one U.S. person owns (directly or indirectly) 100 percent of the foreign acquired corporation; and

(*ii*) The all earnings and profits amount described in § 1.367(b)–3(b)(3)(i) with respect to the exchange exceeds the gain recognized by the exchanging shareholder.

(B) *Attribute reduction*—(*1*) *Reduction of NOL carryovers.* The amount by which the all earnings and profits amount exceeds the gain recognized by the exchanging shareholder (the excess earnings and profits amount) shall be applied to reduce the net operating loss carryovers (if any) of the foreign acquired corporation to which the domestic acquiring corporation would otherwise succeed under section 381(a) and (c)(1). See also Rev. Rul. 72–421 (1972–2 C.B. 166) (see § 601.601(d)(2) of this chapter).

(*2*) *Reduction of capital loss carryovers.* After the application of paragraph (b)(4)(i)(B)(*1*) of this section, any remaining excess earnings and profits amount shall be applied to reduce the capital loss carryovers (if any) of the foreign acquired corporation to which the domestic acquiring corporation would otherwise succeed under section 381(a) and (c)(3).

(*3*) *Reduction of basis.* After the application of paragraph (b)(4)(i)(B)(*2*) of this section, any remaining excess earnings and profits amount shall be applied to reduce (but not below zero) the basis of the assets (other than dollar-denominated money) of the foreign acquired corporation that are acquired by the domestic acquiring corporation. Such remaining excess earnings and profits amount shall be applied to reduce the basis of such assets in the following order: first, tangible depreciable or depletable assets, according to their class lives (beginning with those assets with the shortest class life); second, other non-inventory tangible assets; third, intangible assets that are amortizable; and finally, the remaining assets of the foreign acquired corporation that are acquired by the domestic acquiring corporation. Within each of these categories, if the total basis of all assets in the category is greater than the excess earnings and profits amount to be applied against such basis, the taxpayer may choose to which specific assets in the category the basis reduction first applies.

(C) *Notification.* The exchanging shareholder shall elect to apply the rules of this paragraph (b)(4)(i) by attaching a statement of its election to its section 367(b) notice. See § 1.367(b)–1(c) For the rules concerning filing a section 367(b) notice.

(D) *Example.* The following example illustrates the rules of this paragraph (b)(4)(i):

Example—(i) *Facts.* DC, a domestic corporation, owns all of the outstanding stock of FC, a foreign corporation. The stock of FC has a value of $100, and DC has a basis of $80 in such stock. The assets of FC are one parcel of land with a value of $60 and a basis of $30, and tangible depreciable assets with a value of $40 and a basis of $80. FC has no net operating loss carryovers or capital loss carryovers. The all earnings and profits amount with respect to the FC stock owned by DC is $30, of which $19 is described in section 1248(a) and the remaining $11 is not (for example, because it was earned prior to 1963). In a liquidation described in section 332, FC distributes all of its property to DC, and the FC stock held by DC is canceled. Rather than including in income as a deemed dividend the all earnings and profits amount of $30 as provided in § 1.367(b)–3(b)(3)(i), DC instead elects taxable exchange treatment under paragraph (b)(4)(i)(A) of this section.

(ii) *Result.* DC recognizes the $20 of gain it realizes on its stock in FC. Of this $20 amount, $19 is included in income by DC as a dividend pursuant to section 1248(a). (For the source of the remaining $1 of gain recognized by DC, see section 865. For the treatment of the $1 for purposes of the foreign tax credit limitation, see generally section 904(d)(2)(A)(i).) Because the transaction is described in section 332 and because the all earnings and profits amount with respect to the FC stock held by DC ($30) exceeds by $10 the income recognized by DC ($20), the attribute reduction rules of paragraph (b)(4)(i)(B) of this section apply. Accordingly, the $10 excess earnings and profits amount is applied to reduce the basis of the tangible depreciable assets of FC, beginning with those assets with the shortest class lives. Under section 337(a) FC does not recognize gain or loss in the assets that it distributes to DC, and under section 334(b) (which is applied taking into account the basis reduction prescribed by paragraph (b)(4)(i)(A)(*3*) of this section) DC takes a basis of $30 in the land and $70 in the tangible depreciable assets that it receives from FC.

(ii) *Effective date.* This paragraph (b)(4) applies for section 367(b) exchanges that occur between February 23, 2000, and February 23, 2001.

(c) and (d) [Reserved]. For further guidance, see § 1.367(b)–3(c) through (d).

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (b) is amended as follows:

1. Removing the following entries from the table:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB Control No.
* * * * *	
7.367(b)–1	1545–0026
7.367(b)–3	1545–0026
7.367(b)–7	1545–0026
7.367(b)–9	1545–0026
7.367(b)–10	1545–0026
* * * * *	

2. Adding the following entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.367(b)–3T	1545–1666
* * * * *	

John M. Dalrymple,

Acting Deputy Commissioner of Internal Revenue.

Approved: December 22, 1999.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 00–1379 Filed 1–21–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 7, and 602

[TD 8862]

RIN 1545–AI32

Stock Transfer Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations addressing the application of nonrecognition exchange provisions in Subchapter C of the Internal Revenue Code to transactions that involve one or more foreign corporations. These regulations provide guidance for taxpayers engaging in those transactions in order to determine the extent to which income shall be included and appropriate corresponding adjustments shall be made.

DATES: *Effective Date.* These regulations are effective as of February 23, 2000.

Applicability Dates. These regulations apply to section 367(b) exchanges that occur on or after February 23, 2000. However, taxpayers may choose to apply these regulations to section 367(b) exchanges that occur before February 23, 2000, as specified in § 1.367(b)–6(a)(2).

FOR FURTHER INFORMATION CONTACT: Mark D. Harris, (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1271. Responses to these collections of information are mandatory.

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

The estimated average annual reporting burden in these final regulations is 4 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to these collections of information must be retained as long as their contents may become material in the administration of any internal revenue law.

Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On December 27, 1977, the IRS and Treasury issued proposed and temporary regulations under section 367(b) of the Internal Revenue Code (Code). Subsequent guidance updated and amended the 1977 temporary regulations (the 1977 regulations) several times over the next 14 years. On August 26, 1991, the IRS and Treasury issued proposed regulations §§ 1.367(b)–1 through 1.367(b)–6 (the 1991 proposed regulations). Comments to the 1991 proposed regulations were received, and a public hearing was held on November 22, 1991. In June of 1998, the IRS and Treasury issued final regulations under sections 367(a) and (b) (the 1998 regulations). The 1998 regulations addressed transactions under section 367(b) only to the extent the transactions are also subject to the stock transfer rules of section 367(a). Thus, the 1977 regulations have remained in effect to the extent not superseded by the 1998 regulations. The preamble to the 1998 regulations stated that the IRS and Treasury would issue guidance at a later date to address the portions of the 1991 proposed regulations related to section 367(b) that were not addressed in the 1998 regulations.

After consideration of the 1977 regulations and their updates and amendments, the 1991 proposed regulations and their updates and amendments, the 1998 regulations, and all comments received with respect to such regulations, the IRS and Treasury adopt §§ 1.367(b)–1 through 1.367(b)–6 as final regulations under section 367(b).

Overview

A. General Policies of Section 367(b)

Section 367(b) governs corporate restructurings under sections 332, 351, 354, 355, 356, and 361 (except to the extent described in section 367(a)(1)) in which the status of a foreign corporation as a ''corporation'' is necessary for application of the relevant nonrecognition provisions. Section 367(b) provides that a foreign corporation that is a party to one of the enumerated nonrecognition transactions shall be respected as a corporation, and thereby the parties involved in the transaction shall obtain the benefits of the applicable nonrecognition exchange provisions and their related provisions (such as section 381) (together, the Subchapter C provisions), except to the extent provided in regulations.

The principal purpose of section 367(b) is to prevent the avoidance of U.S. tax that can arise when the Subchapter C provisions apply to transactions involving foreign corporations. The potential for tax avoidance arises because of differences between the manner in which the United States taxes foreign corporations and their shareholders and the manner in which the United States taxes domestic corporations and their U.S. shareholders.

The Subchapter C provisions generally have been drafted to apply to domestic corporations and U.S. shareholders, and thus do not fully take into account the cross-border aspects of U.S. taxation (such as deferral, foreign tax credits, and section 1248). Section 367(b) was enacted to help ensure that international tax considerations in the Code are adequately addressed when the Subchapter C provisions apply to an exchange involving a foreign corporation. Because determining the proper interaction of the Code's international and Subchapter C provisions is ''necessarily highly technical,'' Congress granted the Secretary broad regulatory authority to provide the ''necessary or appropriate'' rules, rather than enacting a complex

statutory regime. H.R. Rep. No. 658, 94th Cong., 1st Sess. 241 (1975).

Accordingly, as the preamble to the 1991 proposed regulations stated, the section 367(b) regulations require adjustments or inclusions in order to prevent the material distortion of income that can occur when the Subchapter C provisions apply to an exchange involving a foreign corporation. The 1991 proposed regulations simplified the 1977 regulations and were generally favorably received by taxpayers. The final regulations adopt the 1991 proposed regulations with modifications. The modifications are based on further considerations of fairness, simplicity, and administrability.

The final regulations also incorporate the section 367(b) rules contained in the 1998 regulations. The 1998 regulations finalized portions of the 1991 proposed regulations to the extent necessary to address the overlap between section 367(b) and the section 367(a) stock transfer rules. Because the scope of the final regulations is broader than that overlap, the final regulations adopt the 1998 section 367(b) provisions in a manner appropriate to their incorporation into the final regulations.

The IRS and Treasury are also issuing other guidance under section 367(b). Temporary and proposed regulations (published elsewhere in this issue of the **Federal Register**) address the elimination of an election available to certain taxpayers under the 1977 regulations and the 1991 proposed regulations. In addition, the IRS and Treasury intend to issue other proposed regulations that provide rules regarding the combination and separation of corporate-level tax attributes in applicable section 367(b) exchanges.

B. Specific Policies in Context of Inbound Nonrecognition Transactions

Section 1.367(b)–3 addresses transactions in which a foreign corporation transfers assets to a domestic corporation pursuant to a Subchapter C provision. These transactions include a section 332 liquidation of a foreign corporation into a domestic parent corporation and an asset reorganization, such as a C, D, or F reorganization, of a foreign corporation into a domestic corporation (inbound nonrecognition transactions). Section 381 generally provides rules regarding the extent to which corporate attributes carry over in such transactions.

The principal policy consideration of section 367(b) with respect to inbound nonrecognition transactions is the appropriate carryover of attributes from foreign to domestic corporations. This consideration has interrelated shareholder-level and corporate-level components. At the shareholder level, the section 367(b) regulations are concerned with the proper taxation of previously deferred earnings and profits. At the corporate level, the section 367(b) regulations are concerned with both the extent and manner in which tax attributes carry over in light of the variations between the Code's taxation of foreign and domestic corporations.

The section 367(b) regulations have historically focused on the carryover of earnings and profits and bases of assets, simultaneously addressing the shareholder and corporate level concerns by accounting for any necessary adjustments through an income inclusion by the U.S. shareholders of the foreign acquired corporation (and without limiting the extent to which the domestic acquiring corporation succeeds to the attributes). The 1991 proposed regulations required a U.S. shareholder of the foreign acquired corporation (or, in certain cases, a foreign subsidiary of the U.S. shareholder) to currently include in income the allocable portion of the foreign acquired corporation's earnings and profits accumulated during the U.S. shareholder's holding period (all earnings and profits amount). The requirement to include in income the all earnings and profits amount results in the taxation of previously unrepatriated earnings accumulated during a U.S. shareholder's (direct or indirect) holding period. This income inclusion prevents the conversion of a deferral of tax into a forgiveness of tax and generally ensures that the section 381 carryover basis reflects an after-tax amount. However, the all earnings and profits amount inclusion does not consider tax attributes that accrue during a non-U.S. person's holding period.

Commentators criticized the scope of the 1991 proposed regulations, arguing that the all earnings and profits amount should be limited to the amount that a shareholder would include in income as a deemed dividend under section 1248. The scope of the all earnings and profits amount is broader than the section 1248 amount because, for example, the all earnings and profits amount is calculated without regard to whether the foreign corporation is a CFC and without regard to a shareholder's gain in the stock. However, this view too narrowly construes the role of section 367(b) by focusing on potential shareholder-level consequences without adequately considering the section 367(b) policy of determining the appropriate carryover of corporate-level attributes in inbound nonrecognition transactions. Thus, the final regulations retain the 1991 proposed regulations' definition of all earnings and profits amount. The final regulations also generally retain (subject to a new de minimis exception) the taxation of all exchanging U.S. shareholders in inbound nonrecognition transactions.

In finalizing these regulations, the IRS and Treasury considered whether future section 367(b) regulations should limit the extent to which tax attributes carry over from foreign to domestic corporations. Such a limitation would more directly implement the section 367(b) policy related to the carryover of attributes and, as a result, reduce the class of U.S. persons required to have an income inclusion in connection with an inbound nonrecognition transaction. Such a limitation would also enable the section 367(b) regulations to address the carryover of attributes attributable to a non-U.S. person's holding period. The IRS and Treasury request comments as to the merits of an attribute carryover limitation, as well as other approaches that could address the carryover of tax attributes related to a non-U.S. person's holding period under section 367(b).

C. Specific Policies in Context of Foreign-to-Foreign Nonrecognition Transactions and Section 355 Distributions

Section 1.367(b)–4 addresses transactions in which a foreign corporation acquires the stock or assets of another foreign corporation in an exchange described in section 351 or a section 368(a)(1)(B), (C), (D), (E), (F) or (G) reorganization (foreign-to-foreign nonrecognition transactions). Section 1.367(b)–5 provides rules regarding a distribution by a foreign corporation of the stock or securities of a domestic or foreign corporation described in section 355. The historic policy objective of section 367(b) in both of these contexts has been to preserve the potential application of section 1248. Thus, the amount that would have been recharacterized as a dividend under section 1248 upon a disposition of the stock (section 1248 amount) generally must be included in income as a dividend at the time of the section 367(b) exchange to the extent such section 1248 amount would not be preserved immediately following the section 367(b) exchange.

The final regulations do not address all of the policy considerations raised by the application of the Subchapter C provisions to transactions described in §§ 1.367(b)–4 and 1.367(b)–5. For

example, current rules regarding the carryover or separation of foreign corporations' earnings and profits do not adequately consider the international aspects of the Code, most notably the foreign tax credit. Forthcoming proposed regulations will consider these issues. Until the IRS and Treasury promulgate such regulations, taxpayers should use a reasonable method (consistent with existing law and taking proper account of the purposes of the foreign tax credit regime) to determine the carryover and separation of earnings and profits and related foreign taxes.

Explanation of Provisions

The IRS received numerous comments on the 1991 proposed regulations. The following discussion summarizes the comments and changes to the 1991 proposed regulations.

A. § 1.367(b)–1(c): Notice Requirements

Section 1.367(b)–1(c) of the 1991 proposed regulations required any person that realizes income in a section 367(b) exchange to file a notice with respect to the exchange, regardless of such person's status as a U.S. person and its percentage ownership in the corporation that is a party to the section 367(b) exchange. Commentators criticized this notice requirement as overly broad. The 1998 regulations limited the notice requirement to shareholders that realize income and file a tax return under section 6012. The final regulations further revise the notice requirement and generally narrow its scope by requiring notice only with respect to persons and transactions that may be subject to an inclusion under the final regulations' operative provisions.

B. § 1.367(b)–2: Definitions and Special Rules

1. § 1.367(b)–2(d): All Earnings and Profits Amount

Section 1.367(b)–2(d) of the 1991 proposed regulations generally defined ''all earnings and profits amount'' as the allocable share of net positive earnings and profits accrued by a foreign corporation during a shareholder's holding period. The 1991 proposed regulations provided that the all earnings and profits amount is determined according to the attribution principles of section 1248. Because the section 1248 attribution rules incorporate the section 1223 holding period rules, commentators were concerned that the definition of all earnings and profits amount inappropriately included earnings and profits attributable to the holding period of non-U.S. persons by virtue of the rules of section 1223(2).

In response, the final regulations amend the definition of all earnings and profits amount to exclude amounts attributable to the holding period of non-U.S. persons. This modification applies to the extent the non-U.S. person was not directly or indirectly owned by U.S. persons with a 10 percent or greater interest when the earnings and profits accumulated. An example in the final regulations illustrates this new rule.

When applying the attribution principles of section 1248 for purposes of determining the all earnings and profits amount, the requirements of section 1248 unrelated to computing the amount of earnings and profits attributable to a shareholder's block of stock should not apply. The final regulations explicitly state this principle. The 1991 proposed regulations applied this principle, for example, when they provided that the all earnings and profits amount is calculated without regard to whether the foreign corporation is a controlled foreign corporation (CFC). The final regulations further specify that the all earnings and profits amount includes earnings attributable to an exchanging shareholder's stock, without regard to whether the exchanging shareholder owned 10 percent of the stock of the foreign acquired corporation. A new example in the final regulations illustrates these rules.

2. § 1.367(b)–2(e): Treatment of Deemed Dividends

Section 1.367(b)–2(e) of the 1991 proposed regulations provided that a deemed dividend shall be treated as an actual dividend. Thus, a deemed dividend was considered as paid out of the earnings and profits of a foreign corporation and was considered as having been paid through intermediate owners (when appropriate). One commentator noted that an inclusion under the 1991 proposed regulations could yield a different result from an inclusion under section 1248 because section 1248 treats a corporation as having paid the section 1248 amount directly to an exchanging shareholder despite any intermediate owners.

A deemed dividend under section 367(b) is distinguishable from a section 1248 inclusion because a section 1248 inclusion is not treated as a dividend at the corporate level. Thus, a corporation does not reduce its earnings and profits with regard to an inclusion under section 1248. Instead, the shareholder-level inclusion is considered eligible to be treated as previously taxed earnings and profits (PTI) upon a subsequent distribution. In light of this distinction between section 367(b) and section 1248, the final regulations retain the rule in § 1.367(b)–2(e) of the 1991 proposed regulations.

3. Final Regulation § 1.367(b)–2(j): Sections 985 Through 989

Section 1.367(b)–2(k) of the 1991 proposed regulations provided rules regarding currency exchange inclusions or adjustments that result from a section 367(b) exchange. The final regulations apply the principles of the 1991 proposed regulations, but provide the following modifications.

The 1991 proposed regulations required an acquired corporation that participates in a transaction described in section 381(a) to change its functional currency if the acquiring corporation has a different functional currency. The rule was intended to ensure that taxpayers use the correct functional currency after a section 367(b) exchange. However, functional currency is determined separately for each qualified business unit (QBU). In addition, the functional currency of a QBU of either the acquired or acquiring corporation may change as a result of a section 367(b) exchange. Accordingly, the final regulations provide that a QBU is deemed to have automatically changed its functional currency when its functional currency, as determined after a section 367(b) exchange, is different than before the exchange. Thus, the QBU is required to make appropriate adjustments under § 1.985–5.

The 1991 proposed regulations provided that, if an exchanging shareholder is required to include in income either the all earnings and profits amount or the section 1248 amount, then immediately before the exchange and solely for purposes of computing exchange gain or loss under section 986(c), the shareholder is treated as receiving a distribution of PTI from the appropriate foreign corporation. The purpose of this provision was to ensure that exchange gain or loss under section 986(c) is subject to current inclusion when the earnings of the foreign corporation are no longer deferred or to the extent a taxpayer does not retain its interest in PTI.

Section 1.367(b)–2(j)(2) of the final regulations expands the rules regarding the treatment of exchange gain or loss on PTI under section 986(c). An exchanging shareholder that is a U.S. person is required to recognize its section 986(c) gain or loss to the extent that deferral has ended with respect to

a foreign corporation's earnings (as can occur in the case of an inbound or foreign-to-foreign nonrecognition transaction) or the U.S. person has a diminished interest in the PTI after the exchange (as can occur in the case of a section 355 distribution by a foreign corporation). A different rule applies when a U.S. person indirectly holds (through a foreign exchanging shareholder) its interest in the foreign corporation with regard to which the PTI inclusion is measured. In that case, the indirect U.S. shareholder does not recognize section 986(c) gain or loss at the time of the section 367(b) exchange. In order to preserve such section 986(c) gain or loss for future inclusion by the indirect U.S. shareholder, the foreign exchanging shareholder is treated as having received a distribution of the PTI.

Other rules under sections 985 through 989, such as the branch termination rules, may also apply to the transaction.

C. § 1.367(b)–3: Repatriation of Foreign Corporate Assets in Certain Nonrecognition Transactions

Section 1.367(b)–3 provides rules with respect to inbound nonrecognition transactions.

1. § 1.367(b)–3(b): Exchanges of Stock

Section 1.367(b)–3(b) of the 1991 proposed regulations generally provided that if an exchanging shareholder is either (i) a 10 percent U.S. shareholder of the foreign acquired corporation or (ii) a foreign corporation with respect to which a U.S. person is either a section 1248 shareholder or a domestic corporation that meets the stock ownership requirements of section 902, the shareholder must include in income as a deemed dividend the all earnings and profits amount attributable to its stock in the foreign acquired corporation. The final regulations generally retain this rule. However, in order to provide greater consistency among its various ownership thresholds, the final regulations revise § 1.367(b)–3(b)(ii) so that § 1.367(b)–3(b) applies to a foreign corporation with respect to which there is, in general, a 10 percent U.S. shareholder.

The 1991 proposed regulations provided that the same country dividend exception in section 954(c)(3)(A)(i) does not apply to an exchanging shareholder that is a CFC. Commentators criticized this rule, stating that a deemed dividend under section 367(b) should not be treated more harshly than an actual dividend and that taxpayers can circumvent this rule by having a lower-tier foreign corporation distribute a dividend before an asset transfer. However, unlike a dividend distribution that qualifies for the same country dividend exception, an inbound asset transfer represents a current repatriation of earnings into the United States. Accordingly, the final regulations retain the rule in the 1991 proposed regulations that the same country dividend exception does not apply to an exchanging shareholder that is a CFC.

The 1991 proposed regulations generally required the recognition of exchange gain (or loss) to the extent that an exchanging shareholder's capital account in a foreign acquired corporation appreciated (or depreciated) as a result of changes in currency exchange rates. Such gain (or loss) is reflected in the basis of assets when translated at the spot rate. The preamble to the 1991 proposed regulations invited comments regarding the calculation of such exchange gain (or loss), particularly in cases when a shareholder acquired the foreign corporate stock by purchase rather than in connection with the corporation's formation. None of the comments suggested a method for determining and tracking shareholder capital accounts. Most comments focused on the potential complexity and compliance burdens created by the rule. After considering the administrability issues associated with the exchange gain (or loss) calculation, the final regulations do not adopt the provision requiring the recognition of exchange gain (or loss) on a shareholder's capital account. However, the final regulations reserve the issue for further consideration.

Sections 7.367(b)–5(b) and 7.367(b)–7(c)(2)(ii) of the 1977 regulations, and § 1.367(b)–3(b)(2)(iii) of the 1991 proposed regulations provided an exchanging shareholder with an opportunity to recognize the gain (but not the loss) that it realizes in the exchange (taxable exchange election), rather than including the all earnings and profits amount in income as a deemed dividend. This taxable exchange election, however, is inconsistent with the policies of section 367(b) that apply to inbound transactions. These policies, as previously discussed, are unrelated to an exchanging shareholder's outside gain on its stock.

Moreover, when the all earnings and profits amount exceeds a shareholder's gain on its stock, merely limiting the shareholder's inclusion to its outside stock gain creates the potential for the duplication and importation of losses. See TAM 9003005 (September 28, 1989) (interpreting the 1977 regulations) (available at IRS Freedom of Information Act Reading Room, 1111 Constitution Avenue, NW., Washington, DC 20224). The 1991 proposed regulations attempted to address this aspect of the taxable exchange election by requiring various attributes of the foreign acquired corporation (such as basis in its assets) to be reduced (attribute reduction regime) to the extent the all earnings and profits amount exceeds an exchanging shareholder's stock gain.

However, the taxable exchange election in the 1991 proposed regulations had other shortcomings. The election added substantial complexity to the regulations by requiring timely coordination between electing shareholders and the acquiring corporation to carry out the required attribute reductions. In addition, the attribute reduction regime can be unfair in situations involving more than one exchanging U.S. shareholder. For example, consider an inbound C, D, or F reorganization involving two U.S. shareholders of the foreign acquired corporation, one that makes the taxable exchange election (because its gain on the stock is less than its all earnings and profits amount) and one that does not. In connection with the electing shareholder's taxable exchange election, the 1991 proposed regulations required a proportionate reduction in certain tax attributes of the foreign acquired corporation. This reduction effectively allowed the electing shareholder to transfer to the acquiring corporation the burden created by its decision not to include in income its full all earnings and profits amount and, thereby, to effectively shift a portion of this burden to the non-electing shareholder (that has already paid U.S. tax on its full share of the foreign corporation's earnings and profits).

Finally, a taxable exchange election is not required by the statute. Section 367(b) directs the Secretary to prescribe regulations that provide the necessary or appropriate tax consequences that should accompany the application of the Subchapter C provisions to transactions involving foreign corporations. Section 367(b)(2) specifically provides that the section 367(b) regulations may include the circumstances under which ''gain shall be recognized currently or amounts included in gross income currently as a dividend, or both * * *.'' Thus, the statute authorizes the IRS and Treasury to require an inclusion of amounts, as distinct from gain. As previously discussed, the all earnings and profits amount appropriately measures an exchanging shareholder's income

inclusion in connection with an inbound nonrecognition transaction.

After balancing the above considerations against the benefits of the taxable exchange election, the final regulations do not adopt the taxable exchange election. However, in order to provide taxpayers an opportunity to comment on this change to the 1977 regulations and the 1991 proposed regulations, the IRS and Treasury are concurrently issuing temporary and proposed regulations that provide the taxable exchange election in modified form. This election permits an exchanging shareholder to elect to treat a transaction as a taxable exchange, but modifies the attribute reduction regime by limiting its application to a section 332 liquidation or to an inbound asset reorganization in which the foreign acquired corporation is wholly owned (directly or indirectly) by one U.S. person. This limited application of the attribute reduction regime eliminates the potentially unfair results that can arise when attributes are reduced in a transaction involving multiple exchanging shareholders. This also reduces (although does not eliminate) the potential for the duplication and importation of losses that can arise in the absence of attribute reduction. The temporary regulation is effective for one year from the effective date of the final regulations.

2. § 1.367(b)–3(c): Exchanges of Stock by Other U.S. Persons

Section 1.367(b)–3(c) of the 1991 proposed regulations provided a special rule for U.S. persons that are not subject to the § 1.367(b)–3(b) requirement to include in income the all earnings and profits amount (generally, shareholders owning less than 10 percent of the foreign acquired corporation, hereinafter small shareholders). The 1991 proposed regulations required these small shareholders to recognize the gain on their stock in the foreign acquired corporation. This rule was included because of administrative concerns, since small shareholders may not have sufficient information to calculate their all earnings and profits amounts. In addition, a foreign acquired corporation may not have adequate information about its small shareholders' inclusions to properly adjust its earnings and profits for the deemed dividends that would arise in these situations.

Commentators requested that the final regulations provide small shareholders the option of including in income the all earnings and profits amount, rather than recognizing the gain on their stock. In response, the final regulations include such an election, provided that a small shareholder has sufficient information to substantiate its all earnings and profits amount and provided that the small shareholder furnishes proper certification to the foreign acquired corporation (or its successor in interest) so that the corporation can properly reduce its earnings and profits. Electing small shareholders must also comply with the section 367(b) notice requirement. A less extensive section 367(b) notice procedure is available if the foreign acquired corporation has never had earnings and profits that would result in any shareholder having an all earnings and profits amount.

Commentators also requested an election that would permit a domestic acquiring corporation to include in income the all earnings and profits amounts on behalf of the foreign acquired corporation's small shareholders. The final regulations do not adopt this suggestion because of its substantial administrative difficulties. For example, it is unlikely that a publicly traded foreign corporation (or its domestic acquirer) could ascertain each small shareholder's correct holding period in the stock of the foreign acquired corporation, which would be necessary to properly determine such a cumulative all earnings and profits amount inclusion.

The final regulations also include a new de minimis exception, which applies to small shareholders whose stock in the foreign acquired corporation has a fair market value below $50,000 on the date of the exchange. These shareholders are not required to include gain or a deemed dividend under the section 367(b) regulations.

3. § 1.367(b)–3(d): Carryover of Certain Attributes

Section 1.367(b)–3(d) of the 1991 proposed regulations clarified that a domestic acquiring corporation may succeed to foreign taxes paid or accrued by a foreign acquired corporation that are eligible for credit under section 906. A domestic acquiring corporation may not succeed to any other foreign taxes paid or accrued by a foreign acquired corporation because the earnings that carry over to a domestic acquiring corporation (other than earnings related to the taxes eligible for credit under section 906) are not subject to double taxation at the corporate level. This rule is consistent with the general policy of section 367(b) to permit the carryover of corporate tax attributes only when appropriate. The final regulations retain the rules of § 1.367(b)–3(d), and add an example that illustrates their application.

D. § 1.367(b)–4: Acquisition of Foreign Corporate Stock or Assets by a Foreign Corporation in Certain Nonrecognition Transactions

Section 1.367(b)–4 of the 1991 proposed regulations addressed foreign-to-foreign nonrecognition transactions. In general, if the exchange in such a transaction results in a section 1248 shareholder of the foreign acquired corporation losing its section 1248 shareholder status, § 1.367(b)–4(b) required the exchanging shareholder to currently include its section 1248 amount in income as a deemed dividend. The 1991 proposed regulations generally did not require an income inclusion in circumstances when a section 1248 shareholder retains its status. In the case of a lower-tier transaction (where the exchanging shareholder is a foreign corporation), the section 1248 amount was not included as foreign personal holding company income (FPHCI) under section 954(c). This provision permitted deferral of the section 1248 amount by preserving such earnings and profits as earnings of the foreign corporation that is the exchanging shareholder. The final regulations retain these general rules.

1. § 1.367(b)–4(b): Recognition of Income

Section 1.367(b)–4(b) of the 1991 proposed regulations provided an exception to its general rule if an exchanging shareholder receives stock of a domestic corporation. This provision, which the 1991 proposed regulations included in response to a criticism of the 1977 regulations, was intended to provide relief in cases when a domestic acquiring corporation issues its own stock in exchange for CFC stock and succeeds to the section 1248 amount allocable to the transferor U.S. shareholder. Because § 1.367(b)–4(a) of the 1991 proposed regulations already limited the application of § 1.367(b)–4 to an acquisition by a foreign corporation, such relief was unnecessary.

Moreover, the provision inadvertently did not require an inclusion of a section 1248 amount that may not be preserved immediately after the exchange. This could occur, for example, if a foreign acquiring corporation uses the stock of its domestic parent corporation to acquire the stock or assets of a foreign target corporation from a section 1248 shareholder. Accordingly, the final regulations do not adopt the 1991 proposed regulations' provision regarding receipt of stock of a domestic corporation in a transaction described in § 1.367(b)–4.

2. § 1.367(b)–4(d): Special Rule for Applying Section 1248 to Subsequent Exchanges

The 1998 regulations revised the rules of the 1991 proposed regulations regarding the application of section 367(b) and section 1248 to exchanges that follow a § 1.367(b)–4 exchange in which an exchanging shareholder is not required to include a section 1248 amount in income. Because of the limited scope of the 1998 regulations, its rule only addressed the application of section 367(b) and section 1248 following a stock transfer by a direct U.S. shareholder. The final regulations incorporate the principles of the 1998 regulations and expand their application to the class of transactions subject to § 1.367(b)–4, including asset transfers and transactions in which the exchanging shareholder is a foreign corporation. The final regulations also address the interaction of these rules with section 964(e), by providing the extent to which they apply to subsequent section 964(e) sales and exchanges. Two new examples in the final regulations, as well as an expanded restatement of the example provided in the 1998 regulations, illustrate the application of these rules.

Commentators also requested that the IRS and Treasury clarify the carryover of earnings and profits and tax accounts in transactions where an exchanging shareholder is not required to include a section 1248 amount, as well as the application of section 902 to distributions by a foreign acquiring corporation after such a section 367(b) exchange. The IRS and Treasury will address these issues in forthcoming proposed regulations.

E. § 1.367(b)–5: Distributions of Stock Described in Section 355

1. § 1.367(b)–5(b): Distribution by a Domestic Corporation

Section 1.367(b)–5(b) of the 1991 proposed regulations generally provided that a domestic corporation must recognize gain on a section 355 distribution of foreign stock to individuals. The final regulations retain this general rule, consistent with the recently promulgated final regulations under section 367(e) (governing a section 355 distribution by a domestic corporation of foreign stock to foreign persons).

Commentators requested that the final regulations clarify the proper method for determining whether a distributee is an individual. The same issue arises under section 367(e), and the final regulations adopt the approach of the section 367(e) regulations. Thus, a distributee is presumed to be an individual except to the extent that the distributing corporation certifies that the distributee is not an individual. However, a publicly traded distributing corporation may use a reasonable analysis with respect to distributees that are not five percent shareholders of publicly traded stock to demonstrate the number of distributees that are not individuals. A reasonable analysis includes a determination of the actual number of distributees that are not individuals or a reasonable statistical analysis of shareholder records and other relevant information. Section 1.367(b)–2(k) (§ 1.367(b)–2(l) of the 1991 proposed regulations) has also been amended to adopt the look-through provisions provided in § 1.367(e)–1(b)(2) for purposes of determining the identity of distributees when the domestic distributing corporation stock is held by a partnership, trust or estate.

2. § 1.367(b)–5(c): Pro Rata Distribution by a CFC

Section 1.367(b)–5(c) of the 1991 proposed regulations provided that, when a CFC distributes stock of a controlled corporation on a pro rata basis in a section 355 transaction, a distributee must reduce its post-distribution basis in either the distributing or controlled corporation stock to the extent its section 1248 amount attributable to such corporation is reduced as a result of the distribution. To the extent the reduction of the section 1248 amount exceeds the stock basis, the distributee must include the difference in income as a deemed dividend. The final regulations retain this general rule, subject to the following refinements.

The final regulations add new § 1.367(b)–5(c)(3), which provides that the basis adjustment provided in § 1.367(b)–2(e)(3)(ii) shall not apply if a deemed dividend is included in income pursuant to § 1.367(b)–5(c). Under § 1.367(b)–2(e)(3)(ii), a shareholder's basis is increased by the amount of a deemed dividend inclusion. In the context of a § 1.367(b)–5(c) inclusion, the § 1.367(b)–2(e)(3)(ii) basis increase would undermine the purpose of the section 367(b) regulations, because the basis increase would correspondingly decrease the shareholder's built-in gain, thereby reducing the section 1248 amount that is intended to be preserved after the transaction.

Furthermore, some taxpayers commented that the § 1.367(b)–5(c)(2) basis reduction can lead to the creation of phantom gain; that is, it can leave a shareholder with a cumulative amount of post-distribution built-in gain in the stock of the distributing and controlled corporations that exceeds its predistribution built-in gain. As a result, commentators requested that a reduction in the basis in one of the corporations give rise to a corresponding increase in the basis of the stock of the other corporation. In response, § 1.367(b)–5(c)(4) of the final regulations provides a basis redistribution rule, under which the basis of the stock of the distributing or controlled corporation (as applicable) is increased by the amount of the required decrease in basis in the other stock under § 1.367(b)–5(c)(2). However, basis cannot be increased above the fair market value of the stock and also cannot be increased to the extent the increase diminishes the postdistribution section 1248 amount with respect to such stock. This basis redistribution rule also applies with regard to deemed dividend inclusions under § 1.367(b)–5(c)(2). An example in the final regulations illustrates the application of these new rules.

3. § 1.367(b)–5(d): Non-Pro Rata Distribution by Controlled Foreign Corporation

Section 1.367(b)–5(d) of the 1991 proposed regulations provided that, if a CFC distributes controlled corporation stock on a non-pro rata basis, each distributee must include in income the amount of any reduction in its section 1248 amount with regard to either the distributing or controlled corporation. For this purpose, the 1991 proposed regulations treated a shareholder of the distributing corporation that does not exchange stock in the distributing corporation for stock in the controlled corporation (non-participating shareholder) as a distributee.

The 1991 proposed regulations provided that a non-participating shareholder may make an election (taxable distribution election), under which the distributing and controlled corporations are not treated as corporations for purposes of gain (but not loss) recognition by all persons affected by the taxable status of the transaction. The preamble to the 1991 proposed regulations invited comments as to whether the benefits of the taxable distribution election to non-participating shareholders are outweighed by the potential adverse effects on the other shareholders.

In response, commentators uniformly criticized the taxable distribution election. They argued that the election was inequitable because it enabled a non-participating shareholder (who may be a small shareholder) to unilaterally and retroactively invalidate the section

355 transaction for all parties involved. Commentators also pointed out that the taxable distribution election could distort the economic incentives in cross-border restructurings by requiring participating shareholders to consider identifying and making contractual arrangements (which could include monetary arrangements) with each non-participating shareholder in order to prevent them from electing to invalidate the section 355 transaction. Commentators thus argued in favor of not adopting the taxable distribution election in the final regulations.

The taxable distribution election is also not required by the statute. Section 367(b) directs the Secretary to prescribe regulations that provide the necessary or appropriate tax consequences that should accompany the application of the Subchapter C provisions to transactions involving foreign corporations. Section 367(b)(2) specifically provides that the section 367(b) regulations ''shall include (but shall not be limited to) regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a U.S. person. * * *'' Accordingly, the section 367(b) regulations may address the tax consequences of a non-pro rata distribution to both participating and non-participating shareholders. In both cases, the diminution in a shareholder's potential section 1248 amount following a section 355 transaction appropriately measures the shareholder's inclusion with regard to a section 355 transaction involving a distributing corporation that is a controlled foreign corporation. Differing results depending on whether a shareholder is a participating shareholder or a non-participating shareholder can also be viewed as artificial, given that the distinction is often merely a function of alternative planning strategies.

In light of all of the above considerations, the final regulations do not adopt the taxable distribution election. As a result, all shareholders of a CFC that distributes stock on a non-pro rata basis must include in income the amount of any reduction in their section 1248 amount with respect to either the distributing or controlled corporation.

4. Final Regulation § 1.367(b)–5(f): Exclusion of Deemed Dividend From FPHCI

Commentators noted that the 1991 proposed regulations did not automatically exclude a § 1.367(b)–5(c) or (d) deemed dividend inclusion by an exchanging foreign corporate shareholder from FPHCI. Accordingly, the deemed dividend generally would be subpart F income and currently includible in income by a U.S. shareholder of the exchanging foreign corporation. As in the case of a lower-tier foreign-to-foreign transaction described in § 1.367(b)–4, the potential application of section 1248 can be preserved by excluding the deemed dividend from FPHCI. Thus, the final regulations adopt the suggestion and provide that a § 1.367(b)–5(c) or (d) deemed dividend inclusion by a foreign corporation is not included in FPHCI under section 954(c).

5. 1991 Proposed Regulation § 1.367(b)–5(f): Adjustments to Earnings and Profits

Section 1.367(b)–5(f) of the 1991 proposed regulations provided rules regarding the allocation of earnings and profits of a foreign transferor corporation in connection with a section 355 distribution. After further consideration, the IRS and Treasury have not included § 1.367(b)–5(f) of the 1991 proposed regulations in the final regulations. Forthcoming proposed regulations will more fully consider the allocation of earnings and profits in section 355 distributions where either (or both) the distributing or controlled corporation is a foreign corporation.

F. § 1.367(b)–6: Effective Date

The final regulations apply to section 367(b) exchanges that occur on or after February 23, 2000. The preamble to the 1991 proposed regulations solicited comments on whether the final regulations should provide an election to apply the regulations retroactively to exchanges that occur on or after August 26, 1991 (the date the 1991 proposed regulations were published in the **Federal Register**). Given the length of time that has elapsed since the issuance of the 1991 proposed regulations, the IRS and Treasury do not believe that such an election would be appropriate. This determination is consistent with the 1998 revision to § 1.367(b)–2(d) of the 1991 proposed regulations, which deleted the proposed special retroactive effective date for the definition of the all earnings and profits amount. A taxpayer may, however, elect to apply the final regulations to section 367(b) exchanges that occur (or occurred) before February 23, 2000, if the due date for the taxpayer's timely filed Federal tax return (including extensions) for the taxable year in which the section 367(b) exchange occurs (or occurred) is after February 23, 2000.

Removed Provisions

These regulations finalize substantially all of the 1991 proposed regulations. In connection with the finalization of these regulations, the 1977 regulations (other than § 7.367(b)–12) and the section 367(b) provisions contained in the 1998 regulations are removed. Section 7.367(b)–12 is retained to address distributions with respect to (or a disposition of) stock that was subject to certain provisions of the 1977 regulations in effect prior to February 23, 2000.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the notice of proposed rulemaking preceding the regulations was issued prior to March 29, 1996, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

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

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

List of Subjects

26 CFR Parts 1 and 7

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 7, and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by revising the entry for § 1.367(b)–2 and by adding entries in numerical order to read in part as follows:

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

Section 1.367(b)–2 also issued under 26 U.S.C. 367(a) and (b).

Section 1.367(b)–3 also issued under 26 U.S.C. 367(a) and (b). * * *

Section 1.367(b)–5 also issued under 26 U.S.C. 367(a) and (b).

Section 1.367(b)–6 also issued under 26 U.S.C. 367(a) and (b). * * *

Par. 2. Section 1.367(a)–3 is amended as follows:

1. Paragraph (d)(3) *Example 11*, paragraph (ii), the third sentence, the reference ''§ 7.367(b)–7(c)(1)(i) of this chapter'' is removed and ''§ 1.367(b)–4(b)'' is added in its place.

2. Paragraph (d)(3) *Example 11A*, paragraph (ii), the second, third and fourth sentences are removed and a sentence is added in their place.

3. Paragraph (e)(2), in the third, fourth, and fifth sentences, the parenthetical ''(as in effect before February 23, 2000; see 26 CFR part 1, revised as of April 1, 1999)'' is added immediately after ''§ 7.367(b)–7 of this chapter'' each place it appears.

4. Paragraph (g)(2)(iv), the parenthetical ''(as in effect before February 23, 2000; see 26 CFR part 1, revised April 1, 1999)'' is added immediately after ''7.367(b)–2(b) of this chapter.''

The revisions read as follows:

§ 1.367(a)–3 Treatment of transfers of stock or securities to foreign corporations.

* * * * *

(d) * * *

(3) * * *

Example 11A. * * *

(ii) *Result.* * * * Assuming § 1.367(b)–4(b) does not apply, there is no income inclusion under section 367(b), and the amount of the gain recognition agreement is $50.

Par. 3. Section 1.367(b)–0 is added to read as follows:

§ 1.367(b)–0 Table of contents.

This section lists the paragraphs contained in §§ 1.367(b)–0 through 1.367(b)–6.

§ 1.367(b)–1 Other transfers.

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(1) Rules.
(2) Example.
(c) Notice required.
(1) In general.
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(i) United States persons described in § 1.367(b)–1(c)(2).
(ii) Foreign corporations described in § 1.367(b)–1(c)(2).
(4) Information required.
(5) Abbreviated notice provision.
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§ 1.367(b)–2 Definitions and special rules.

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(b) Section 1248 shareholder.
(c) Section 1248 amount.
(1) Rule.
(2) Examples.
(d) All earnings and profits amount.
(1) General rule.
(2) Rules for determining earnings and profits.
(i) Domestic rules generally applicable.
(ii) Certain adjustments to earnings and profits.
(iii) Effect of section 332 liquidating distribution.
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(A) In general.
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(B) Foreign shareholders.
(ii) Limitation on amounts attributable to holding periods determined under section 1223.
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(iii) Exclusion of lower-tier earnings.
(e) Treatment of deemed dividends.
(1) In general.
(2) Consequences of dividend characterization.
(3) Ordering rules.
(4) Examples.
(f) Deemed asset transfer and closing of taxable year in certain section 368(a)(1)(F) reorganizations.
(1) Scope.
(2) Deemed asset transfer.
(3) Other applicable rules.
(4) Closing of taxable year.
(g) Stapled stock under section 269B.
(h) Section 953(d) domestication elections.
(1) Effect of election.
(2) Post-election exchanges.
(i) Section 1504(d) elections.
(j) Sections 985 through 989.
(1) Change in functional currency of a qualified business unit.
(i) Rule.
(ii) Example.
(2) Previously taxed earnings and profits.
(i) Exchanging shareholder that is a United States person.
(ii) Exchanging shareholder that is a foreign corporation.
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(k) Partnerships, trusts and estates.

§ 1.367(b)–3 Repatriation of foreign corporate assets in certain nonrecognition transactions.

(a) Scope.
(b) Exchange of stock owned directly by a United States shareholder or by certain foreign corporate shareholders.
(1) Scope.
(2) United States shareholder.
(3) Income inclusion.
(i) Inclusion of all earnings and profits amount.
(ii) Examples.
(iii)Recognition of exchange gain or loss with respect to capital [reserved].
(4) [Reserved].
(c) Exchange of stock owned by a United States person that is not a United States shareholder.
(1) Scope.
(2) Requirement to recognize gain.
(3) Election to include all earnings and profits amount.
(4) De minimis exception.
(5) Examples.
(d) Carryover of certain foreign taxes.
(1) Rule.
(2) Example.

§ 1.367(b)–4 Acquisition of foreign corporate stock or assets by a foreign corporation in certain nonrecognition transactions.

(a) Scope.
(b) Income inclusion.
(1) Exchange that results in loss of status as section 1248 shareholder.
(i) Rule.
(ii) Examples.
(2) Receipt by exchanging shareholder of preferred or other stock in certain instances.
(i) Rule.
(ii) Examples.
(3) Certain recapitalizations.
(c) Exclusion of deemed dividend from foreign personal holding company income.
(1) Rule.
(2) Example.
(d) Rules for subsequent exchanges.
(1) In general.
(2) Subsequent dispositions by a foreign acquiring corporation.
(3) Examples.

§ 1.367(b)–5 Distributions of stock described in section 355.

(a) In general.
(1) Scope.
(2) Treatment of distributees as exchanging shareholders.
(b) Distribution by a domestic corporation.
(1) General rule.
(2) Section 367(e) transactions.
(3) Determining whether distributees are individuals.
(4) Applicable cross-references.
(c) Pro rata distribution by a controlled foreign corporation.
(1) Scope.
(2) Adjustment to basis in stock and income inclusion.
(3) Interaction with § 1.367(b)–2(e)(3)(ii).
(4) Basis redistribution.
(d) Non-pro rata distribution by a controlled foreign corporation.
(1) Scope.
(2) Treatment of certain shareholders as distributees.
(3) Inclusion of excess section 1248 amount by exchanging shareholder.
(4) Interaction with § 1.367(b)–2(e)(3)(ii).
(i) Limited application.
(ii) Interaction with predistribution amount.
(e) Definitions.
(1) Predistribution amount.
(2) Postdistribution amount.
(f) Exclusion of deemed dividend from foreign personal holding company income.
(g) Examples.

§ 1.367(b)–6 Effective dates and coordination rules.

(a) Effective date.
(1) In general.
(2) Exception.
(b) Certain recapitalizations described in § 1.367(b)–4(b)(3).

(c) Use of reasonable method to comply with prior published guidance.
(1) Prior exchanges.
(2) Future exchanges.
(d) Effect of removal of attribution rules.

Par. 4. Sections 1.367(b)–1 and 1.367(b)–2 are revised to read as follows:

§ 1.367(b)–1 Other transfers.

(a) *Scope.* The regulations promulgated under section 367(b) (the section 367(b) regulations) set forth rules regarding the proper inclusions and adjustments that must be made as a result of an exchange described in section 367(b) (a section 367(b) exchange). A section 367(b) exchange is any exchange described in section 332, 351, 354, 355, 356 or 361, with respect to which the status of a foreign corporation as a corporation is relevant for determining the extent to which income shall be recognized or for determining the effect of the transaction on earnings and profits, basis of stock or securities, basis of assets, or other relevant tax attributes. Notwithstanding the preceding sentence, a section 367(b) exchange does not include a transfer to the extent the foreign corporation fails to be treated as a corporation by reason of section 367(a)(1). See § 1.367(a)–3(b)(2)(ii) for an illustration of the interaction of section 367(a) and (b).

(b) *General rules*—(1) *Rules.* The following general rules apply under the section 367(b) regulations—

(i) A foreign corporation in a section 367(b) exchange is considered to be a corporation and, as a result, all of the related provisions (*e.g.,* section 381) shall apply, except to the extent provided in the section 367(b) regulations; and

(ii) Nothing in the section 367(b) regulations shall permit—

(A) The nonrecognition of income that would otherwise be required to be recognized under another provision of the Internal Revenue Code or the regulations thereunder; or

(B) The recognition of a loss or deduction that would otherwise not be recognized under another provision of the Internal Revenue Code or the regulations thereunder.

(2) *Example.* The following example illustrates the rules of this paragraph (b):

Example—(i) *Facts.* DC, a domestic corporation, owns 90 percent of P, a partnership. The remaining 10 percent of P is owned by a person unrelated to DC. P owns all of the outstanding stock of FC, a controlled foreign corporation. FC liquidates into P.

(ii) *Result.* FC's liquidation is not a transaction described in section 332. Nothing in the section 367(b) regulations, including § 1.367(b)–2(k), permits FC's liquidation to qualify as a liquidation described in section 332.

(c) *Notice Required*—(1) *In general.* A notice under this paragraph (c) (section 367(b) notice) must be filed with regard to any person described in paragraph (c)(2) of this section. A section 367(b) notice must be filed in the time and manner described in paragraph (c)(3) of this section and must include the information described in paragraph (c)(4) of this section.

(2) *Persons subject to section 367(b) notice.* The following persons are described in this paragraph (c)(2)—

(i) A shareholder described in § 1.367(b)–3(b)(1) that realizes income in a transaction described in § 1.367(b)–3(a);

(ii) A shareholder that makes the election described in § 1.367(b)–3(c)(3);

(iii) A shareholder described in § 1.367(b)–4(b)(1)(i)(A)(*1*) or (*2*) that realizes income in a transaction described in § 1.367(b)–4(a); and

(iv) A shareholder that realizes income in a transaction described in § 1.367(b)–5(c) or 1.367(b)–5(d) and that is either—

(A) A section 1248 shareholder of the distributing or controlled corporation; or

(B) A foreign corporation with one or more shareholders that are described in paragraph (c)(2)(iv)(A) of this section.

(3) *Time and manner for filing notice*—(i) *United States persons described in § 1.367(b)–1(c)(2).* A United States person described in paragraph (c)(2) of this section must file a section 367(b) notice attached to a timely filed Federal tax return (including extensions) for the person's taxable year in which income is realized in the section 367(b) exchange. In the case of a shareholder that makes the election described in § 1.367(b)–3(c)(3), notification of such election must be sent to the foreign acquired corporation (or its successor in interest) on or before the date the section 367(b) notice is filed, so that appropriate corresponding adjustments can be made in accordance with the rules of § 1.367(b)–2(e).

(ii) *Foreign corporations described in § 1.367(b)–1(c)(2).* Each United States person listed in this paragraph (c)(3)(ii) must file a section 367(b) notice with regard to a foreign corporation described in paragraph (c)(2) of this section. Such notice must be attached to a timely filed Federal tax return (including extensions) for the United States person's taxable year in which income is realized in the section 367(b) exchange and, if the United States person is required to file a Form 5471 (Information Return of U.S. Persons With Respect To Certain Foreign Corporations), the section 367(b) notice must be attached to the Form 5471. The following persons are listed in this paragraph (c)(3)(ii)—

(A) United States shareholders (as defined in § 1.367(b)–3(b)(2)) of foreign corporations described in paragraph (c)(2)(i) of this section; and

(B) Section 1248 shareholders of foreign corporations described in paragraph (c)(2)(iii) or (iv) of this section.

(4) *Information required.* Except as provided in paragraph (c)(5) of this section, a section 367(b) notice shall include the following information—

(i) A statement that the exchange is a section 367(b) exchange;

(ii) A complete description of the exchange;

(iii) A description of any stock, securities or other consideration transferred or received in the exchange;

(iv) A statement that describes any amount required, under the section 367(b) regulations, to be taken into account as income or loss or as an adjustment to basis, earnings and profits, or other tax attributes as a result of the exchange;

(v) Any information that is or would be required to be furnished with a Federal income tax return pursuant to regulations under section 332, 351, 354, 355, 356, 361 or 368 (whether or not a Federal income tax return is required to be filed), if such information has not otherwise been provided by the person filing the section 367(b) notice;

(vi) Any information required to be furnished with respect to the exchange under sections 6038, 6038A, 6038B, 6038C or 6046, or the regulations under those sections, if such information has not otherwise been provided by the person filing the section 367(b) notice; and

(vii) If applicable, a statement that the shareholder is making the election described in § 1.367(b)–3(c)(3). This statement must include—

(A) A copy of the information the shareholder received from the foreign acquired corporation (or its successor in interest) establishing and substantiating the shareholder's all earnings and profits amount with respect to the shareholder's stock in the foreign acquired corporation; and

(B) A representation that the shareholder has notified the foreign acquired corporation (or its successor in interest) that the shareholder is making the election described in § 1.367(b)–3(c)(3).

(5) *Abbreviated notice provision.* In the case of a foreign acquired corporation that has never had earnings

and profits that would result in any shareholder having an all earnings and profits amount, a shareholder making the election described in § 1.367(b)–3(c)(3) may satisfy the information requirements of paragraph (c)(4) of this section by filing a section 367(b) notice that includes—

(i) A statement from the foreign acquired corporation (or its successor in interest) that the foreign acquired corporation has never had any earnings and profits that would result in any shareholder having an all earnings and profits amount; and

(ii) The information described in paragraphs (c)(4) (i) through (iii) of this section.

(6) *Supplemental published guidance*. The section 367(b) notice requirements may be updated or amended by revenue procedure or other published guidance.

§ 1.367(b)–2 Definitions and special rules.

(a) *Controlled foreign corporation.* The term *controlled foreign corporation* means a controlled foreign corporation as defined in section 957 (taking into account section 953(c)).

(b) *Section 1248 shareholder.* The term *section 1248 shareholder* means any United States person that satisfies the ownership requirements of section 1248 (a)(2) or (c)(2) with respect to a foreign corporation.

(c) *Section 1248 amount*—(1) *Rule*. The term *section 1248 amount* with respect to stock in a foreign corporation means the net positive earnings and profits (if any) that would have been attributable to such stock and includible in income as a dividend under section 1248 and the regulations thereunder if the stock were sold by the shareholder. In the case of a transaction in which the shareholder is a foreign corporation (foreign shareholder), the following additional rules shall apply—

(i) The foreign shareholder shall be deemed to be a United

States person for purposes of this paragraph (c), except that the foreign shareholder shall not be considered a United States person for purposes of determining whether the stock owned by the foreign shareholder is stock of a controlled foreign corporation, and

(ii) The foreign shareholder's holding period in the stock of the foreign corporation shall be determined by reference to the period that the foreign shareholder's section 1248 shareholders held (directly or indirectly) an interest in the foreign corporation. This paragraph (c)(1)(ii) applies in addition to the section 1248 regulations' incorporation of section 1223 holding periods, as modified by § 1.367(b)–4(d) (as applicable).

(2) *Examples*. The following examples illustrate the rules of this paragraph (c):

Example 1—(i) *Facts.* DC, a domestic corporation, owns all of the outstanding stock of FC1, a controlled foreign corporation (CFC). FC1 owns all of the outstanding stock of FC2, a CFC. DC has always owned all of the stock of FC1, and FC1 has always owned all of the stock of FC2.

(ii) *Result.* Under this paragraph (c), DC's section 1248 amount with respect to its FC1 stock is computed by reference to all of FC1's and FC2's earnings and profits. See section 1248(c)(2). Because FC1's section 1248 shareholder (DC) always indirectly held all of the stock of FC2, FC1's section 1248 amount with respect to its FC2 stock is computed by reference to all of FC2's earnings and profits.

Example 2—(i) *Facts.* DC, a domestic corporation, owns 40 percent of the outstanding stock of FC1, a foreign corporation. The other 60 percent of FC1 stock is owned (directly and indirectly) by foreign persons that are unrelated to DC. FC1 owns all of the outstanding stock of FC2, a foreign corporation. On January 1, 2001, DC purchases the remaining 60 percent of FC1 stock.

(ii) *Result.* Under this paragraph (c), DC's section 1248 amount with respect to its FC1 stock is computed by reference to FC1's and FC2's earnings and profits that accumulated on or after January 1, 2001, the date FC1 and FC2 became controlled foreign corporations (CFCs). See section 1248(a). Because FC1 is not considered a United States person for purposes of determining whether FC2 is a CFC, FC1's section 1248 amount with respect to its FC2 stock is computed by reference to FC2's earnings and profits that accumulated on or after January 1, 2001, the date FC2 became an actual CFC.

Example 3—(i) *Facts.* FC1, a foreign corporation, owns all of the outstanding stock of FC2, a foreign corporation. DC is a domestic corporation that is unrelated to FC1, FC2, and their direct and indirect owners. On January 1, 2001, DC purchases all of the outstanding stock of FC1.

(ii) *Result.* Under this paragraph (c), DC's section 1248 amount with respect to its FC1 stock is computed by reference to FC1's and FC2's earnings and profits that accumulated on or after January 1, 2001, the first day DC held the stock of FC1. See section 1248(a). FC1's section 1248 amount with respect to its FC2 stock is computed by reference to FC2's earnings and profits that accumulated on or after January 1, 2001, the first day FC1's section 1248 shareholder (DC) indirectly held the stock of FC2.

Example 4—(i) *Facts.* DC, a domestic corporation, directly owns all of the outstanding stock of FC1 and FC2, controlled foreign corporations. DC has always owned all of the stock of FC1 and FC2. On January 1, 2001, DC contributes all of the stock of FC2 to FC1 in a nonrecognition exchange that does not require an income inclusion under the section 367(a) or 367(b) regulations. See §§ 1.367(a)–8 and 1.367(b)–4.

(ii) *Result.* Under this paragraph (c), DC's section 1248 amount with respect to its FC1 stock is computed by reference to all of FC1's and FC2's earnings and profits. See section 1248(c)(2). Because FC1's section 1248 shareholder (DC) always held (directly or indirectly) all of the stock of FC2, FC1's section 1248 amount with respect to its FC2 stock is computed by reference to all of FC2's earnings and profits.

(d) *All earnings and profits amount*—(1) *General rule.* The term *all earnings and profits amount* with respect to stock in a foreign corporation means the net positive earnings and profits (if any) determined as provided under paragraph (d)(2) of this section and attributable to such stock as provided under paragraph (d)(3) of this section. The all earnings and profits amount shall be determined without regard to the amount of gain that would be realized on a sale or exchange of the stock of the foreign corporation.

(2) *Rules for determining earnings and profits*—(i) *Domestic rules generally applicable.* For purposes of this paragraph (d), except as provided in sections 312(k)(4) and (n)(8), 964 and 986, the earnings and profits of a foreign corporation for any taxable year shall be determined according to principles substantially similar to those applicable to domestic corporations.

(ii) *Certain adjustments to earnings and profits.* Notwithstanding paragraph (d)(2)(i) of this section, for purposes of this paragraph (d), the earnings and profits of a foreign corporation for any taxable year shall not include the amounts specified in section 1248(d). In the case of amounts specified in section 1248(d)(4), the preceding sentence requires that the earnings and profits for any taxable year be decreased by the net positive amount (if any) of earnings and profits attributable to activities described in section 1248(d)(4), and increased by the net reduction (if any) in earnings and profits attributable to activities described in section 1248(d)(4).

(iii) *Effect of section 332 liquidating distribution.* The all earnings and profits amount with respect to stock of a corporation that distributes all of its property in a liquidation described in section 332 shall be determined without regard to the adjustments prescribed by section 312(a) and (b) resulting from the distribution of such property in liquidation, except that gain or loss realized by the corporation on the distribution shall be taken into account to the extent provided in section 312(f)(1). See § 1.367(b)–3(b)(3)(ii) *Example 3*.

(3) *Amount attributable to a block of stock*—(i) *Application of section 1248 principles*—(A) *In general*—(*1*) *Rule.* The all earnings and profits amount with respect to stock of a foreign corporation is determined according to the attribution principles of section

1248 and the regulations thereunder. The attribution principles of section 1248 shall apply without regard to the requirements of section 1248 that are not relevant to the determination of a shareholder's pro rata portion of earnings and profits. Thus, for example, the all earnings and profits amount is determined without regard to whether the foreign corporation was a controlled foreign corporation at any time during the five years preceding the section 367(b) exchange in question, without regard to whether the shareholder owned a 10 percent or greater interest in the stock, and without regard to whether the earnings and profits of the foreign corporation were accumulated in post-1962 taxable years or while the corporation was a controlled foreign corporation.

(*2*) *Example.* The following example illustrates the rules of this paragraph (d)(3)(i)(A):

Example—(i) *Facts.* On January 1, 2001, DC, a domestic corporation, purchases 9 percent of the outstanding stock of FC, a foreign corporation. On January 1, 2002, DC purchases an additional 1 percent of FC stock. On January 1, 2003, DC exchanges its stock in FC in a section 367(b) exchange in which DC is required to include the all earnings and profits amount in income. FC was not a controlled foreign corporation during the entire period DC held its FC stock.

(ii) *Result.* The all earnings and profits amount with respect to DC's stock in FC is computed by reference to 9 percent of FC's earnings and profits from January 1, 2001, through December 31, 2001, and by reference to 10 percent of FC's earnings and profits from January 1, 2002, through January 1, 2003.

(B) *Foreign shareholders.* In the case of a transaction in which the exchanging shareholder is a foreign corporation (foreign shareholder), the following additional rules shall apply—

(*1*) The attribution principles of section 1248 shall apply without regard to whether the person directly owning the stock is a United States person; and

(*2*) The foreign shareholder's holding period in the stock of the foreign acquired corporation shall be determined by reference to the period that the foreign shareholder's United States shareholders (as defined in § 1.367(b)–3(b)(2)) held (directly or indirectly) an interest in the foreign acquired corporation. This paragraph (d)(3)(i)(B)(*2*) applies in addition to the section 1248 regulations' incorporation of section 1223 holding periods, as modified by paragraph (d)(3)(ii) of this section and § 1.367(b)–4(d) (as applicable).

(ii) *Limitation on amounts attributable to holding periods determined under section 1223*—(A) *Rule.* In applying the attribution principles of section 1248 and the regulations thereunder to determine the all earnings and profits amount with respect to the stock of a foreign corporation, earnings and profits attributable to a section 1223(2) holding period that relates to a period of direct ownership of the stock of the foreign corporation by a non-United States person shall not be included, except to the extent of earnings and profits attributable to a period when the stock of the foreign corporation was indirectly owned by United States shareholders (as defined in § 1.367(b)–3(b)(2)).

(B) *Example.* The following example illustrates the rules of this paragraph (d)(3)(ii):

Example—(i) *Facts.* (A) FC1 is a foreign corporation. The outstanding stock of FC1 is directly owned by the following unrelated persons: 20 percent by DP, a domestic partnership; 20 percent by DC, a domestic corporation; 20 percent by FC, a foreign corporation that is directly and indirectly owned by foreign persons; 20 percent by FP, a foreign partnership that is equally owned by 2 partners, DI, a United States citizen, and FI, a nonresident alien; and 20 percent by a variety of minority shareholders, none of whom owns, applying the ownership rules of section 958, 10 percent or more of the outstanding stock of FC (the small shareholders).

(B) FC1 owns all of the outstanding stock of FC2, a foreign corporation that is not a controlled foreign corporation subject to the rules of section 953(c). FC2 has net positive earnings and profits. In a reorganization described in section 368(a)(1)(B), DA, a domestic corporation, acquires all of the stock of FC2 from FC1 in exchange for DA voting stock.

(ii) *Result.* (A) Under section 1223(2), DA holds the stock of FC2 with a holding period that includes the period that FC2 was held by FC1. As a result, the rules of this paragraph (d)(3)(ii) apply for purposes of computing DA's all earnings and profits amount.

(B) In applying the attribution principles of section 1248, earnings and profits attributable to a section 1223(2) holding period that refers to a period of direct ownership of the stock of a foreign corporation by a non-United States person are not included, except to the extent the stock of the foreign corporation was indirectly owned by United States shareholders as defined in § 1.367(b)–3(b)(2). Accordingly, DA's all earnings and profits amount does not include the FC2 earnings and profits attributable to FC, FI, and the small shareholders. DA's all earnings and profits amount does include the FC2 earnings and profits attributable to DP, DC, and DI. See § 1.367(b)–2(k) for rules concerning the treatment of partnerships under the section 367(b) regulations.

(iii) *Exclusion of lower-tier earnings.* In applying the attribution principles of section 1248 and the regulations thereunder to determine the all earnings and profits amount with respect to stock of a foreign corporation, the earnings and profits of subsidiaries of the foreign corporation shall not be taken into account notwithstanding section 1248(c)(2).

(e) *Treatment of deemed dividends*—(1) *In general.* In certain circumstances these regulations provide that an exchanging shareholder shall include an amount in income as a deemed dividend. This paragraph provides rules for the treatment of the deemed dividend.

(2) *Consequences of dividend characterization.* A deemed dividend described in paragraph (e)(1) of this section shall be treated as a dividend for purposes of the Internal Revenue Code. The deemed dividend shall be considered as paid out of the earnings and profits with respect to which the amount of the deemed dividend was determined. Thus, for example, a deemed dividend that is determined by reference to the all earnings and profits amount or the section 1248 amount will never be considered as paid out of (and therefore will never reduce) earnings and profits specified in section 1248(d), because such earnings and profits are excluded in computing the all earnings and profits amount (under paragraph (d)(2)(ii) of this section) and the section 1248 amount (under section 1248(d) and paragraph (c)(1) of this section). If the deemed dividend is determined by reference to the earnings and profits of a foreign corporation that is owned indirectly (*i.e.*, through one or more tiers of intermediate owners) by the person that is required to include the deemed dividend in income, the deemed dividend shall be considered as having been paid by such corporation to such person through the intermediate owners, rather than directly to such person.

(3) *Ordering rules.* In the case of an exchange of stock in which the exchanging shareholder is treated as receiving a deemed dividend from a foreign corporation, the following ordering rules concerning the timing, treatment, and effect of such a deemed dividend shall apply. See also paragraph (j)(2) of this section.

(i) For purposes of the section 367(b) regulations, the gain realized by an exchanging shareholder shall be determined before increasing (as provided in paragraph (e)(3)(ii) of this section) the basis in the stock of the foreign corporation by the amount of the deemed dividend.

(ii) Except as provided in paragraph (e)(3)(i) of this section, the deemed dividend shall be considered to be

received immediately before the exchanging shareholder's receipt of consideration for its stock in the foreign corporation, and the shareholder's basis in the stock exchanged shall be increased by the amount of the deemed dividend. Such basis increase shall be taken into account before determining the gain otherwise recognized on the exchange (for example, under section 356), the basis that the exchanging shareholder takes in the property that it receives in the exchange (under section 358(a)(1)), and the basis that the transferee otherwise takes in the transferred stock (under section 362).

(iii) Except as provided in paragraph (e)(3)(i) of this section, the earnings and profits of the appropriate foreign corporation shall be reduced by the deemed dividend amount before determining the consequences of the recognition of gain in excess of the deemed dividend amount (for example, under section 356(a)(2) or sections 356(a)(1) and 1248).

(4) *Examples.* The following examples illustrate the rules of this paragraph (e):

Example 1. DC, a domestic corporation, exchanges stock in FC, a foreign corporation, in a section 367(b) exchange in which DC includes the all earnings and profits amount in income as a deemed dividend. Under paragraph (e)(2) of this section, a deemed dividend is treated as a dividend for purposes of the Internal Revenue Code. As a result, if the requirements of section 902 are met, DC may qualify for a deemed paid foreign tax credit with respect to the deemed dividend that it receives from FC.

Example 2. DC, a domestic corporation, exchanges stock in FC1, a foreign corporation that is a controlled foreign corporation, in a transaction in which DC is required to include the section 1248 amount in income as a deemed dividend. A portion of the section 1248 amount is determined by reference to the earnings and profits of FC1 (the upper-tier portion of the section 1248 amount), and the remainder of the section 1248 amount is determined by reference to the earnings and profits of FC2, which is a wholly owned foreign subsidiary of FC1 (the lower-tier portion of the section 1248 amount). Under paragraph (e)(2) of this section, DC computes its deemed paid foreign tax credit as if the lower-tier portion of the section 1248 amount were distributed as a dividend by FC2 to FC1, and as if such portion and the upper-tier portion of the section 1248 amount were then distributed as a dividend by FC1 to DC.

Example 3. DC, a domestic corporation, exchanges stock in FC, a foreign corporation that is a controlled foreign corporation, in a transaction in which DC realizes gain of $100 (prior to the application of the section 367(b) regulations). In connection with the transaction, DC is required to include $40 in income as a deemed dividend under the section 367(b) regulations. In addition to receiving property permitted to be received under section 354 without the recognition of gain, DC also receives cash in the amount of $70. Under paragraph (e)(3) of this section, the $40 deemed dividend increases DC's basis in its FC stock before determining the gain to be recognized under section 56. Thus, in applying section 356, DC is considered to realize $60 of gain on the exchange, all of which is recognized under section 356(a)(1).

(f) *Deemed asset transfer and closing of taxable year in certain section 368(a)(1)(F) reorganizations*—(1) *Scope.* This paragraph applies to a reorganization described in section 368(a)(1)(F) in which the transferor corporation is a foreign corporation.

(2) *Deemed asset transfer.* In a reorganization described in paragraph (f)(1) of this section, there is considered to exist—

(i) A transfer of assets by the foreign transferor corporation to the acquiring corporation in exchange for stock (or stock and securities) of the acquiring corporation and the assumption by the acquiring corporation of the foreign transferor corporation's liabilities;

(ii) A distribution of such stock (or stock and securities) by the foreign transferor corporation to its shareholders (or shareholders and security holders); and

(iii) An exchange by the foreign transferor corporation's shareholders (or shareholders and security holders) of their stock (or stock and securities) for stock (or stock and securities) of the acquiring corporation.

(3) *Other applicable rules.* For purposes of this paragraph (f), it is immaterial that the applicable foreign or domestic law treats the acquiring corporation as a continuation of the foreign transferor corporation.

(4) *Closing of taxable year.* In a reorganization described in paragraph (f)(1) of this section, the taxable year of the foreign transferor corporation shall end with the close of the date of the transfer and the taxable year of the acquiring corporation shall end with the close of the date on which the transferor's taxable year would have ended but for the occurrence of the reorganization if—

(i) The acquiring corporation is a domestic corporation; or

(ii) The foreign transferor corporation has effectively connected earnings and profits (as defined in section 884(d)) or accumulated effectively connected earnings and profits (as defined in section 884(b)(2)(B)(ii)).

(g) *Stapled stock under section 269B.* For rules treating a foreign corporation as a domestic corporation if it and a domestic corporation are stapled entities, see section 269B. The deemed conversion of a foreign corporation to a domestic corporation under section 269B is treated as a reorganization under section 368(a)(1)(F).

(h) *Section 953(d) domestication elections*—(1) *Effect of election.* A foreign corporation that elects under section 953(d) to be treated as a domestic corporation shall be treated for purposes of section 367(b) as transferring, as of the first day of the first taxable year for which the election is effective, all of its assets to a domestic corporation in a reorganization described in section 368(a)(1)(F). Notwithstanding paragraph (d) of this section, for purposes of determining the consequences of the reorganization under § 1.367(b)–3, the all earnings and profits amount shall not be considered to include earnings and profits accumulated in taxable years beginning before January 1, 1988.

(2) *Post-election exchanges.* For purposes of applying section 367(b) to post-election exchanges with respect to a corporation that has made a valid election under section 953(d) to be treated as a domestic corporation, such corporation shall be treated as a domestic corporation as to earnings and profits that were taken into account at the time of the section 953(d) election or which accrue after such election, and shall be treated as a foreign corporation as to earnings and profits accumulated in taxable years beginning before January 1, 1988. Thus, for example, if the section 953(d) corporation subsequently transfers its assets to a domestic corporation (other than another section 953(d) corporation) in a transaction described in section 381(a), the rules of § 1.367(b)–3 shall apply to such transaction to the extent of the section 953(d) corporation's earnings and profits accumulated in taxable years beginning before January 1, 1988.

(i) *Section 1504(d) elections.* An election under section 1504(d), which permits certain foreign corporations to be treated as domestic corporations, is treated as a transfer of property to a domestic corporation and will generally constitute a reorganization described in section 368(a)(1)(F). However, if an election under section 1504(d) is made with respect to a foreign corporation from the first day of the foreign corporation's existence, then the foreign corporation shall be treated as a domestic corporation, and the section 367(b) regulations will not apply.

(j) *Sections 985 through 989*—(1) *Change in functional currency of a qualified business unit*—(i) *Rule.* If, as a result of a transaction described in section 381(a), a qualified business unit (as defined in section 989(a)) (QBU) has a different functional currency determined under the rules of section

985(b) than it used prior to the transaction, then the QBU shall be deemed to have automatically changed its functional currency immediately prior to the transaction. A QBU that is deemed to change its functional currency pursuant to this paragraph (j) must make the adjustments described in § 1.985–5.

(ii) *Example.* The following example illustrates the rule of this paragraph (j)(1):

Example—(i) *Facts.* DC, a domestic corporation, owns 100 percent of FC1, a foreign corporation. FC1 owns and operates a qualified business unit (QBU) (B1) in France, whose functional currency is the euro. FC2, an unrelated foreign corporation, owns and operates a QBU (B2) in France, whose functional currency is the dollar. FC2 acquires FC1's assets (including B1) in a reorganization described in section 368(a)(1)(C). As a part of the reorganization, B1 and B2 combine their operations into one QBU. Applying the rules of section 985(b), the functional currency of the combined operations of B1 and B2 is the euro.

(ii) *Result.* FC2's acquisition of FC1's assets is a section 367(b) exchange that is described in section 381(a). Because the functional currency of the combined operations of B1 and B2 after the exchange is the euro, B2 is deemed to have automatically changed its functional currency to the euro immediately prior to the section 367(b) exchange. B2 must make the adjustments described in § 1.985–5.

(2) *Previously taxed earnings and profits*—(i) *Exchanging shareholder that is a United States person.* If an exchanging shareholder that is a United States person is required to include in income either the all earnings and profits amount or the section 1248 amount under the provisions of § 1.367(b)–3 or 1.367(b)–4, then immediately prior to the exchange, and solely for the purpose of computing exchange gain or loss under section 986(c), the exchanging shareholder shall be treated as receiving a distribution of previously taxed earnings and profits from the appropriate foreign corporation that is attributable (under the principles of section 1248) to the exchanged stock. If an exchanging shareholder that is a United States person is a distributee in an exchange described in § 1.367(b)–5(c) or (d), then immediately prior to the exchange, and solely for the purpose of computing exchange gain or loss under section 986(c), the exchanging shareholder shall be treated as receiving a distribution of previously taxed earnings and profits from the appropriate foreign corporation to the extent such shareholder has a diminished interest in such previously taxed earnings and profits after the exchange. The exchange gain or loss recognized under this paragraph (j)(2)(i) will increase or decrease the exchanging shareholder's adjusted basis in the stock of the foreign corporation for purposes of computing gain or loss realized with respect to the stock on the transaction. The exchanging shareholder's dollar basis with respect to each account of previously taxed income shall be increased or decreased by the exchange gain or loss recognized.

(ii) *Exchanging shareholder that is a foreign corporation.* If an exchanging shareholder that is a foreign corporation is required to include in income either the all earnings and profits amount or the section 1248 amount under the provisions of § 1.367(b)–3 or 1.367(b)–4, then, immediately prior to the exchange, the exchanging shareholder shall be treated as receiving a distribution of previously taxed earnings and profits from the appropriate foreign corporation that is attributable (under the principles of section 1248) to the exchanged stock. If an exchanging shareholder that is a foreign corporation is a distributee in an exchange described in § 1.367(b)–5(c) or (d), then the exchanging shareholder shall be treated as receiving (immediately prior to the exchange) a distribution of previously taxed earnings and profits from the appropriate foreign corporation. Such distribution shall be measured by the extent to which the exchanging shareholder's direct or indirect United States shareholders (as defined in section 951(b)) have a diminished interest in such previously taxed earnings and profits after the exchange.

(3) *Other rules.* See sections 985 through 989 for other currency rules that may apply in connection with a section 367(b) exchange.

(k) *Partnerships, trusts and estates.* In applying the section 367(b) regulations, stock of a corporation that is owned by a foreign partnership, trust or estate shall be considered as owned proportionately by its partners, owners, or beneficiaries under the principles of § 1.367(e)–1(b)(2). Stock owned by an entity that is disregarded as an entity separate from its owner under § 301.7701–3 is owned directly by the owner of such entity. In applying § 1.367(b)–5(b), the principles of § 1.367(e)–1(b)(2) shall also apply to a domestic partnership, trust or estate.

Par. 5. Section 1.367(b)–3 is added to read as follows:

§ 1.367(b)–3 Repatriation of foreign corporate assets in certain nonrecognition transactions.

(a) *Scope.* This section applies to an acquisition by a domestic corporation (the domestic acquiring corporation) of the assets of a foreign corporation (the foreign acquired corporation) in a liquidation described in section 332 or an asset acquisition described in section 368(a)(1).

(b) *Exchange of stock owned directly by a United States shareholder or by certain foreign corporate shareholders*—*(1) Scope.* This paragraph (b) applies in the case of an exchanging shareholder that is either—

(i) A United States shareholder of the foreign acquired corporation; or

(ii) A foreign corporation with respect to which there are one or more United States shareholders.

(2) *United States shareholder.* For purposes of this section (and for purposes of the other section 367(b) regulation provisions that specifically refer to this paragraph (b)(2)), the term *United States shareholder* means any shareholder described in section 951(b) (without regard to whether the foreign corporation is a controlled foreign corporation), and also any shareholder described in section 953(c)(1)(A) (but only if the foreign corporation is a controlled foreign corporation subject to the rules of section 953(c)).

(3) *Income inclusion*—(i) *Inclusion of all earnings and profits amount.* An exchanging shareholder shall include in income as a deemed dividend the all earnings and profits amount with respect to its stock in the foreign acquired corporation. For the consequences of the deemed dividend, see § 1.367(b)–2(e). Notwithstanding § 1.367(b)–2(e), however, a deemed dividend from the foreign acquired corporation to an exchanging foreign corporate shareholder shall not qualify for the exception from foreign personal holding company income provided by section 954(c)(3)(A)(i), although it may qualify for the look-through treatment provided by section 904(d)(3) if the requirements of that section are met with respect to the deemed dividend.

(ii) *Examples.* The following examples illustrate the rules of paragraph (b)(3)(i) of this section:

Example 1—(i) *Facts.* DC, a domestic corporation, owns all of the outstanding stock of FC, a foreign corporation. The stock of FC has a value of $100, and DC has a basis of $30 in such stock. The all earnings and profits amount attributable to the FC stock owned by DC is $20, of which $15 is described in section 1248(a) and the remaining $5 is not (for example, because it accumulated prior to 1963). FC has a basis of $50 in its assets. In a liquidation described in section 332, FC distributes all of its property to DC, and the FC stock held by DC is canceled.

(ii) *Result.* Under paragraph (b)(3)(i) of this section, DC must include $20 in income as a deemed dividend from FC. Under section

337(a) FC does not recognize gain or loss in the assets that it distributes to DC, and under section 334(b), DC takes a basis of $50 in such assets. Because the requirements of section 902 are met, DC qualifies for a deemed paid foreign tax credit with respect to the deemed dividend that it receives from FC.

Example 2—(i) *Facts.* DC, a domestic corporation, owns all of the outstanding stock of FC, a foreign corporation. The stock of FC has a value of $100, and DC has a basis of $30 in such stock. The all earnings and profits amount attributable to the FC stock owned by DC is $75. FC has a basis of $50 in its assets. In a liquidation described in section 332, FC distributes all of its property to DC, and the FC stock held by DC is canceled.

(ii) *Result.* Under paragraph (b)(3)(i) of this section, DC must include $75 in income as a deemed dividend from FC. Under section 337(a) FC does not recognize gain or loss in the assets that it distributes to DC, and under section 334(b), DC takes a basis of $50 in such assets. Because the requirements of section 902 are met, DC qualifies for a deemed paid foreign tax credit with respect to the deemed dividend that it receives from FC.

Example 3—(i) *Facts.* DC, a domestic corporation, owns 80 percent of the outstanding stock of FC, a foreign corporation. DC has owned its 80 percent interest in FC since FC was incorporated. The remaining 20 percent of the outstanding stock of FC is owned by a person unrelated to DC (the minority shareholder). The stock of FC owned by DC has a value of $80, and DC has a basis of $24 in such stock. The stock of FC owned by the minority shareholder has a value of $20, and the minority shareholder has a basis of $18 in such stock. FC's only asset is land having a value of $100, and FC has a basis of $50 in the land. Gain on the land would not generate earnings and profits qualifying under section 1248(d) for an exclusion from earnings and profits for purposes of section 1248. FC has earnings and profits of $20 (determined under the rules of § 1.367(b)–2(d)(2) (i) and (ii)), $16 of which is attributable to the stock owned by DC under the rules of § 1.367(b)–2(d)(3). FC subdivides the land and distributes to the minority shareholder land with a value of $20 and a basis of $10. As part of the same transaction, in a liquidation described in section 332, FC distributes the remainder of its land to DC, and the FC stock held by DC and the minority shareholder is canceled.

(ii) *Result.* Under section 336, FC must recognize the $10 of gain it realizes in the land it distributes to the minority shareholder, and under section 331 the minority shareholder recognizes its gain of $2 in the stock of FC. Such gain is included in income by the minority shareholder as a dividend to the extent provided in section 1248 if the minority shareholder is a United States person that is described in section 1248(a)(2). Under § 1.367(b)–2(d)(2)(iii), the $10 of gain recognized by FC increases its earnings and profits for purposes of computing the all earnings and profits amount and, as a result, $8 of such increase (80 percent of $10) is considered to be attributable to the FC stock owned by DC under § 1.367(b)–2(d)(3)(i)(A)(*1*). DC's all earnings and profits amount with respect to its stock in FC is $24 (the $16 of initial all earnings and profits amount with respect to the FC stock held by DC, plus the $8 addition to such amount that results from FC's recognition of gain on the distribution to the minority shareholder). Under paragraph (b)(3)(i) of this section, DC must include the $24 all earnings and profits amount in income as a deemed dividend from FC.

Example 4—(i) *Facts.* DC1, a domestic corporation, owns all of the outstanding stock of DC2, a domestic corporation. DC1 also owns all of the outstanding stock of FC, a foreign corporation. The stock of FC has a value of $100, and DC1 has a basis of $30 in such stock. The assets of FC have a value of $100. The all earnings and profits amount with respect to the FC stock owned by DC1 is $20. In a reorganization described in section 368(a)(1)(D), DC2 acquires all of the assets of FC solely in exchange for DC2 stock. FC distributes the DC2 stock to DC1, and the FC stock held by DC1 is canceled.

(ii) *Result.* DC1 must include $20 in income as a deemed dividend from FC under paragraph (b)(3)(i) of this section. Under section 361, FC does not recognize gain or loss in the assets that it transfers to DC2 or in the DC2 stock that it distributes to DC1, and under section 362(b) DC2 takes a basis in the assets that it acquires from FC equal to the basis that FC had therein. Under § 1.367(b)–2(e)(3)(ii) and section 358(a)(1), DC1 takes a basis of $50 (its $30 basis in the stock of FC, plus the $20 that was treated as a deemed dividend to DC1) in the stock of DC2 that it receives in exchange for the stock of FC. Under § 1.367(b)–2(e)(3)(iii) and section 312(a), the earnings and profits of FC are reduced by the $20 deemed dividend.

Example 5—(i) *Facts.* DC1, a domestic corporation, owns all of the outstanding stock of DC2, a domestic corporation. DC1 also owns all of the outstanding stock of FC1, a foreign corporation. FC1 owns all of the outstanding stock of FC2, a foreign corporation. The all earnings and profits amount with respect to the FC2 stock owned by FC1 is $20. In a reorganization described in section 368(a)(1)(D), DC2 acquires all of the assets and liabilities of FC2 in exchange for DC2 stock. FC2 distributes the DC2 stock to FC1, and the FC2 stock held by FC1 is canceled.

(ii) *Result.* FC1 must include $20 in income as a deemed dividend from FC2 under paragraph (b)(3)(i) of this section. The deemed dividend is treated as a dividend for purposes of the Internal Revenue Code as provided in § 1.367(b)–2(e)(2); however, under paragraph (b)(3)(i) of this section the deemed dividend cannot qualify for the exception from foreign personal holding company income provided by section 954(c)(3)(A)(i), even if the provisions of that section would otherwise have been met in the case of an actual dividend.

Example 6—(i) *Facts.* DC1, a domestic corporation, owns 99 percent of USP, a domestic partnership. The remaining 1 percent of USP is owned by a person unrelated to DC1. DC1 and USP each directly own 9 percent of the outstanding stock of FC, a foreign corporation that is not a controlled foreign corporation subject to the rule of section 953(c). In a reorganization described in section 368(a)(1)(C), DC2, a domestic corporation, acquires all of the assets and liabilities of FC in exchange for DC2 stock. FC distributes to its shareholders DC2 stock, and the FC stock held by its shareholders is canceled.

(ii) *Result.* (A) DC1 and USP are United States persons that are exchanging shareholders in a transaction described in paragraph (a) of this section. As a result, DC1 and USP are subject to the rules of paragraph (b) of this section if they qualify as United States shareholders as defined in paragraph (b)(2) of this section. Alternatively, if they do not qualify as United States shareholders as defined in paragraph (b)(2) of this section, DC1 and USP are subject to the rules of paragraph (c) of this section. Paragraph (b)(2) of this section defines the term United States shareholder to include any shareholder described in section 951(b) (without regard to whether the foreign corporation is a controlled foreign corporation). A shareholder described in section 951(b) is a United States person that is considered to own, applying the rules of section 958(a) and 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation. Under section 958(b), the rules of section 318(a), as modified by section 958(b) and the regulations thereunder, apply so that, in general, stock owned directly or indirectly by a partnership is considered as owned proportionately by its partners, and stock owned directly or indirectly by a partner is considered as owned by the partnership. Thus, under section 958(b), DC1 is treated as owning its proportionate share of FC stock held by USP, and USP is treated as owning all of the FC stock held by DC1.

(B) Accordingly, for purposes of determining whether DC1 is a United States shareholder under paragraph (b)(2) of this section, DC1 is considered as owning 99 percent of the 9 percent of FC stock held by USP. Because DC1 also owns 9 percent of FC stock directly, DC1 is considered as owning more than 10 percent of FC stock. DC1 is thus a United States shareholder of FC under paragraph (b)(2) of this section and, as a result, is subject to the rules of paragraph (b) of this section. However, for purposes of determining DC1's all earnings and profits amount, DC1 is not treated as owning the FC stock held by USP. Under § 1.367(b)–2(d)(3), DC1's all earnings and profits amount is determined by reference to the 9 percent of FC stock that it directly owns.

(C) For purposes of determining whether USP is a United States shareholder under paragraph (b)(2) of this section, USP is considered as owning the 9 percent of FC stock held by DC1. Because USP also owns 9 percent of FC stock directly, USP is considered as owning more than 10 percent of FC stock. USP is thus a United States shareholder of FC under paragraph (b)(2) of this section and, as a result, is subject to the rules of paragraph (b) of this section. However, for purposes of determining USP's all earnings and profits amount, USP is not treated as owning the FC shares held by DC1.

Under § 1.367(b)–2(d)(3), USP's all earnings and profits amount is determined by reference to the 9 percent of FC stock that it directly owns.

(iii) *Recognition of exchange gain or loss with respect to capital.* [Reserved]

(4) *Reserved.* For further guidance concerning section 367(b) exchanges occurring before February 23, 2001, see § 1.367(b)–3T(b)(4).

(c) *Exchange of stock owned by a United States person that is not a United States shareholder*—(1) *Scope.* This paragraph (c) applies in the case of an exchanging shareholder that is a United States person not described in paragraph (b)(1)(i) of this section (*i.e.,* a United States person that is not a United States shareholder of the foreign acquired corporation).

(2) *Requirement to recognize gain.* An exchanging shareholder described in paragraph (c)(1) of this section shall recognize realized gain (but not loss) with respect to the stock of the foreign acquired corporation.

(3) *Election to include all earnings and profits amount.* In lieu of the treatment prescribed by paragraph (c)(2) of this section, an exchanging shareholder described in paragraph (c)(1) of this section may instead elect to include in income as a deemed dividend the all earnings and profits amount with respect to its stock in the foreign acquired corporation. For the consequences of a deemed dividend, see § 1.367(b)–2(e). Such election may be made only if—

(i) The foreign acquired corporation (or its successor in interest) has provided the exchanging shareholder information to substantiate the exchanging shareholder's all earnings and profits amount with respect to its stock in the foreign acquired corporation; and

(ii) The exchanging shareholder complies with the section 367(b) notice requirement described in § 1.367(b)–1(c), including the specific rules contained therein concerning the time and manner for electing to apply the rules of this paragraph (c)(3).

(4) *De minimis exception.* This paragraph (c) shall not apply in the case of an exchanging shareholder whose stock in the foreign acquired corporation has a fair market value of less than $50,000 on the date of the section 367(b) exchange.

(5) *Examples.* The following examples illustrate the rules of this paragraph (c):

Example 1—(i) *Facts.* DC1, a domestic corporation, owns 5 percent of the outstanding stock of FC, a foreign corporation that is not a controlled foreign corporation subject to the rule of section 953(c). Persons unrelated to DC1 own the remaining 95 percent of the outstanding stock of FC. DC1 has owned its 5 percent interest in FC since FC was incorporated. DC1's stock in FC has a basis of $40,000 and a value of $100,000. The all earnings and profits amount with respect to DC1's stock in FC is $50,000. In a reorganization described in section 368(a)(1)(C), DC2, a domestic corporation, acquires all of the assets and liabilities of FC in exchange for DC2 stock. FC distributes DC2 stock to its shareholders, and the FC stock held by its shareholders is canceled.

(ii) *Alternate result 1.* If DC1 does not make the election described in paragraph (c)(3) of this section, then the general rule of paragraph (c)(2) of this section applies and DC1 must recognize its $60,000 gain in the FC stock. Under section 358(a)(1), DC1 has a $100,000 basis (its $40,000 basis in the FC stock, plus the $60,000 recognized gain) in the DC2 stock that it receives in exchange for its FC stock. Because DC1 is not a shareholder described in section 1248(a)(2), section 1248 does not apply to recharacterize any of DC1's gain as a dividend.

(iii) *Alternate result 2.* If DC1 makes a valid election under paragraph (c)(3) of this section, then DC1 must include in income as a deemed dividend the $50,000 all earnings and profits amount with respect to its FC stock. Under § 1.367(b)–2(e)(3) and section 358(a)(1), DC1 has a $90,000 basis (its $40,000 basis in the FC stock, plus the $50,000 that was treated as a deemed dividend to DC1) in the DC2 stock that it receives in exchange for its FC stock. Because DC1 owns less than 10 percent of the voting stock of FC, DC1 does not qualify for a deemed paid foreign tax credit under section 902.

Example 2—(i) *Facts.* The facts are the same as in *Example 1,* except that DC1's stock in FC has a fair market value of $48,000 on the date DC1 receives the DC2 stock.

(ii) *Result.* Because DC1's stock in FC has a fair market value of less than $50,000 on the date of the section 367(b) exchange, the de minimis exception of paragraph (c)(4) of this section applies. As a result, DC1 is not subject to the gain or income inclusion requirements of this paragraph (c).

(d) *Carryover of certain foreign taxes*—(1) *Rule.* Unused foreign tax credits allowable to the foreign acquired corporation under section 906 shall carry over to the domestic acquiring corporation and become allowable under section 901, subject to the limitations prescribed by the Internal Revenue Code (for example, sections 383, 904 and 907). The domestic acquiring corporation shall not succeed to any other foreign taxes paid or incurred by the foreign acquired corporation.

(2) *Example.* The following example illustrates the rules of this paragraph (d):

Example—(i) *Facts.* DC, a domestic corporation owns 100 percent of the outstanding stock of FC, a foreign corporation. FC has net positive earnings and profits, none of which are attributable to DC's FC stock under § 1.367(b)–2(d)(3). FC has paid foreign taxes that are not eligible for credit under section 906. In a liquidation described in section 332, FC distributes all of its property to DC, and the FC stock held by DC is canceled.

(ii) *Result.* The liquidation of FC into DC is a section 367(b) exchange. Thus, DC is subject to the section 367(b) regulations, and must file a section 367(b) notice pursuant to § 1.367(b)–1(c). Pursuant to the provisions of paragraph (d)(1) of this section, the foreign taxes paid by FC do not carryover to DC because FC's foreign taxes are not eligible for credit under section 906.

Par. 6. Section 1.367(b)–4 is revised to read as follows:

§ 1.367(b)–4 Acquisition of foreign corporate stock or assets by a foreign corporation in certain nonrecognition transactions.

(a) *Scope.* This section applies to an acquisition by a foreign corporation (the foreign acquiring corporation) of the stock or assets of another foreign corporation (the foreign acquired corporation) in an exchange described in section 351 or a reorganization described in section 368(a)(1)(B), (C), (D), (E), (F) or (G). See § 1.367(a)–3(b)(2) for additional rules that may apply.

(b) *Income inclusion.* If an exchange is described in paragraph (b)(1)(i), (2)(i) or (3) of this section, the exchanging shareholder shall include in income as a deemed dividend the section 1248 amount attributable to the stock that it exchanges.

(1) *Exchange that results in loss of status as section 1248 shareholder*—(i) *Rule.* An exchange is described in this paragraph (b)(1)(i) if—

(A) Immediately before the exchange, the exchanging shareholder is—

(*1*) A United States person that is a section 1248 shareholder with respect to the foreign acquired corporation; or

(*2*) A foreign corporation, and a United States person is a section 1248 shareholder with respect to such foreign corporation and with respect to the foreign acquired corporation; and

(B) Either of the following conditions is satisfied—

(*1*) Immediately after the exchange, the stock received in the exchange is not stock in a corporation that is a controlled foreign corporation as to which the United States person described in paragraph (b)(1)(i)(A) of this section is a section 1248 shareholder; or

(*2*) Immediately after the exchange, the foreign acquiring corporation (or, in the case of a reorganization described in section 368(a)(1)(B), the foreign acquired corporation) is not a controlled foreign corporation as to which the United States person described in paragraph (b)(1)(i)(A) of this section is a section 1248 shareholder.

(ii) *Examples.* The following examples illustrate the rules of this paragraph (b)(1):

Example 1—(i) *Facts.* FC1 is a foreign corporation that is owned, directly and indirectly (applying the ownership rules of section 958), solely by foreign persons. DC is a domestic corporation that is unrelated to FC1. DC owns all of the outstanding stock of

FC2, a foreign corporation. Thus, under § 1.367(b)–2(a) and (b), DC is a section 1248 shareholder with respect to FC2, and FC2 is a controlled foreign corporation. Under § 1.367(b)–2(c)(1), the section 1248 amount attributable to the stock of FC2 held by DC is $20. In a reorganization described in section 368(a)(1)(C), FC1 acquires all of the assets and assumes all of the liabilities of FC2 in exchange for FC1 voting stock. The FC1 voting stock received does not represent more than 50 percent of the voting power or value of FC1's stock. FC2 distributes the FC1 stock to DC, and the FC2 stock held by DC is canceled.

(ii) *Result.* FC1 is not a controlled foreign corporation immediately after the exchange. As a result, the exchange is described in paragraph (b)(1)(i) of this section. Under paragraph (b) of this section, DC must include in income, as a deemed dividend from FC2, the section 1248 amount ($20) attributable to the FC2 stock that DC exchanged.

Example 2—(i) *Facts.* The facts are the same as in *Example 1*, except that the voting stock of FC1, which is received by FC2 in exchange for its assets and distributed by FC2 to DC, represents more than 50 percent of the voting power of FC1's stock under the rules of section 957(a).

(ii) *Result.* Paragraph (b)(1)(i) of this section does not apply to require inclusion in income of the section 1248 amount, because FC1 is a controlled foreign corporation as to which DC is a section 1248 shareholder immediately after the exchange.

Example 3—(i) *Facts.* The facts are the same as in *Example 1,* except that FC2 receives and distributes voting stock of FP, a foreign corporation that is in control (within the meaning of section 368(c)) of FC1, instead of receiving and distributing voting stock of FC1.

(ii) *Result.* For purposes of section 367(a), the transfer is an indirect stock transfer subject to section 367(a). See § 1.367(a)–3(d)(1)(iv). Accordingly, DC's exchange of FC2 stock for FP stock under section 354 will be taxable under section 367(a) (and section 1248 will be applicable) if DC fails to enter into a gain recognition agreement in accordance with § 1.367(a)–8. Under § 1.367(a)–3(b)(2), if DC enters into a gain recognition agreement, the exchange will be subject to the provisions of section 367(b) and the regulations thereunder, as well as section 367(a). If FP and FC1 are controlled foreign corporations as to which DC is a (direct or indirect) section 1248 shareholder immediately after the reorganization, then the section 367(b) result is the same as in *Example 2*—that is, paragraph (b)(1)(i) of this section does not apply to require inclusion in income of the section 1248 amount. Under these circumstances, the amount of the gain recognition agreement would equal the amount of the gain realized on the indirect stock transfer. If FP or FC1 is not a controlled foreign corporation as to which DC is a (direct or indirect) section 1248 shareholder immediately after the exchange, then the section 367(b) result is the same as in *Example 1*—that is, DC must include in income, as a deemed dividend from FC2, the section 1248 amount ($20) attributable to the FC2 stock that DC exchanged. Under these circumstances, the amount of the gain recognition agreement would equal the amount of the gain realized on the indirect stock transfer, less the $20 section 1248 amount inclusion.

Example 4—(i) *Facts.* DC1, a domestic corporation, owns all of the outstanding stock of DC2, a domestic corporation. DC2 owns various assets including all of the outstanding stock of FC2, a foreign corporation. The stock of FC2 has a value of $100, and DC2 has a basis of $30 in such stock. The section 1248 amount attributable to the FC2 stock held by DC2 is $20. DC2 does not own any other stock in a foreign corporation. FC1 is a foreign corporation that is unrelated to DC1, DC2 and FC2. In a reorganization described in section 368(a)(1)(C), FC1 acquires all of the assets and liabilities of DC2 in exchange for FC1 voting stock that represents 20 percent of the outstanding voting stock of FC1. DC2 distributes the FC1 stock to DC1, and the DC2 stock held by DC1 is canceled. DC1 properly files a gain recognition agreement under § 1.367(a)–8 to qualify for nonrecognition treatment under section 367(a) with respect to DC2's transfer of the FC2 stock to FC1. See § 1.367(a)–8(f)(2).

(ii) *Result.* Pursuant to paragraph (b)(1)(i)(A) of this section, DC2 is the exchanging shareholder that is a section 1248 shareholder with respect to FC2, the foreign acquired corporation. Immediately after the exchange, DC2 is not a section 1248 shareholder with respect to FC1, the corporation whose stock is received in the exchange (because the DC2 stock is canceled). Thus, paragraph (b)(1)(i)(B) of this section is satisfied and, as a result, paragraph (b)(1)(i) of this section applies to DC2's section 361 exchange of FC2 stock. Accordingly, under paragraph (b) of this section, DC2 must include in income, as a deemed dividend from FC2, the section 1248 amount ($20) attributable to the FC2 stock that DC2 exchanges. This result arises without regard to whether FC1 and FC2 are controlled foreign corporations immediately after the exchange. For the tax treatment of DC2's transfer of assets (other than stock) to FC1, see sections 367(a)(1) and (a)(3), and the regulations thereunder. Because the exchange is also described in section 361(a) or (b), see section 367(a)(5) and any regulations thereunder. If any of the assets transferred are intangible assets, see section 367(d) and the regulations thereunder.

(2) *Receipt by exchanging shareholder of preferred or other stock in certain instances*—(i) *Rule.* An exchange is described in this paragraph (b)(2)(i) if—

(A) Immediately before the exchange, the foreign acquired corporation and the foreign acquiring corporations are not members of the same affiliated group (within the meaning of section 1504(a), but without regard to the exceptions set forth in section 1504(b), and substituting the words ''more than 50'' in place of the words ''at least 80'' in sections 1504(a)(2)(A) and (B));

(B) Immediately after the exchange, a domestic corporation meets the ownership threshold specified by section 902(a) or (b) such that it may qualify for a deemed paid foreign tax credit if it receives a distribution from the foreign acquiring corporation (directly or through tiers); and

(C) The exchanging shareholder receives preferred stock (other than preferred stock that is fully participating with respect to dividends, redemptions and corporate growth) in consideration for common stock or preferred stock that is fully participating with respect to dividends, redemptions and corporate growth, or, in the discretion of the Commissioner or the Commissioner's delegate (and without regard to whether the stock exchanged is common stock or preferred stock), receives stock that entitles it to participate (through dividends, redemption payments or otherwise) disproportionately in the earnings generated by particular assets of the foreign acquired corporation or foreign acquiring corporation.

(ii) *Examples.* The following examples illustrate the rules of this paragraph (b)(2):

Example 1—(i) *Facts.* FC1 is a foreign corporation. DC is a domestic corporation that is unrelated to FC1. DC owns all of the outstanding stock of FC2, a foreign corporation, and FC2 has no outstanding preferred stock. The value of FC2 is $100 and DC has a basis of $50 in the stock of FC2. Under § 1.367(b)–2(c)(1), the section 1248 amount attributable to the stock of FC2 held by DC is $20. In a reorganization described in section 368(a)(1)(B), FC1 acquires all of the stock of FC2 and, in exchange, DC receives FC1 voting preferred stock that constitutes 10 percent of the voting stock of FC1 for purposes of section 902(a). Immediately after the exchange, FC1 and FC2 are controlled foreign corporations and DC is a section 1248 shareholder of FC1 and FC2, so paragraph (b)(1)(i) of this section does not require inclusion in income of the section 1248 amount.

(ii) *Result.* Pursuant to § 1.367(a)–3(b)(2), the transfer is subject to both section 367(a) and section 367(b). Under § 1.367(a)–3(b)(1), DC will not be subject to tax under section 367(a)(1) if it enters into a gain recognition agreement in accordance with § 1.367(a)–8. Even though paragraph (b)(1)(i) of this section does not apply to require inclusion in income by DC of the section 1248 amount, DC must nevertheless include the $20 section 1248 amount in income as a deemed dividend from FC2 under paragraph (b)(2)(i) of this section. Thus, if DC enters into a gain recognition agreement, the amount is $30 (the $50 gain realized less the $20 recognized under section 367(b)). If DC fails to enter into a gain recognition agreement, it must include in income under section 367(a)(1) the $50 of gain realized ($20 of which is treated as a dividend under section 1248). Section 367(b) does not apply in such case.

Example 2—(i) *Facts.* The facts are the same as in *Example 1,* except that DC owns

all of the outstanding stock of FC1 immediately before the transaction.

(ii) *Result.* Both section 367(a) and section 367(b) apply to the transfer. Paragraph (b)(2)(i) of this section does not apply to require inclusion of the section 1248 amount. Under paragraph (b)(2)(i)(A) of this section, the transaction is outside the scope of paragraph (b)(2)(i) of this section because FC1 and FC2 are, immediately before the transaction, members of the same affiliated group (within the meaning of such paragraph). Thus, if DC enters into a gain recognition agreement in accordance with § 1.367(a)–8, the amount of such agreement is $50. As in *Example 1,* if DC fails to enter into a gain recognition agreement, it must include in income $50, $20 of which will be treated as a dividend under section 1248.

Example 3—(i) *Facts.* FC1 is a foreign corporation. DC is a domestic corporation that is unrelated to FC1. DC owns all of the outstanding stock of FC2, a foreign corporation. The section 1248 amount attributable to the stock of FC2 held by DC is $20. In a reorganization described in section 368(a)(1)(B), FC1 acquires all of the stock of FC2 in exchange for FC1 voting stock that constitutes 10 percent of the voting stock of FC1 for purposes of section 902(a). The FC1 voting stock received by DC in the exchange carries voting rights in FC1, but by agreement of the parties the shares entitle the holder to dividends, amounts to be paid on redemption, and amounts to be paid on liquidation, that are to be determined by reference to the earnings or value of FC2 as of the date of such event, and that are affected by the earnings or value of FC1 only if FC1 becomes insolvent or has insufficient capital surplus to pay dividends.

(ii) *Result.* Under § 1.367(a)–3(b)(1), DC will not be subject to tax under section 367(a)(1) if it enters into a gain recognition agreement with respect to the transfer of FC2 stock to FC1. Under § 1.367(a)–3(b)(2), the exchange will be subject to the provisions of section 367(b) and the regulations thereunder to the extent that it is not subject to tax under section 367(a)(1). Furthermore, even if DC would not otherwise be required to recognize income under this section, the Commissioner or the Commissioner's delegate may nevertheless require that DC include the $20 section 1248 amount in income as a deemed dividend from FC2 under paragraph (b)(2)(i) of this section.

(3) *Certain recapitalizations.* An exchange pursuant to a recapitalization under section 368(a)(1)(E) shall be deemed to be an exchange described in this paragraph (b)(3) if the following conditions are satisfied—

(i) During the 24-month period immediately preceding or following the date of the recapitalization, the corporation that undergoes the recapitalization (or a predecessor of, or successor to, such corporation) also engages in a transaction that would be described in paragraph (b)(2)(i) of this section but for paragraph (b)(2)(i)(C) of this section, either as the foreign acquired corporation or the foreign acquiring corporation; and

(ii) The exchange in the recapitalization is described in paragraph (b)(2)(i)(C) of this section.

(c) *Exclusion of deemed dividend from foreign personal holding company income*—(1) *Rule.* In the event the section 1248 amount is included in income as a deemed dividend by a foreign corporation under paragraph (b) of this section, such deemed dividend shall not be included as foreign personal holding company income under section 954(c).

(2) *Example.* The following example illustrates the rule of this paragraph (c):

Example—(i) *Facts.* FC1 is a foreign corporation that is owned, directly and indirectly (applying the ownership rules of section 958), solely by foreign persons. DC is a domestic corporation that is unrelated to FC1. DC owns all of the outstanding stock of FC2, a foreign corporation. FC2 owns all of the outstanding stock of FC3, a foreign corporation. Under § 1.367(b)–2(c)(1), the section 1248 amount attributable to the stock of FC3 held by FC2 is $20. In a reorganization described in section 368(a)(1)(B), FC1 acquires from FC2 all of the stock of FC3 in exchange for FC1 voting stock. The FC1 voting stock received by FC2 does not represent more than 50 percent of the voting power or value of FC1's stock.

(ii) *Result.* FC1 is not a controlled foreign corporation immediately after the exchange. Under paragraph (b)(1) of this section, FC2 must include in income, as a deemed dividend from FC3, the section 1248 amount ($20) attributable to the FC3 stock that FC2 exchanged. The deemed dividend is treated as a dividend for purposes of the Internal Revenue Code as provided in § 1.367(b)–2(e)(2); however, under this paragraph (c) the deemed dividend is not foreign personal holding company income to FC2.

(d) *Rules for subsequent exchanges*—(1) *In general.* If income is not required to be included under paragraph (b) of this section in a section 367(b) exchange described in paragraph (a) of this section (non-inclusion exchange) then, for purposes of applying section 367(b) or 1248 to subsequent exchanges, the determination of the earnings and profits attributable to an exchanging shareholder's stock received in the non-inclusion exchange shall include a computation that refers to the exchanging shareholder's pro rata interest in the earnings and profits of the foreign acquiring corporation (and, in the case of a stock transfer, the foreign acquired corporation) that accumulate after the non-inclusion exchange, as well as its pro rata interest in the earnings and profits of the foreign acquired corporation that accumulated before the non-inclusion exchange. See also section 1248(c)(2)(D)(ii). The earnings and profits attributable to the stock received by an exchanging shareholder in the non-inclusion exchange shall not include any earnings and profits of the foreign acquiring corporation that accumulated before the non-inclusion exchange. In the case of a non-inclusion exchange in which the exchanging shareholder is a foreign corporation, this paragraph (d)(1) shall also apply for purposes of determining the earnings and profits attributable to the exchanging foreign corporation's shareholders, as well as for purposes of determining the earnings and profits attributable to the exchanging foreign corporation when applying section 964(e) to subsequent sales or exchanges of the stock of the foreign acquiring corporation.

(2) *Subsequent dispositions by a foreign acquiring corporation.* In the case of an exchange by a foreign acquiring corporation that is subject to section 367(b) or 964(e) and that follows a non-inclusion exchange (as defined in paragraph (d)(1) of this section), the rules of paragraph (d)(1) of this section shall not apply. However, as a result of such a subsequent exchange, proportionate reductions shall be made to the earnings and profits that accumulated before the non-inclusion exchange and that were attributed under paragraph (d)(1) of this section. Such reductions shall be made without regard to whether gain is recognized on the subsequent sale or exchange.

(3) *Examples.* The following examples illustrate the rules of this section:

Example 1—(i) *Facts.* DC1, a domestic corporation, owns all of the outstanding stock of FC1, a foreign corporation. DC1 has owned all of the stock of FC1 since FC1's formation. FC1 has $20 of earnings and profits, all of which is eligible for inclusion in the section 1248 amount attributable to DC1's stock in FC1. DC2, a domestic corporation, owns all of the outstanding stock of FC2, a foreign corporation. DC2 has owned all of the stock of FC2 since FC2's formation. FC2 has $40 of earnings and profits, all of which is eligible for inclusion in the section 1248 amount attributable to DC2's stock in FC2. DC1 and DC2 are unrelated. In a reorganization described in section 368(a)(1)(B), DC1 transfers all of the stock of FC1 to FC2 in exchange for 40 percent of FC2 stock. DC1 enters into a five-year gain recognition agreement under the provisions of §§ 1.367(a)–3(b) and 1.367(a)–8 with respect to its transfer of FC1 stock to FC2.

(ii) *Result.* (A) DC1's transfer of FC1 to FC2 is not described in paragraph (b)(1)(i), (2)(i), or (3) of this section. As a result, DC1 is not required to include in income the section 1248 amount attributable to its FC1 stock and the rules of paragraph (d)(1) of this section apply. Thus, for purposes of applying section 367(b) or 1248 to subsequent exchanges of FC2 stock, the determination of the earnings

and profits attributable to DC1's stock in FC2 will include a computation that refers to 40 percent of the post-reorganization earnings and profits of FC1 and FC2, and that refers to 100 percent of the $20 of pre-reorganization earnings and profits of FC1. The earnings and profits attributable to DC1's stock in FC2 will not include any of the $40 of earnings and profits accumulated by FC2 prior to the transaction. Those earnings and profits are attributable to DC2 under section 1248. However, paragraph (d)(1) of this section does not apply for purposes of applying section 367(b) or 964(e) to subsequent exchanges of FC1 stock by FC2. For these purposes, the determination of the earnings and profits attributable to FC2's stock in FC1 is made under the principles of section 1248 and, as a result, includes a computation that refers to the $20 of earnings and profits attributable to FC2's section 1223(2) holding period in the FC1 stock.

(B) In the event FC2 exchanges FC1 stock in a transaction that is subject to section 367(b) or 964(e), a proportionate reduction must be made to the $20 of earnings and profits that was previously attributed under paragraph (d)(1) of this section to DC1's stock in FC2. Thus, for example, if FC2 sells 50 percent of its FC1 stock (at a time when there have been no other reductions that affect the $20 of FC1 earnings and profits), paragraph (d)(2) of this section requires DC1 to proportionately reduce the $20 of earnings and profits that was previously attributed to its FC2 stock (to $10). This reduction occurs without regard to whether FC2 recognizes gain on its sale of FC1 stock.

Example 2—(i) *Facts.* The facts are the same as in *Example 1,* except that in a reorganization described in section 368(a)(1)(C), FC1 transfers all of its assets to FC2 in exchange for 40 percent of FC2 stock. FC1 then distributes the stock of FC2 to DC1, and the FC1 stock held by DC1 is canceled. None of FC1's assets include stock.

(ii) *Result.* FC2's acquisition of FC1 is not described in paragraph (b)(1)(i), (2)(i), or (3) of this section. As a result, DC1 is not required to include in income the section 1248 amount attributable to its FC1 stock and the rules of paragraph (d)(1) of this section apply. Thus, for purposes of applying section 367(b) or 1248 to subsequent exchanges, the determination of the earnings and profits attributable to DC1's stock in FC2 will include a computation that refers to 40 percent of the post-reorganization earnings and profits of FC2, and that refers to 100 percent of the pre-reorganization earnings and profits of FC1. The earnings and profits attributable to DC1's stock in FC2 will not include any of the $40 of earnings and profits accumulated by FC2 prior to the transaction. Those earnings and profits are attributable to DC2 under section 1248.

Example 3—(i) *Facts.* DC1, a domestic corporation, owns all of the outstanding stock of FC1, a foreign corporation. FC1 owns all of the outstanding stock of FC3, a foreign corporation. DC1 has owned all of the stock of FC1 since FC1's formation, and FC1 has owned all of the stock of FC3 since FC3's formation. FC3 has $20 of earnings and profits, all of which is eligible for inclusion in the section 1248 amount attributable to DC1's stock in FC1 and in the section 1248 amount attributable to FC1's stock in FC3. Such earnings and profits are similarly eligible for inclusion as a dividend attributable to FC1's stock in FC3 under section 964(e). DC2, a domestic corporation, owns all of the outstanding stock of FC2, a foreign corporation. DC2 has owned all of the stock of FC2 since FC2's formation. FC2 has $40 of earnings and profits, all of which is eligible for inclusion in the section 1248 amount attributable to DC2's stock in FC2. DC1 and DC2 are unrelated. In a reorganization described in section 368(a)(1)(B), FC1 transfers all of the stock of FC3 to FC2 in exchange for 40 percent of FC2 stock.

(ii) *Result.* (A) FC1's transfer of FC3 to FC2 is not described in paragraph (b)(1)(i), (2)(i), or (3) of this section. As a result, FC1 is not required to include in income the section 1248 amount attributable to its FC3 stock and the rules of paragraph (d)(1) of this section apply. Thus, for purposes of applying section 367(b) or 1248 to subsequent exchanges of FC1 stock, the determination of the earnings and profits attributable to DC1's stock in FC1 will include a computation that refers to 40 percent of the post-reorganization earnings and profits of FC2 and FC3, and that refers to 100 percent of the $20 of pre-reorganization earnings and profits of FC3. The earnings and profits attributable to FC1's stock in FC2 will not include any of the $40 of earnings and profits accumulated by FC2 prior to the transaction. Those earnings and profits are attributable to DC2 under section 1248. For purposes of applying section 367(b) or 964(e) to subsequent exchanges of FC2 stock, the determination of the earnings and profits attributable to FC1's stock in FC2 will include a computation that refers to 40 percent of the post-reorganization earnings and profits of FC2 and FC3, and that refers to 100 percent of the $20 of pre-reorganization earnings and profits of FC3. The earnings and profits attributable to FC1's interest in FC2 do not include any of the $40 of earnings and profits accumulated by FC2 prior to the transaction. However, paragraph (d)(1) of this section does not apply for purposes of applying section 367(b) or 964(e) to subsequent exchanges of FC3 stock by FC2. For these purposes, the determination of the earnings and profits attributable to FC2's stock in FC3 is made under the principles of section 1248 and, as a result, includes a computation that refers to the $20 of earnings and profits attributable to FC2's section 1223(2) holding period in the FC3 stock.

(B) In the event FC2 exchanges FC3 stock in a transaction that is subject to section 367(b) or 964(e), a proportionate reduction must be made to the $20 of earnings and profits that was previously attributed under paragraph (d)(1) of this section to DC1's stock in FC1 (for purposes of subsequent application of section 367(b) or 1248) as well as to FC1's stock in FC2 (for purposes of subsequent application of section 367(b) or 964(e)). Thus, for example, if FC2 sells 50 percent of its FC3 stock (at a time when there have been no other reductions that affect the $20 of FC3 earnings and profits), paragraph (d)(2) of this section requires DC1 and FC1 to proportionately reduce the $20 of earnings and profits that was previously attributed to their FC1 and FC2 stock, respectively (to $10). These reductions occur without regard to whether FC2 recognizes gain on its sale of FC3 stock.

Par. 7. Sections 1.367(b)–5 and 1.367(b)–6 are added to read as follows:

§ 1.367(b)–5 Distributions of stock described in section 355.

(a) *In general*—(1) *Scope.* This section provides rules relating to a distribution described in section 355 and to which section 367(b) applies. For purposes of this section, the terms *distributing corporation*, *controlled corporation*, and *distributee* have the same meaning as used in section 355 and the regulations thereunder.

(2) *Treatment of distributees as exchanging shareholders.* For purposes of the section 367(b) regulations, all distributees in a transaction described in paragraph (b), (c), or (d) of this section shall be treated as exchanging shareholders that realize income in a section 367(b) exchange.

(b) *Distribution by a domestic corporation*—(1) *General rule.* In a distribution described in section 355, if the distributing corporation is a domestic corporation and the controlled corporation is a foreign corporation, the following general rules shall apply—

(i) If the distributee is a corporation, then the controlled corporation shall be considered to be a corporation; and

(ii) If the distributee is an individual, then, solely for purposes of determining the gain recognized by the distributing corporation, the controlled corporation shall not be considered to be a corporation, and the distributing corporation shall recognize any gain (but not loss) realized on the distribution.

(2) *Section 367(e) transactions.* The rules of paragraph (b)(1) of this section shall not apply to a foreign distributee to the extent gain is recognized under section 367(e)(1) and the regulations thereunder.

(3) *Determining whether distributees are individuals.* All distributees in a distribution described in paragraph (b)(1) of this section are presumed to be individuals. However, the shareholder identification principles of § 1.367(e)–1(d) (including the reporting procedures in § 1.367(e)–1(d)(2) and (3)) shall apply for purposes of rebutting this presumption.

(4) *Applicable cross-references.* For rules with respect to a distributee that is a partnership, trust or estate, see § 1.367(b)–2(k). For additional rules relating to a distribution of stock of a foreign corporation by a domestic corporation, see section 1248(f) and the

regulations thereunder. For additional rules relating to a distribution described in section 355 by a domestic corporation to a foreign distributee, see section 367(e)(1) and the regulations thereunder.

(c) *Pro rata distribution by a controlled foreign corporation*—(1) *Scope.* This paragraph (c) applies to a distribution described in section 355 in which the distributing corporation is a controlled foreign corporation and in which the stock of the controlled corporation is distributed pro rata to each of the distributing corporation's shareholders.

(2) *Adjustment to basis in stock and income inclusion.* If the distributee's postdistribution amount (as defined in paragraph (e)(2) of this section) with respect to the distributing or controlled corporation is less than the distributee's predistribution amount (as defined in paragraph (e)(1) of this section) with respect to such corporation, then the distributee's basis in such stock immediately after the distribution (determined under the normal principles of section 358) shall be reduced by the amount of the difference. However, the distributee's basis in such stock shall not be reduced below zero, and to the extent the foregoing reduction would have reduced basis below zero, the distributee shall instead include such amount in income as a deemed dividend from such corporation.

(3) *Interaction with § 1.367(b)–2(e)(3)(ii).* The basis increase provided in § 1.367(b)–2(e)(3)(ii) shall not apply to a deemed dividend that is included in income pursuant to paragraph (c)(2) of this section.

(4) *Basis redistribution.* If a distributee reduces the basis in the stock of the distributing or controlled corporation (or has an inclusion with respect to such stock) under paragraph (c)(2) of this section, the distributee shall increase its basis in the stock of the other corporation by the amount of the basis decrease (or deemed dividend inclusion) required by paragraph (c)(2) of this section. However, the distributee's basis in such stock shall not be increased above the fair market value of such stock and shall not be increased to the extent the increase diminishes the distributee's postdistribution amount with respect to such corporation.

(d) *Non-pro rata distribution by a controlled foreign corporation*—(1) *Scope.* This paragraph (d) applies to a distribution described in section 355 in which the distributing corporation is a controlled foreign corporation and in which the stock of the controlled corporation is not distributed pro rata to each of the distributing corporation's shareholders.

(2) *Treatment of certain shareholders as distributees.* For purposes of the section 367(b) regulations, all persons owning stock of the distributing corporation immediately after a transaction described in paragraph (d)(1) of this section shall be treated as distributees of such stock. For other applicable rules, see paragraph (a)(2) of this section.

(3) *Inclusion of excess section 1248 amount by exchanging shareholder.* If the distributee's postdistribution amount (as defined in paragraph (e)(2) of this section) with respect to the distributing or controlled corporation is less than the distributee's predistribution amount (as defined in paragraph (e)(1) of this section) with respect to such corporation, then the distributee shall include in income as a deemed dividend the amount of the difference. For purposes of this paragraph (d)(3), if a distributee owns no stock in the distributing or controlled corporation immediately after the distribution, the distributee's postdistribution amount with respect to such corporation shall be zero.

(4) *Interaction with § 1.367(b)–2(e)(3)(ii)*—(i) *Limited application.* The basis increase provided in § 1.367(b)–2(e)(3)(ii) shall apply to a deemed dividend that is included in income pursuant to paragraph (d)(3) of this section only to the extent that such basis increase does not increase the distributee's basis above the fair market value of such stock and does not diminish the distributee's postdistribution amount with respect to such corporation.

(ii) *Interaction with predistribution amount.* For purposes of this paragraph (d), the distributee's predistribution amount (as defined in paragraph (e)(1) of this section) shall be determined without regard to any basis increase permitted under paragraph (d)(4)(i) of this section.

(e) *Definitions*—(1) *Predistribution amount.* For purposes of this section, the predistribution amount with respect to a distributing or controlled corporation is the distributee's section 1248 amount (as defined in § 1.367(b)–2(c)(1)) computed immediately before the distribution (and after any section 368(a)(1)(D) transfer connected with the section 355 distribution), but only to the extent that such amount is attributable to the distributing corporation and any corporations controlled by it immediately before the distribution (the distributing group) or the controlled corporation and any corporations controlled by it immediately before the distribution (the controlled group), as the case may be, under the principles of §§ 1.1248–1(d)(3), 1.1248–2 and 1.1248–3. However, the predistribution amount with regard to the distributing group shall be computed without taking into account the distributee's predistribution amount with respect to the controlled group.

(2) *Postdistribution amount.* For purposes of this section, the postdistribution amount with respect to a distributing or controlled corporation is the distributee's section 1248 amount (as defined in § 1.367(b)–2(c)(1)) with respect to such stock, computed immediately after the distribution (but without regard to paragraph (c) or (d) of this section (whichever is applicable)). The postdistribution amount under this paragraph (e)(2) shall be computed before taking into account the effect (if any) of any inclusion under section 356(a) or (b).

(f) *Exclusion of deemed dividend from foreign personal holding company income.* In the event an amount is included in income as a deemed dividend by a foreign corporation under paragraph (c) or (d) of this section, such deemed dividend shall not be included as foreign personal holding company income under section 954(c).

(g) *Examples.* The following examples illustrate the rules of this section:

Example 1—(i) *Facts.* USS, a domestic corporation, owns 40 percent of the outstanding stock of FD, a controlled foreign corporation (CFC). USS has owned the stock since FD was incorporated, and FD has always been a CFC. USS has a basis of $80 in its FD stock, which has a fair market value of $200. FD owns 100 percent of the outstanding stock of FC, a foreign corporation. FD has owned the stock since FC was incorporated. Neither FD nor FC own stock in any other corporation. FD has earnings and profits of $0 and a fair market value of $250 (not considering its ownership of FC). FC has earnings and profits of $300, none of which is described in section 1248(d), and a fair market value of $250. In a pro rata distribution described in section 355, FD distributes to USS stock in FC worth $100; thereafter, USS's FD stock is worth $100 as well.

(ii) *Result*—(A) FD's distribution is a transaction described in paragraph (c)(1) of this section. Under paragraph (c)(2) of this section, USS must compare its predistribution amounts with respect to FD and FC to its respective postdistribution amounts. Under paragraph (e)(1) of this section, USS's predistribution amount with respect to FD or FC is its section 1248 amount computed immediately before the distribution, but only to the extent such amount is attributable to FD or FC. Under § 1.367(b)–2(c)(1), USS's section 1248 amount computed immediately before the distribution is $120, all of which is

attributable to FC. Thus, USS's predistribution amount with respect to FD is $0, and its predistribution amount with respect to FC is $120. These amounts are computed as follows: If USS had sold its FD stock immediately before the transaction, it would have recognized $120 of gain ($200 fair market value $80 basis). All of the gain would have been treated as a dividend under section 1248, and all of the section 1248 amount would have been attributable to FC (based on USS's pro rata share of FC's earnings and profits (40 percent × $300)).

(B) Under paragraph (e)(2) of this section, USS's postdistribution amount with respect to FD or FC is its section 1248 amount with respect to such corporation, computed immediately after the distribution (but without regard to paragraph (c) of this section). Under § 1.367(b)–2(c)(1), USS's section 1248 amounts computed immediately after the distribution with respect to FD and FC are $60 and $0, respectively. These amounts, which are USS's postdistribution amounts, are computed as follows: Under the normal principles of section 358, USS allocates its $80 predistribution basis in FD between FD and FC according to the stock blocks' relative values, yielding a $40 basis in each block. If USS sold its FD stock immediately after the distribution, none of the resulting gain would be treated as a dividend under section 1248. If USS sold its FC stock immediately after the distribution, it would have a $60 gain ($100 fair market value—$40 basis), all of which would be treated as a dividend under section 1248.

(C) The basis adjustment and income inclusion rules of paragraph (c)(2) of this section apply to the extent of any difference between USS's postdistribution and predistribution amounts. In the case of FD, there is no difference between the two amounts and, as a result, no adjustment or income inclusion is required. In the case of FC, USS's postdistribution amount is $60 less than its predistribution amount. Accordingly, under paragraph (c)(2) of this section, USS is required to reduce its basis in its FC stock from $40 to $0 and include $20 in income as a deemed dividend from FC. Under paragraph (c)(3) of this section, the basis increase provided in § 1.367(b)–2(e)(3)(ii) does not apply with regard to the $20 deemed dividend. Under the rules of paragraph (c)(4) of this section, USS increases its basis in FD by the amount by which it decreased its basis in FC, as well as by the amount of its deemed dividend inclusion ($40 + $40 + $20 = $100).

Example 2—(i) *Facts.* USS1 and USS2, domestic corporations, each own 50 percent of the outstanding stock of FD, a controlled foreign corporation (CFC). USS1 and USS2 have owned their FD stock since it was incorporated, and FD has always been a CFC. USS1 and USS2 each have a basis of $500 in their FD stock, and the fair market value of each block of FD stock is $750. FD owns 100 percent of the outstanding stock of FC, a foreign corporation. FD owned the stock since FC was incorporated. Neither FD nor FC own stock in any other corporation. FD has earnings and profits of $0 and a fair market value of $750 (not considering its ownership of FC). FC has earnings and profits of $500, none of which is described in section 1248(d), and a fair market value of $750. In a non-pro rata distribution described in section 355, FD distributes all of the stock of FC to USS2 in exchange for USS2's FD stock.

(ii) *Result*—(A) FD's distribution is a transaction described in paragraph (d)(1) of this section. Under paragraph (d)(2) of this section, USS1 is considered a distributee of FD stock. Under paragraph (d)(3) of this section, USS1 and USS2 must compare their predistribution amounts with respect to FD and FC stock to their respective postdistribution amounts. Under paragraph (e)(1) of this section, USS1's predistribution amount with respect to FD or FC is USS1's section 1248 amount computed immediately before the distribution, but only to the extent such amount is attributable to FD or FC. USS2's predistribution amount is determined in the same manner. Under § 1.367(b)–2(c)(1), USS1 and USS2 each have a section 1248 amount computed immediately before the distribution of $250, all of which is attributable to FC. Thus, USS1 and USS2 each have a predistribution amount with respect to FD of $0, and each have a predistribution amount with respect to FC of $250. These amounts are computed as follows: If either USS1 or USS2 had sold its FD stock immediately before the transaction, it would have recognized $250 of gain ($750 fair market value—$500 basis). All of the gain would have been treated as a dividend under section 1248, and all of the section 1248 amount would have been attributable to FC (based on USS1's and USS2's pro rata shares of FC's earnings and profits (50 percent x $500)).

(B) Under paragraph (d)(3) of this section, a distributee that owns no stock in the distributing or controlled corporation immediately after the distribution has a postdistribution amount with regard to that stock of zero. Accordingly, USS2 has a postdistribution amount of $0 with respect to FD and USS1 has a postdistribution amount of $0 with respect to FC. Under paragraph (e)(2) of this section, USS1's postdistribution amount with respect to FD is its section 1248 amount with respect to such corporation, computed immediately after the distribution (but without regard to paragraph (d) of this section). USS2's postdistribution amount with respect to FC is determined in the same manner. Under § 1.367(b)–2(c)(1), USS1's section 1248 amount computed immediately after the distribution with respect to FD is $0 and USS2's section 1248 amount computed immediately after the distribution with respect to FC is $250. These amounts, which are USS1's and USS2's postdistribution amounts, are computed as follows: After the non-pro rata distribution, USS1 owns all the stock of FD and USS2 owns all the stock of FC. If USS1 sold its FD stock immediately after the distribution, none of the resulting $250 gain ($750 fair market value $500 basis) would be treated as a dividend under section 1248. If USS2 sold its FC stock immediately after the distribution, it would have a $250 gain ($750 fair market value—$500 basis), all of which would be treated as a dividend under section 1248.

(C) The income inclusion rule of paragraph (d)(3) of this section applies to the extent of any difference between USS1's and USS2's postdistribution and predistribution amounts. In the case of USS2, there is no difference between the two amounts with respect to either FD or FC and, as a result, no income inclusion is required. In the case of USS1, there is no difference between the two amounts with respect to its FD stock. However, USS1's postdistribution amount with respect to FC is $250 less than its predistribution amount. Accordingly, under paragraph (d)(3) of this section, USS1 is required to include $250 in income as a deemed dividend. Under § 1.367(b)–2(e)(2), the $250 deemed dividend is considered as having been paid by FC to FD, and by FD to USS1, immediately prior to the distribution. This deemed dividend increases USS1's basis in FD ($500 + $250 = $750).

§ 1.367(b)–6 Effective dates and coordination rules.

(a) *Effective date*—(1) *In general.* Sections 1.367(b)–1 through 1.367(b)–5, and this section, apply to section 367(b) exchanges that occur on or after February 23, 2000.

(2) *Exception.* A taxpayer may, however, elect to have §§ 1.367(b)–1 through 1.367(b)–5, and this section, apply to section 367(b) exchanges that occur (or occurred) before February 23, 2000, if the due date for the taxpayer's timely filed Federal tax return (including extensions) for the taxable year in which the section 367(b) exchange occurs (or occurred) is after February 23, 2000. The election under this paragraph (a)(2) will be valid only if—

(i) The electing taxpayer makes the election on a timely filed section 367(b) notice;

(ii) In the case of an exchanging shareholder that is a foreign corporation, the election is made on the section 367(b) notice that is filed by each of its shareholders listed in § 1.367(b)–1(c)(3)(ii); and

(iii) The electing taxpayer provides notice of the election to all corporations (or their successors in interest) whose earnings and profits are affected by the election on or before the date the section 367(b) notice is filed.

(b) *Certain recapitalizations described in § 1.367(b)–4(b)(3).* In the case of a recapitalization described in § 1.367(b)–4(b)(3) that occurred prior to July 20, 1998, the exchanging shareholder shall include the section 1248 amount on its tax return for the taxable year that includes the exchange described in § 1.367(b)–4(b)(3)(i) (and not in the taxable year of the recapitalization), except that no inclusion is required if both the recapitalization and the exchange described in § 1.367(b)–4(b)(3)(i) occurred prior to July 20, 1998.

(c) *Use of reasonable method to comply with prior published guidance*—

(1) *Prior exchanges.* The taxpayer may use a reasonable method to comply with the following prior published guidance to the extent such guidance relates to section 367(b): Notice 88–71 (1988–2 C.B. 374); Notice 89–30 (1989–1 C.B. 670); and Notice 89–79 (1989–2 C.B. 392) (see § 601.601(d)(2) of this chapter). This rule applies to section 367(b) exchanges that occur (or occurred) before February 23, 2000, or, if a taxpayer makes the election described in paragraph (a)(2) of this section, for section 367(b) exchanges that occur (or occurred) before the date described in paragraph (a)(2) of this section. This rule also applies to section 367(b) exchanges and distributions described in paragraph (d) of this section.

(2) *Future exchanges.* Section 367(b) exchanges that occur on or after February 23, 2000, (or, if a taxpayer makes the election described in paragraph (a)(2) of this section, for section 367(b) exchanges that occur on or after the date described in paragraph (a)(2) of this section) are governed by the section 367(b) regulations and, as a result, paragraph (c)(1) of this section shall not apply.

(d) *Effect of removal of attribution rules.* To the extent that the rules under §§ 7.367(b)–9 and 7.367(b)–10(h) of this chapter, as in effect prior to February 23, 2000 (see 26 CFR part 1, revised as of April 1, 1999), attributed earnings and profits to the stock of a foreign corporation in connection with an exchange described in section 351, 354, 355, or 356 before February 23, 2000, the foreign corporation shall continue to be subject to the rules of § 7.367(b)–12 of this chapter in the event of any subsequent exchanges and distributions with respect to such stock, notwithstanding the fact that such subsequent exchange or distribution occurs on or after the effective date described in paragraph (a) of this section.

§§ 1.367(b)–7 through 1.367(b)–9 [Removed]

Par. 8. Sections 1.367(b)–7 through 1.367(b)–9 are removed.

Par. 9. Section 1.381(b)–1, paragraph (a)(1), the second sentence is amended by removing the reference ''7.367(b)–1(e)'' and adding ''1.367(b)–2(f)'' in its place.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Par. 10. The authority citation for part 7 is amended by removing the entries for §§ 7.367(b)–1, 7.367(b)–2, 7.367(b)–3, 7.367(b)–4, 7.367(b)–5, 7.367(b)–6, 7.367(b)–7, 7.367(b)–8, 7.367(b)–9, 7.367(b)–10, 7.367(b)–11, and 7.367(b)–13; and continues to read in part as follows:

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

Par. 11. Sections 7.367(b)–1 through 7.367(b)–11 and 7.367(b)–13 are removed as of February 23, 2000.

Par. 12. Section 7.367(b)–12 is amended by revising paragraph (a) to read as follows:

§ 7.367(b)–12 Subsequent treatment of amounts attributed or included in income (temporary).

(a) *Application.* This section applies to distributions with respect to, or a disposition of, stock—

(1) To which, in connection with an exchange occurring before February 23, 2000, an amount has been attributed pursuant to § 7.367(b)–9 or 7.367(b)–10 (as in effect prior to February 23, 2000; see 26 CFR Part 1 revised as of April 1, 1999); or

(2) In respect of which, before February 23, 2000, an amount has been included in income or added to earnings and profits pursuant to § 7.367(b)–7 or 7.367(b)–10 (as in effect prior to February 23, 2000); see 26 CFR Part 1 revised as of April 1, 1999).

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 13. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 12. In § 602.101, paragraph (b) is amended in the table by adding an entry in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.367(b)–1	1545–1271
* * * * *	

John M. Dalrymple,

Acting Deputy Commissioner of Internal Revenue.

Approved: December 22, 1999.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 00–1377 Filed 1–21–00; 8:45 am]

BILLING CODE 4830–01–U

POSTAL SERVICE

39 CFR Part 111

Barcode Requirements for Special Services Labels

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service has redesigned the following special services forms and labels: PS Form 3800, Receipt for Certified Mail; PS Form 3813–P, Receipt for Insured Mail—Domestic—International; PS Form 8099, Receipt for Recorded Delivery; Label 200, Registered Mail; and PS Form 3804, Return Receipt for Merchandise. In addition to the current Optical Character Reader font on the labels, the Postal Service is placing formatted barcodes. The USS–128 Subset A format barcode will be used on all USPS-printed retail labels for insured mail, recorded delivery mail, and registered mail. The USS Code 128 Subset C format will be used on all USPS-printed retail labels for certified mail and return receipt for merchandise. Customer-generated labels for these services will be either USS Code 128 or USS I 2 of 5 barcode format. Vendors and mailers preparing customer-generated labels will be required to comply with these requirements for special service labels by June 10, 2000. This final rule sets forth the new Domestic Mail Manual (DMM) and International Mail Manual (IMM) language.

DATES: Effective January 24, 2000. All parties must comply with this final rule by June 10, 2000.

FOR FURTHER INFORMATION CONTACT: Mary Shriver, (202) 268–6554.

SUPPLEMENTARY INFORMATION: On October 6, 1999, the Postal Service published in the **Federal Register** a proposed rule seeking public comment on a proposal to require barcodes on special services labels. The Postal Service received responses from mailers offering comments, but only on the technical specifications in the proposed rule. Five comments were submitted on label dimensions and sizes, four concerned printing specifics, two expressed uncertainty about the required label stock, nine inquired on barcode specifics, and three sought clarification of compliance procedures. In order to address the highly specific nature of comments received regarding the technical specifications of barcodes for the new special services labels, the Postal Service is responding to each respondent's comments or concerns individually by letter.

This final rule gives notice of classification changes to implement barcoded special services labels. The Postal Service has invested in an information technology infrastructure that includes the capability to scan barcodes upon delivery. To maximize the cost-effectiveness of this infrastructure and to achieve long-standing goals for improved customer information management, the Postal Service has implemented a barcode system for specific special services like the one for Delivery Confirmation and Signature Confirmation services. The affected special services include certified mail, insured mail, recorded delivery mail, registered mail, and return receipt for merchandise. The infrastructure will be used as part of the Postal Service plan to optically scan and electronically store recipient signatures. The new retail label deployment for these special services began in January 2000.

Barcodes on special services labels will be scanned at acceptance and at delivery, and an electronic record will be created for each mailpiece. If the customer is not home to sign for delivery, the carrier will leave a PS Form 3849, Delivery Notification/Reminder/Receipt, to inform the customer that a mailpiece is waiting for pickup at the local office. The barcoded mailpiece will be scanned as an attempted delivery.

Mailers may use either of these special services label options:

a. USPS-printed forms obtained from a post office at no charge.

b. Privately printed forms that are nearly identical in design to USPS-printed special services forms (as authorized by USPS). Privately printed barcoded labels must meet the requirements in Publication 109, Special Services Technical Guide.

Vendors or producers of privately printed labels will need to receive certification of their labels from the National Customer Support Center (NCSC), as described in Publication 109. To receive certification, a vendor or label producer must supply for evaluation and approval a sample that includes 20 barcoded labels generated by each printing process or printing device to be used. The sample is sent to: Barcode Certification, National Customer Support Center, 6060 Primacy Parkway Ste 201, Memphis TN 38188–0001.

In the event that barcode print quality falls out of tolerance on privately printed labels after approval has been granted, the vendor or label producer will be contacted by USPS, and an effort will be made to jointly resolve the problem. Should circumstances warrant, the printing and use of mailer-printed labels may be discontinued until a vendor or label producer's printer(s) is re-certified.

Publication 109, Special Services Technical Guide, has been created to provide greater detail for label specifications, barcode symbology, label certification, and service type codes, instead of adding such specifications to the DMM, as proposed October 6, 1999. Publication 109 has been developed to provide mailers with a handbook containing detailed information on how to produce their own special services barcoded labels. Private printers producing special services labels must adhere to the standards set forth by the U.S. Postal Service and found in Publication 109.

For the reasons discussed above, the Postal Service is not amending the DMM with respect to the technical specifications included in the October 6 proposed rule. Instead, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual and International Mail Manual (IMM), which are incorporated by reference in the Code of Federal Regulations (see 39 CFR Part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following sections of the Domestic Mail Manual (DMM) as set forth below:

S SPECIAL SERVICES

* * * * *

S900 Special Postal Services

S910 Security and Accountability

S911 Registered Mail

* * * * *

3.0 MAILING

* * * * *

3.4 Label 200

(Amend 3.4 to include new barcode requirements to read as follows:)

Registered mail must bear a barcoded red Label 200 (see Exhibit 3.4). The label must be placed above the delivery address and to the right of the return address, or to the left of the delivery address on parcels. Any large-volume mailer can obtain Label 200 in rolls of 100.

ER24JA00.000

(Redesignate current 3.5 through 3.9 as 3.6 through 3.10. Insert new 3.5 to read as follows:)

3.5 Privately Printed Label 200

If authorized, a mailer may use a privately printed Label 200, Registered Mail, for domestic mail only. Privately printed labels must be nearly identical in design and color to the USPS form, with a barcode and human-readable numbers that meet USPS specifications in Publication 109. A minimum of three preproduction samples must be submitted to the business mail entry manager serving the mailer's location for review by the mailpiece design analyst. Once approved, the mailer must print sample labels with barcodes to be certified under the technical requirements in Publication 109.

* * * * *

S912 Certified Mail

* * * * *

2.0 MAILING

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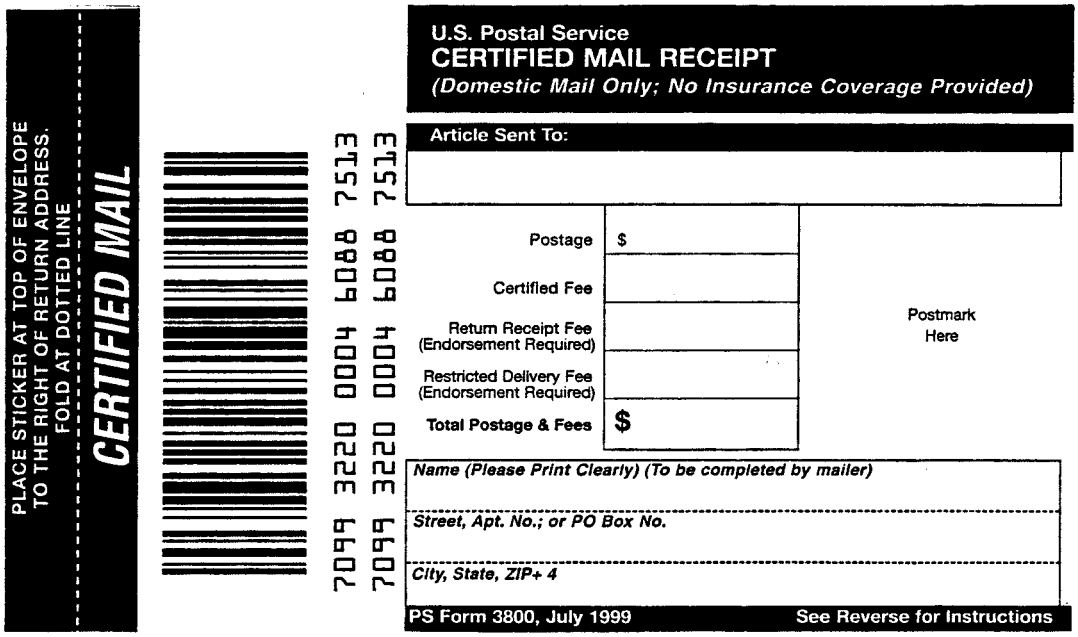
2.3 Form 3800

(Amend 2.3 to include barcode requirements to read as follows:)

Certified mail must bear a barcoded green Form 3800, Receipt for Certified Mail (see Exhibit 2.3). The label part of the form must be placed above the delivery address and to the right of the return address, or to the left of the delivery address on parcels.

Exhibit 2.3 Certified Mail Label



2.4 Privately Printed Form 3800

(Amend 2.4 by adding requirements for privately printed Form 3800 to read as follows:)

If authorized, a mailer may use a privately printed Form 3800, Receipt for Certified Mail. The privately printed form must be nearly identical in design, color, and fluorescent properties to the USPS form with a barcode and human readable numbers that meet the USPS specifications in Publication 109. A minimum of three preproduction samples must be submitted to the business mail entry manager serving the mailer's location for review by the mailpiece design analyst. Once approved, the mailer must print sample labels with barcodes to be certified under the technical requirements in Publication 109.

* * * * *

S913 Insured Mail

* * * * *

2.0 MAILING

* * * * *

2.3 Markings and Use of Form 3813–P

The treatment of parcels is determined by the insurance amount:

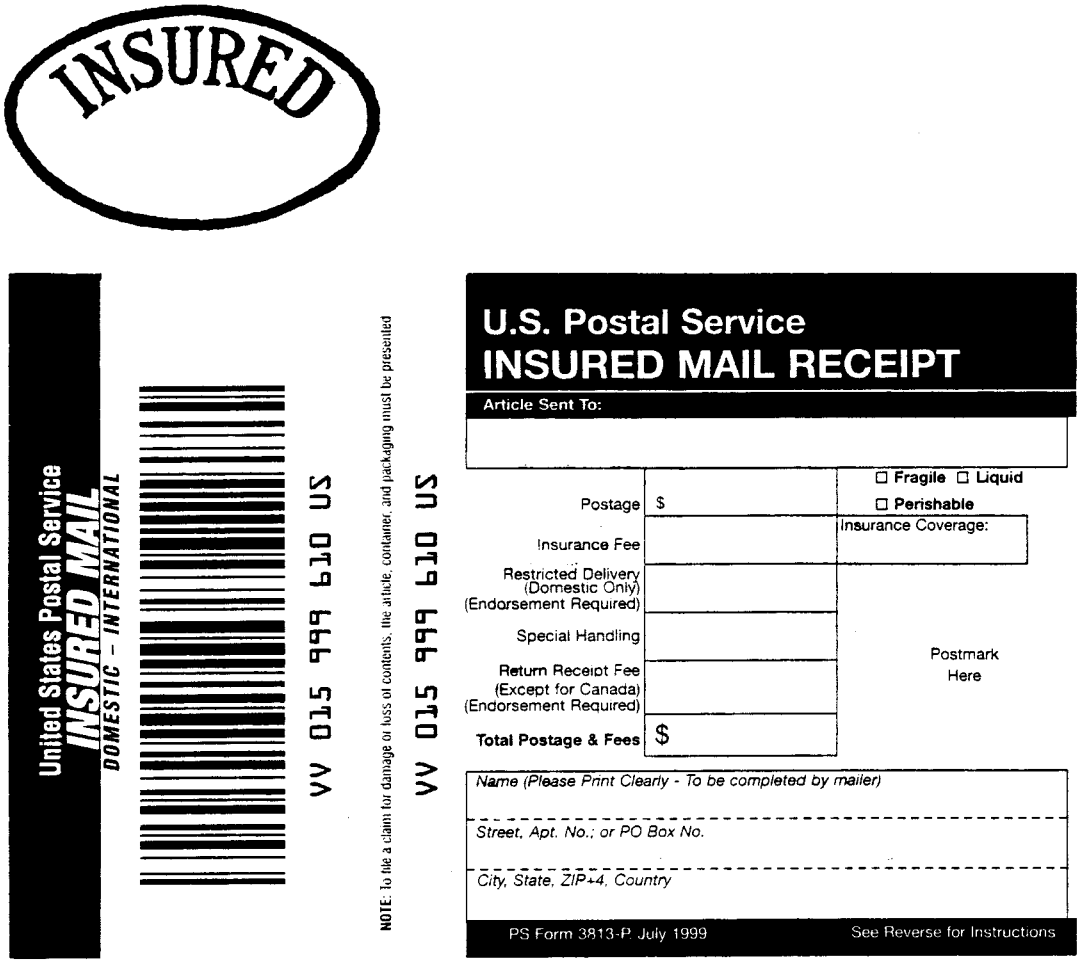
a. Insured for $50 or less: Each parcel must be stamped on the address side with an elliptical insured marking as shown in Exhibit 2.3. This marking must be placed above the delivery address and to the right of the return address.

b. Insured for more than $50: Each parcel must have barcoded Form 3813–P, Receipt for Insured Mail, shown in Exhibit 2.3, affixed above the delivery address and to the right of the return address. Form 3813–P must not be used for parcels insured for $50 or less.

c. All insured parcels, regardless of insurance amount, must be postmarked unless a postage meter stamp or permit imprint is used to pay postage.

Exhibit 2.3 Insurance Endorsements, Form 3813–P

Exhibit 2.3 Insurance Endorsements, Form 3813-P



2.4 Privately Printed Form 3813–P

(Amend 2.4 by adding requirements for privately printed Form 3813–P to read as follows:)

If authorized, a mailer may use a privately printed Form 3813–P, Receipt for Insured Mail, for domestic mail only. The privately printed form must be nearly identical in design and color to the USPS form with a barcode and human readable numbers that meet the USPS specifications in Publication 109. A minimum of three preproduction samples must be submitted to the business mail entry manager serving the mailer's location for review by the mailpiece design analyst. Once approved, the mailer must print sample labels with barcodes to be certified under the technical requirements in Publication 109.

* * * * *

S917 Return Receipt for Merchandise

1.0 BASIC INFORMATION

(Delete 1.4 and 1.5. Renumber 1.6 as 1.4.)

* * * * *

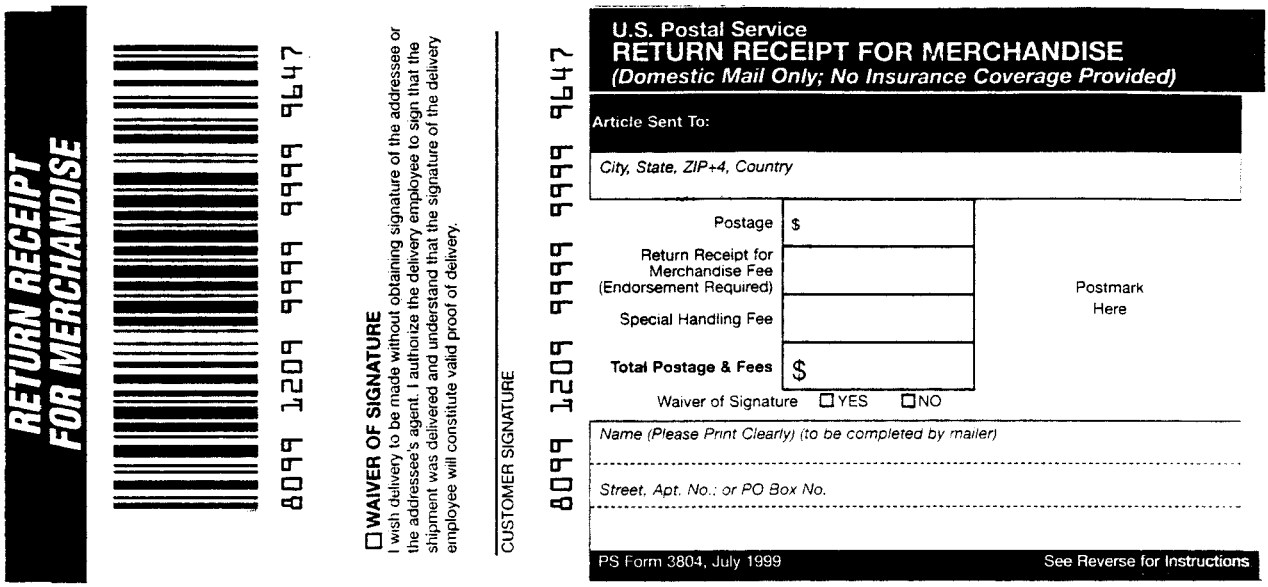
2.0 MAILING

(Add new 2.4 and 2.5. Renumber current 2.4 as 2.6.)

2.4 Form 3804

Return receipt for merchandise mail must bear a barcoded brown Form 3804 (see Exhibit 2.4). The label part of the form and the endorsement ''Return Receipt Requested'' must be placed above the delivery address and to the right of the return address, or to the left of the delivery address on parcels.

Exhibit 2.4 *Return Receipt for Merchandise*, Form 3804



2.5 Privately Printed Form 3804

If authorized, a mailer may use a privately printed Form 3804, Return Receipt for Merchandise. The privately printed form must be nearly identical in design and color to the USPS form with a barcode and human readable numbers that meet the USPS specifications in Publication 109. A minimum of three preproduction samples must be submitted to the business mail entry manager serving the mailer's location for review by the mailpiece design analyst. Once approved, the mailer must print sample labels with barcodes to be certified under the technical requirements in Publication 109.

* * * * *

S921 Collect on Delivery (COD) Mail

* * * * *

2.0 COD FORMS

2.1 Availability and Conditions

(Amend 2.1 by adding reference to the barcode requirements to read as follows:)

Mailers must complete barcoded Form 3816, COD Mailing and Delivery Receipt (see Exhibit 2.1), and attach it either above the delivery address and to the right of the return address, or to the left of the delivery address on parcels. If more than three articles are sent at a time, the mailer may use Form 3816–AS, COD Mailing and Delivery Receipt.

(Add new Exhibit 2.1:)

Exhibit 2.1 Form 3816, COD Mailing and Delivery Receipt

(Label will appear in DMM.)

* * * * *

3.0 MAILING

* * * * *

(Amend title of 3.2 to read as follows:)

3.2 Numbering for Large Volumes

(Revise 3.2 to read as follows:)

A mailer who regularly mails a large volume of COD mail must ensure that a unique COD number is used for each article mailed.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Amend the following sections of the International Mail Manual (IMM) as set forth below:

Chapter 3 Special Services

* * * * *

320 Insurance

* * * * *

324 Processing Requests

324.1 Mailing Receipt and Insurance Number

(Amend heading and text of 324.11 to read as follows:)

324.11 General Use

All international parcels must be numbered. PS Form 3813–P, Receipt for Insured Mail—Domestic-International (label), provides a numbered insurance label for the parcel and an identically numbered mailing receipt for the sender. The receipt is issued to the sender as proof of mailing and proof of payment of insurance fee. For volume mailers, use PS Form 3877, Firm Mailing Book for Accountable Mail, as sender's receipt. Only labels printed by the Postal Service may be used on international insured mail.

* * * * *

330 Registered Mail

* * * * *

334 Processing Requests

334.1 Mailing Receipt and Registration Number

(Amend heading and text of 334.11 to read as follows:)

334.11 General Use

A receipt is issued for registered mail when it is accepted. For individual transactions, PS Form 3806, Receipt for Registered Mail, is used. When an average of three or more items are presented for registration at one time, PS Form 3877, Firm Mailing Book for Accountable Mail, may be used (see DMM S911.3.8). The registered number is determined by Label 200, Registered Mail, a preprinted, self-adhesive label with a number series of nine digits preceded by a Service Type Code of two alpha characters and followed by the Country Code of two alpha characters ''US.'' Only labels printed by the Postal

Service may be used on international registered mail.

* * * * *

385 Recorded Delivery

* * * * *

385.4 Processing Requests

(Amend heading and text of 385.41 to read as follows:)

385.41 General Use

PS Form 8099, Receipt for Recorded Delivery, is used for recorded delivery. Only labels printed by the Postal Service may be used on recorded delivery mail.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–1570 Filed 1–21–00; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 96–111; FCC 99–325]

Common Carrier Services: Satellite Communications—Earth Stations Operating with Non-U.S. Licensed Space Stations; Application Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of rules published in the **Federal Register** on November 15, 1999. They related to application requirements for earth stations communicating with non-U.S. licensed space stations.

EFFECTIVE DATES: The amendments to 47 CFR 25.137 published at 64 FR 61791 became effective on December 22, 1999.

FOR FURTHER INFORMATION CONTACT: Steven Spaeth, International Bureau, (202) 418–1539.

SUPPLEMENTARY INFORMATION:

1. On October 29, 1999, the Commission released a First Order on Reconsideration, a summary of which was published in the **Federal Register**. See 64 FR 61791, November 15, 1999. The First Order on Reconsideration streamlined the process established in the Commission's 1997 DISCO II Order, by which non-U.S. licensed fixed-satellites providing service in the conventional C-and Ku-bands may serve the U.S. market. Because the amendments to 47 CFR 25.137 imposed modified information collection requirements, the amendments could not become effective until approved by the Office of Management and Budget (''OMB''), and no sooner than December 15, 1999. OMB approved these amendments on December 22, 1999.

2. The **Federal Register** summary stated that the Commission would publish a document announcing the effective date of the rule changes requiring OMB approval. The amendments to 47 CFR 25.137 became effective on December 22, 1999. This publication satisfies the statement that the Commission would publish a document announcing the effective date of the rule changes requiring OMB approval.

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–1619 Filed 1–21–00; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 65, No. 15
Monday, January 24, 2000

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

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

High-Level Guidelines for Performance-Based Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) is requesting public comment on its proposed high-level guidelines for developing performance-based activities. The guidelines would be used to assess NRC regulatory activities for performance-based approaches. Specifically, the guidelines are designed to assess whether candidate regulatory activities are amenable to a performance-based approach; identify those regulatory activities that should utilize performance-based approaches based on opportunities for regulatory improvement; and ensure consistency with the NRC's existing high-level regulatory goals and principles. Before it uses these proposed high-level guidelines, the staff plans to hold public meetings to obtain stakeholder input and to meet with the Advisory Committee on Reactor Safeguards (ACRS) and/or Advisory Committee on Nuclear Waste (ACNW) to obtain their feedback on the guidelines.

DATES: The comment period expires March 24, 2000. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Written comments may be sent to: David L. Meyer, Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6D59, Washington, DC 20555–0001. Hand deliver comments to 11545 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (e-mail: CAG@nrc.gov).

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For more information, contact the NRC Public Document Room (PDR) Reference staff at 202–634–3273 or toll-free at 1–800–397–4209, or by email at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: N. Prasad Kadambi, (301) 415–5896, Internet: npk@nrc.gov of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

In the Staff Requirements Memorandum (SRM) to SECY–99–176, ''Plans for Pursuing Performance-Based Initiatives,'' issued on September 13, 1999, the Commission directed the staff to develop high-level guidelines to identify and assess the viability of candidate performance-based activities. Among other things, the Commission directed the staff to develop the guidelines with input from stakeholders and program offices, and to include discussion on how risk information might assist in the development of performance-based initiatives.

This **Federal Register** Notice (FRN) focuses on the staff's efforts to develop high-level guidelines for performance-based initiatives applicable to all NRC licensees. The development and use of these guidelines will be coordinated (including public meetings and workshops) with the efforts to risk-inform 10 CFR Part 50 and other regulations.

Public Meeting

The staff plans to hold a public meeting to obtain feedback on the proposed high-level guidelines for performance-based activities. The public meeting is scheduled for March 1, 2000, between 9:00 a.m. and 4:00 p.m., in the auditorium at the NRC headquarters (Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, 20852). The public should be aware that another meeting concerning efforts to risk-inform 10 CFR Part 50 is scheduled on February 24, 2000. That meeting, focused on reactors, will also consider performance-based revisions to 10 CFR Part 50 based on the high-level guidelines discussed in this FRN.

The meeting being noticed here will focus on the application of high-level guidelines to all regulatory activities (of which 10 CFR Part 50 would be a part) so as to make them more performance-based. This meeting is scheduled to occur 15 days prior to the expiration of the comment period mentioned above. This will allow for an exchange of views among stakeholders and the NRC staff. This interaction should be beneficial to the meeting participants in the development of written public comments.

This meeting is open to the general public to observe or to participate by making remarks; however, advance registration by February 1, 2000 is recommended. To register for attendance or to present prepared remarks, please contact N. Prasad Kadambi, USNRC, telephone: (301) 415–5896; facsimile: (301) 415–5160; internet: npk@nrc.gov.

Discussion

The high-level guidelines identified in this FRN are intended to be applied to future regulatory initiatives. As the effort to risk-inform regulatory activities (for example, in the reactors and materials areas) is performed, the high-level guidelines will be used to identify activities which can be made more performance-based. It should be noted that regulatory activities that cannot be made risk-informed could still be made more performance-based. In addition, candidates for performance-based activities may also be identified as a result of other mechanisms such as proposed changes arising from stakeholder input or from petitions for

rulemaking as identified in the Rulemaking Activity Plan.

The fundamental basis for developing these guidelines has been the SRM to SECY–98-–44, ''White Paper on Risk-Informed and Performance-Based Regulation,'' *http://www.nrc.gov/NRC/COMMISSION/SRM/1998–144srm.html,* in which the Commission provided a context and definition for performance-based approaches incorporating the following points:

- A regulation can be either prescriptive or performance-based.
- A performance-based regulatory approach establishes performance and results as the primary basis for regulatory decision making.
- Four attributes are identified which characterize a performance-based approach. These attributes, as discussed below, form an important part of the high-level guidelines which are being proposed herein.
- A performance-based approach can be implemented with or without the use of risk insights.

The proposed high-level guidelines are to be used to evaluate potential performance-based regulatory initiatives. When the guidelines are finalized, they will be incorporated into NRC procedures and policy documents used by staff in conducting day-to-day activities (*e.g.* Management Directives). These regulatory initiatives will complement and build upon what is accomplished through risk-informed initiatives, including the effort to risk-inform 10 CFR Part 50. Further, with successive application of the guidelines, it is anticipated that the staff will be able to reassess the utility of the guidelines such that they will evolve and improve over time.

High-Level Guidelines

The following proposed guidelines are being proposed such that they can be applied in the reactor, materials, and waste arenas. The nature of the regulated activity would determine which guidelines apply and the extent of the application.

A. Guidelines to Assess Viability

The NRC will apply the following guidelines (which are based on the four attributes in the White Paper) to assess whether a more performance-based approach is viable for any given new regulatory initiative. This assessment would be applied on a case-by-case basis and would be based on an integrated consideration of the individual guidelines. The guidelines are listed below:

- Measurable (or calculable) parameters to monitor acceptable plant and licensee performance exist or can be developed.
- For regulatory application, a parameter measured directly is preferred, although a calculation may also be acceptable; it should also be directly related to the safety objective of the regulatory activity being considered. For example, the sub-cooling margin available in the reactor coolant must be calculated from the coolant's pressure and temperature, which are monitored directly.
- Preferable parameters are those which licensees can readily access, or are currently accessing, in real time. For example, monitoring of radiological effluents at some facilities is done in real time. However, parameters monitored periodically to address postulated or design basis conditions, such as monitoring occupational radiological doses, may also be used.
- Objective criteria to assess performance exist or can be developed.
- Objective criteria are established based on risk insights, deterministic analyses and/or performance history.
- Licensees would have flexibility in meeting the established performance criteria when a performance-based approach is adopted.
- Programs and processes used to achieve the established performance criteria would be at the licensee's discretion.
- A framework exists or can be developed such that performance criteria, if not met, will not result in an immediate safety concern.
- A sufficient safety margin exists.
- Time is available for taking corrective action to avoid the safety concern.
- The licensee is capable of detecting and correcting performance degradation.

B. Guidelines to Assess Performance-Based Regulatory Improvement

If a more performance-based approach is deemed to be viable based on the guidelines in (A) above, then the regulatory activity would be evaluated against the following set of guidelines to determine whether, on balance, after an integrated consideration of these guidelines, there are opportunities for regulatory improvement:

- Maintain safety, protect the environment and the common defense and security.
- The level of conservatism and uncertainty in the supporting analyses would be assessed to ensure adequate safety margins.
- Increase public confidence.
- An assessment would be made to determine if the emphasis on results and objective criteria (characteristics of a performance-based approach) can increase public confidence.
- Increase effectiveness, efficiency and realism of the NRC activities and decision-making.
- Reduce unnecessary regulatory burden.
- A reasonable test shows an overall net benefit results from moving to a performance-based approach.
- A reasonable test would begin with a qualitative approach to evaluate whether there is merit in changing the existing regulatory framework. When this question is approached from the perspective of existing practices in a mature industry, stakeholder support for change may need to be obtained.
- If stakeholder input indicates that a change in regulatory practice is likely to be expensive, a much closer examination of the benefits would be warranted before such a change is pursued.
- A simplified definition of the overall net benefit (such as net reduction in worker radiation exposure) may be appropriate for weighing the immediate implications of a proposed change.
- The performance-based approach can be incorporated into the regulatory framework.
- The regulatory framework includes the regulation in the Code of Federal Regulations, the associated Regulatory Guide, NUREG, Standard Review Plan, Technical Specification, or inspection guidance. A feasible performance-based approach would be one which can be directed specifically at changing one, some, or all of these components.
- The performance-based approach would accommodate new technology.
- The incentive to consider a performance-based approach may arise from development of new technologies (such as advanced non-destructive evaluation techniques) as well as difficulty stemming from technological changes in finding spare components and parts.
- Advanced technologies may provide more economical solutions to a regulatory issue, justifying consideration of a performance-based approach.

C. Guidelines to Assure Consistency With Other Regulatory Principles

A proposed change to a more performance-based approach needs to be consistent and coherent with other overriding goals, principles and approaches involving the NRC's regulatory process. The main sources of these principles are the Principles of Good Regulation, the Probabilistic Risk Assessment (PRA) Policy Statement, the

Regulatory Guide 1.174, ''An Approach for Using PRA in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' and the NRC's Strategic Plan. Consistent with the high-level at which the guidance described above has been articulated, specific factors which need to be addressed in each case (such as defense in depth and treatment of uncertainties) would depend on the particular regulatory issues involved.

Additional Information

The staff's proposed high-level guidelines reflect a measure of specificity designed to stimulate reactions, concerns, and views on the more detailed consideration or underpinnings of a set of high-level guidelines. In no way should this specificity be construed as an indication that the NRC has established any firm position regarding these guidelines. The NRC invites advice and recommendations from all interested persons on all aspects of its proposal. In addition, comments and supporting reasons are particularly requested in the following areas:

(1) Clarity and specificity of the guidelines;

a. Are the proposed guidelines appropriate and clear?

b. Are there additional guidelines that would improve clarity and specificity?

c. How does the ''high-level'' nature of the guidelines affect the clarity and specificity of the guidelines?

(2) Implementation of the guidelines;

a. What guidelines, if any, are mandatory for an activity to qualify as a performance-based initiative?

b. What is the best way to implement these guidelines?

c. How should the Backfit Rule apply to the implementation of performance-based approaches?

d. Should these guidelines be applied to all types of activity, *e.g.,* should they be applied to petitions for rulemaking?

e. Should these guidelines only be applied to *new* regulatory initiatives?

f. Will these guidelines be effective in determining whether we can make a regulatory initiative more performance-based? The staff proposes that these guidelines be added to our Management Directives such that whenever the NRC is involved in a rulemaking, or changing a regulatory guide or branch technical position, etc., we will consider the option of making it more performance-based.

(3) Establishment of objective performance criteria;

a. In moving to performance-based requirements, should the current level of conservatism be maintained or should introduction of more realism be attempted?

b. What level of conservatism (safety margin) needs to be built into a performance criterion to avoid facing an immediate safety concern if the criterion is not met?

c. Recognizing that performance criteria can be set at different levels in a hierarchy (*e.g.,* component, train, system, release, dose), on what basis is an appropriate level in the hierarchy selected for setting performance-based requirements, and what is the appropriate level of conservatism for each tier in the hierarchy?

d. Who would be responsible for proposing and justifying the acceptance limits and adequacy of objective criteria?

e. What are examples of performance-based objectives that are not amenable to risk analyses such as PRA or Integrated Safety Assessment?

f. In the context of risk-informed regulation, to what extent should performance criteria account for potential risk from beyond-design-basis accidents (*i.e.,* severe accidents)?

(4) Identification and use of measurable (or calculable) parameters;

a. How and by whom are performance parameters to be determined?

b. How do you decide what a relevant performance parameter is?

c. How much uncertainty can be tolerated in the measurable or calculated parameters?

(5) Pilot projects;

a. Would undertaking pilot projects in the reactor, materials, and waste arenas provide beneficial experience before finalizing the guidelines?

b. What should be the relationship between any such pilot projects and those being implemented to risk-inform the regulations?

Dated at Rockville, Maryland, this 14th day of January, 2000.

For the Nuclear Regulatory Commission.

Charles E. Rossi,

Director Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research.

[FR Doc. 00–1572 Filed 1–21–00; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–360–AD]

RIN 2120–AA64

Airworthiness Directives; Israel Aircraft Industries, Ltd., Model 1125 Westwind Astra and Astra SPX Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Israel Aircraft Industries, Ltd., Model 1125 Westwind Astra and Astra SPX series airplanes. This proposal would require replacement of the existing pneumatic de-icing boot pressure indicator switch with a newly designed switch. This proposal is prompted by an occurrence on a similar airplane model in which the pneumatic de-icing boot indication light may have provided the flightcrew with misleading information as to the proper functioning of the de-icing boots. The actions specified by the proposed AD are intended to prevent ice accumulation on the airplane leading edges, which could result in reduced controllability of the airplane.

DATES: Comments must be received by February 23, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–360–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.

Information concerning this proposal may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–360–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–360–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On December 26, 1989, a British Aerospace Jetstream Model BA–3101 series airplane impacted the ground approximately 400 feet short of the runway while executing an instrument landing system (ILS) approach. The accident occurred at the Tri-Cities Airport, Pasco, Washington. The National Transportation Safety Board (NTSB) determined that the probable cause of the accident was the flightcrew's decision to continue an unstabilized ILS approach that led to a stall, most likely of the horizontal stabilizer, and loss of control at low altitude. Contributing to the stall and loss of control was the accumulation of ice on the leading edge of the wing and the horizontal stabilizer, which degraded the aerodynamic performance of the airplane.

One result of the NTSB investigation was the determination that a flight deck wing de-icing light illuminated at a lower pressure than the pressure required to fully inflate the de-icing boots.

Based on an NTSB Safety Recommendation, the FAA reviewed the pneumatic de-icing boot system designs for airplanes operated under parts 121 and 135 of the Federal Aviation Regulations to ensure that the pneumatic pressure threshold at which each de-icing boot indication light is designed to illuminate is sufficient pressure for effective operation of the pneumatic de-icing boots. The FAA has determined that the pneumatic de-icing boot pressure indicator switch located on the flight deck of Model 1125 Westwind Astra and Astra SPX series airplanes may allow the flight deck indication light to illuminate at a lower pressure [13 pounds per square inch gage (psig)] than the pressure required to fully inflate the de-icing boots (15 psig). This condition, if not corrected, could result in ice accumulation on the airplane leading edges, which could result in reduced controllability of the airplane.

U.S. Type Certification of the Airplane

This airplane model is manufactured in Israel and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. The FAA has determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require that the existing pneumatic de-icing boot pressure indicator switch be replaced with a switch that activates the indicator light at 15 psig. The action would be required to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 59 airplanes of U.S. registry would be affected by this proposed AD. Since the manufacturer has not yet developed a specific modification commensurate with the requirements of this proposal, the FAA is unable at this time to provide specific information as to the number of work hours or cost of parts that would be required to accomplish the proposed modification. As indicated earlier in this preamble, the FAA specifically invites the submission of comments and other data regarding the economic aspect of this proposal.

Regulatory Impact

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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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:

Israel Aircraft Industries, LTD.: Docket 99–NM–360–AD.

Applicability: All Model 1125 Westwind Astra and Astra SPX series airplanes, certificated in any category.

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

alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent ice accumulation on the airplane leading edges, which could result in reduced controllability of the airplane, accomplish the following:

Modification

(a) Within 1 year after the effective date of this AD, replace the pneumatic de-icing boot pressure indicator switch with a switch that activates the flight deck indicator light at 15 pounds per square inch gage, in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

Alternative Methods of Compliance

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

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

Special Flight Permits

(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 January 18, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–1598 Filed 1–21–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–13–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model BAe 125–800A and BAe 125–800B, Model Hawker 800, and Model Hawker 800XP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Raytheon Model BAe 125–800A, Model Hawker 800, and Model Hawker 800XP series airplanes, that currently requires the filling of two tooling holes on the firewalls of the left and right engine pylons with firewall sealant. This action would require the sealing of all unused (open) tooling holes on the firewalls of the left and right engine pylons, and would expand the applicability to include additional airplanes. This proposal is prompted by reports of additional unused (open) tooling holes, found at locations other than those currently addressed. The actions specified by the proposed AD are intended to prevent an engine fire from moving to the fuselage and to the lines that carry flammable fluid that are located inboard of the firewall.

DATES: Comments must be received by February 23, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–13–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas, 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Pretz, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4153; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications 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–13–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–13–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 22, 1996, the FAA issued AD 96–24–16, amendment 39–9840 (61 FR 66878, December 19, 1996), applicable to certain Raytheon Model BAe 125–800A, Model Hawker 800, and Model Hawker 800XP series airplanes, to require the filling of two tooling holes on the firewalls of the left and right engine pylons with firewall sealant. That action was prompted by notification from the manufacturer that these holes were not sealed during production. The requirements of that AD are intended to prevent an engine fire from moving to the fuselage and to the lines that carry flammable fluid that are located inboard of the firewall.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, reports have been received of airplanes with additional unused tooling holes, at locations other than those addressed in AD 96–24–16, on the left and right engine pylon firewalls, which may permit the passage of flames to the

structure and flammable fluids inboard of the engine pylon firewall.

Explanation of Relevant Service Information

Raytheon has issued Service Bulletin SB.54–1–3815B, Revision 1, dated May 1998, which describes procedures for the sealing of all unused tooling holes on the firewalls of the left and right engine pylons. Revision 1 of the service bulletin was issued to address additional unused engine pylon firewall tooling holes at locations other than those indicated in the original service bulletin, dated March 26, 1996. Accomplishment of the actions specified in Raytheon Service Bulletin SB.54–1–3815B, Revision 1, is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would supersede AD 96–24–16 to require the sealing of all unused tooling holes on the firewalls of the left and right engine pylons. The actions would be required to be accomplished in accordance with Raytheon Service Bulletin SB.54–1–3815B, Revision 1, described previously.

Expanded Applicability

The applicability of the proposed AD has been expanded to include Model BAe 125–800B series airplanes, which have received FAA type certification and have a similar design to airplanes subject to the requirements of AD 96–24–16.

Cost Impact

There are approximately 340 Model BAe 125–800A and BAe 125–800B, Model Hawker 800, and Model Hawker 800XP series airplanes of the affected design in the worldwide fleet. The FAA estimates that 221 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 96–24–16, and retained in this AD, take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $120 per airplane.

The new actions that are proposed in this AD action would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $26,520, or $120 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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 39–9840 (61 FR 66878, December 19, 1996), and by adding a new airworthiness directive (AD), to read as follows:

Raytheon Aircraft Co. (Formerly Beech): Docket 99–NM–13–AD. Supersedes AD 96–24–16, Amendment 39–9840.

Applicability: Model BAe 125–800A and BAe 125–800B, Model Hawker 800, and Model Hawker 800XP series airplanes; as listed in Raytheon Service Bulletin SB.54–1–3815B, Revision 1, dated May 1998; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an engine fire from moving to the fuselage and to the lines that carry flammable fluid that are located inboard of the firewall, accomplish the following:

Restatement of Requirements of AD 96–24–16

(a) For airplanes identified in AD 96–24–16, amendment 39–9840: Within 6 months after January 27, 1997 (the effective date of AD 96–24–16), fill the two, unused tooling holes in the firewalls of the left and right engine pylons, in accordance with Raytheon Service Bulletin SB.54–1–3815B, dated March 26, 1996, or Raytheon Service Bulletin SB.54–1–3815B, Revision 1, dated May 1998. After the effective date of this AD, only Revision 1 of this service bulletin shall be used.

New Requirements of This AD

(b) For all airplanes: Within 6 months after the effective date of this AD, fill all unused tooling holes in the left and right engine pylon firewalls with firewall sealant, in accordance with Raytheon Service Bulletin SB.54–1–3815B, Revision 1, dated May 1998.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), ACE–116W, FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections §§ 21.197 and

21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 18, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–1597 Filed 1–21–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–40–AD]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–2, –2A, –2B, –3, –3B, –3C, –5, –5B, –5C Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to CFM International (CFMI) CFM56–2, –2A, –2B, –3, –3B, –3C, –5, –5B, –5C series turbofan engines. This proposal would require initial and repetitive visual inspections of the fuel pump filter cover helicoil inserts and bolts for damage, and, if necessary, repair or replacement with serviceable parts. This proposal also would require the installation of new fuel pumps that incorporate an improved filter cover retention design (D-bolts) as terminating action to the inspections. This proposal is prompted by reports that fuel pump filter cover helicoil inserts have loosened or pulled out. The actions specified by the proposed AD are intended to prevent fuel leakage from between the fuel pump filter cover and gear housing, which could result in an engine fire and damage to the airplane.

DATES: Comments must be received by February 23, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–40–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7152, fax (781) 238–7199.

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 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-NE–40–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, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–40–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports of fuel leakage from between the fuel pump filter cover and gear housing on CFM International (CFMI) CFM56–2, –2A, –2B, –3, –3B, –3C, –5, –5B, –5C series turbofan engines.

Investigation

The investigation revealed that fuel pump filter cover helicoil inserts have loosened or pulled out. The FAA has identified excessive torque during the installation of fuel filter cover bolts as the cause.

Improved Filter Cover

The manufacturer has introduced an improved filter cover retention design using a captured D-bolt and special locking nut that reduces the potential for filter cover bolt over torque damage and loss of bolted joint strength.

Unsafe Condition

This condition, if not corrected, could result in fuel leakage from between the fuel pump filter cover and gear housing, which could result in an engine fire and damage to the airplane.

Service Information

The FAA has reviewed and approved the technical contents of the following CFMI Service Bulletins (SBs), that describe procedures for visual inspections of inserts and bolts for damage, and provide criteria for rejection of hardware and necessary replacement with serviceable parts: CFM56–2 SB 73–110, Revision 2, dated April 29, 1999; CFM56

The FAA has also reviewed and approved the technical contents of the following CFMI SBs, that describe procedures for removal and replacement of fuel pumps (D-bolt fix): CFM56–2 SB 73–-A113, dated August 17, 1999; CFM56–2A SB 73–A058, dated August 17, 1999; CFM56–2B SB 73–A079, dated August 17, 1999; CFM56–3/3B/3C SB 73-A129, dated August 17, 1999; CFM56–5 SB 73–A143, dated June 18, 1999; CFM56–5B SB 73–A062, dated June 18, 1999; CFM56–5C SB 73–A078, dated June 21, 1999.

Differences Between Service Bulletins and This AD

The referenced SBs describe a one-time inspection. This AD requires repetitive inspections at every filter change.

Proposed Inspections and Repair or Replacement

Since an unsafe condition has been identified that is likely to exist or

develop on other products of this same type design, the proposed AD would require initial and repetitive visual inspections of helicoil inserts and bolts for damage defined in the applicable SBs. The inspections would be required at each fuel filter replacement. If the damage equals or exceeds the reject criteria, this AD would require, prior to further flight, removing the damaged hardware from service and replacement with serviceable parts, or repairing the damaged hardware.

Terminating Action

This AD would also require the installation of new fuel pumps that incorporate an improved filter cover retention design (D-bolts) as a terminating action to the inspections. The actions would be required to be accomplished in accordance with the SBs described previously.

Economic Analysis

There are approximately 8,781 engines of the affected design in the worldwide fleet. The FAA estimates that 4,063 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 0.3 work hours per engine to accomplish the proposed inspections and 3 work hours per engine to accomplish the proposed D-bolt installation, and that the average labor rate is $60 per work hour. The FAA therefore estimates the total cost to US operators of this proposed rule is $73,134 for one inspection and $4,958,658 for hardware/D-bolt installation.

Regulatory Impact

This proposal does not have federalism implications, as defined in Executive Order No. 13132, because it 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposal.

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:

CFM International: Docket No. 99–NE–40–AD.

Applicability: CFM International (CFMI) CFM56–2, –2A, –2B, –3, –3B, –3C, –5, –5B, –5C series turbofan engines, installed on but not limited to McDonnell Douglas DC–8 series, Boeing 737 series, Airbus Industrie A319, A320, A321, and A340 series, and Boeing E–3, E–6, and KC–135 (military) series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage from between the fuel pump filter cover and gear housing, which could result in an engine fire and damage to the airplane, accomplish the following:

Inspections

(a) Perform initial and repetitive visual inspections of fuel pump filter cover helicoil inserts and bolts for damage, as follows:

(1) Initially inspect at the next fuel filter replacement, but not to exceed 200 cycles-in-service (CIS) after either the effective date of this AD or the last inspection, whichever occurs first, in accordance with section 2., Accomplishment Instructions, of the applicable CFMI Service Bulletins (SBs) listed in paragraph (a)(4) of this AD.

(2) Thereafter, inspect at each fuel filter replacement in accordance with section 2., Accomplishment Instructions, of the applicable CFMI SBs listed in paragraph (a)(4) of this AD.

Replacement or Repair

(3) If damage equals or exceeds the reject criteria stated in section 2., Accomplishment Instructions, of the SBs listed in paragraph (a)(4) of this AD, prior to further flight remove the fuel pump from service and replace with serviceable part, or repair the helicoil, in accordance with section 2., Accomplishment Instructions, of the SBs listed in paragraphs (a)(4) or (b), as applicable, of this AD.

Applicable Inspection SBs

(4) Inspect, and replace, if necessary, in accordance with the following CFMI SBs, as applicable:

- CFM56–2 SB 73–110, Revision 2, dated April 29, 1999.
- CFM56–2A SB 73–055, Revision 1, dated April 29, 1999.
- CFM56–2B SB 73–076, Revision 1, dated April 29, 1999.
- CFM56–3/3B/3C SB 73–126, Revision 1, dated April 29, 1999.
- CFM56–5 SB 73–136, Revision 2, dated April 29, 1999.
- CFM56–5B SB 73–056, Revision 2, dated April 29, 1999.
- CFM56–5C SB 73–073, Revision 2, dated April 29, 1999.

Terminating Action

(b) Remove and replace the fuel pump at the next engine, gearbox, or fuel pump shop visit, but not later than 5 years from the effective date of this AD, in accordance with section 2., Accomplishment Instructions, of the following CFMI SBs, as applicable:

- CFM56–2 SB 73–A113, dated August 17, 1999.
- CFM56–2A SB 73–A058, dated August 17, 1999.
- CFM56–2B SB 73–A079, dated August 17, 1999.
- CFM56–3/3B/3C SB 73–A129, dated August 17, 1999.
- CFM56–5 SB 73–A143, dated June 18, 1999.
- CFM56–5B SB 73–A062, dated June 18, 1999.
- CFM56–5C SB 73–A078, dated June 21, 1999.

Installation of a new fuel pump with a new filter cover attachment in accordance with this paragraph constitutes terminating action to the inspections required by paragraph (a) of this AD.

Definitions

(c) For the purpose of this AD, a serviceable part is defined as a part with gear housing helicoil inserts that meet the inspection requirements of the applicable CFMI SBs listed in paragraph (a)(4) of this AD. A serviceable part is also defined as a part that has been modified in accordance

with the applicable CFMI SB listed in paragraph (b) of this AD.

Alternate Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Ferry Flights

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

Issued in Burlington, Massachusetts, on January 14, 2000.

David A. Downey,

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

[FR Doc. 00–1641 Filed 1–21–00; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AB50

Proposed Revision of the Commission's Procedures for the Review of Contract Market Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: On November 26, 1999, the Commodity Futures Trading Commission (''Commission'') published in the **Federal Register** a request for public comment on a proposal to revise its procedures for the review of contract market rules and rule amendments (64 FR 66428). The original comment period expires January 25, 2000. By letter dated January 3, 2000, seven agricultural organizations requested a thirty day extension of the comment period to permit the membership of each organization to fully consider the implications of the proposed procedures.[1]

The Commission has determined to extend the comment period for thirty days in order to insure that an adequate opportunity is provided for submission of meaningful comments.

EFFECTIVE DATE: Written comments must be received on or before February 24, 2000.

ADDRESSES: Comments on the proposal should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418–5521, or by e-mail to secretary @cftc.gov. Reference should be made to ''Procedure for the Review of Contract Market Rules''.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone Number: (202) 418–5490. Facsimile Number: (202) 418–5536. Electronic Mail: tm@cftc.gov.

Issued in Washington, D.C. on January 18, 2000 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–1568 Filed 1–21–00; 8:45 am]

BILLING CODE 6351–01–M

[1] The request was made in a January 3, 2000 letter jointly signed by the American Farm Bureau Federation, the American Soybean Association, the National Association of Wheat Growers, the National Cattlemen's Beef Association, the National Corn Grower's Association, the National Farmers Union, and the National Pork Producers Council.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 314

[Docket No. 99N–3088]

RIN 0910–AB33

Marketing Exclusivity and Patent Provisions for Certain Antibiotic Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing regulations to exempt marketing applications for certain antibiotic drug products from regulatory provisions governing marketing exclusivity and patents. The proposal would apply to marketing applications for drug products containing an antibiotic drug that was the subject of a marketing application received by FDA before November 21, 1997, the effective date of the Food and Drug Administration Modernization Act of 1997 (Modernization Act). This action is intended to bring the agency's regulations into conformance with certain transitional provisions of the Modernization Act. FDA is including in the proposed regulation a list of the active moieties of antibiotic drugs that were the subjects of marketing applications received by FDA before November 21, 1997.

DATES: Written comments by April 24, 2000.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Wayne H. Mitchell, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. The Modernization Act

On November 21, 1997, the President signed the Modernization Act (Public Law 105–115). Section 125(b) of the Modernization Act repealed section 507 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 357 (1996)). Section 507 was the section of the act under which the agency certified antibiotic drugs. Section 125(b) of the Modernization Act also made conforming amendments to the act.

In the **Federal Register** of May 12, 1998 (63 FR 26066), and January 5, 1999 (64 FR 396), the agency issued conforming amendments to its regulations to remove provisions governing certification of antibiotic drugs (21 CFR parts 430 to 460) and to make other changes needed to reflect the repeal of section 507 of the act.

Section 125(d)(1) of the Modernization Act provides that marketing applications for antibiotic drugs that were approved under former section 507 of the act will be considered to have been submitted and approved under the new drug application (NDA) submission and approval provisions found at section 505(b) and (c) of the act (21 U.S.C. 355(b) and (c)). If the marketing application was an approved abbreviated antibiotic drug application, it will be considered to have been submitted and approved under the abbreviated new drug application (ANDA) provisions found in section 505(j) of the act.

The Modernization Act also exempts certain antibiotic-related drug marketing applications from the marketing exclusivity and patent provisions found

in section 505 of the act.[1] Under former section 507 of the act, antibiotic drug applications were not subject to the patent listing and exclusivity provisions in section 505 of the act. Section 125 of the Modernization Act preserves this distinction with an expansive line. Section 125 exempts those applications that contain an antibiotic drug that was the subject of a marketing application received by FDA under former section 507 of the act before November 21, 1997 (prerepeal antibiotic drugs). Drugs that were approved and marketed under former section 507 of the act, as well as those that were the subject of applications that may have been withdrawn, not filed, or refused approval under section 507 of the act are excluded from the patent listing and exclusivity provisions.

Specifically, section 125(d)(2) of the Modernization Act provides that marketing applications for drug products that contain prerepeal antibiotic drugs are not subject to the following provisions of section 505 of the act:

- The third and fourth sentences of section 505(b)(1) (requiring submission of patent information in NDA's).
- Section 505(b)(2)(A) (requiring that 505(b)(2) applications contain patent certifications).
- Section 505(b)(2)(B) (requiring that applications submitted under section 505(b)(2) of the act (505(b)(2) applications) contain a statement about relevant method of use patents).
- Section 505(b)(3) (requiring applicants submitting 505(b)(2) applications (505(b)(2) applicants) to provide notice to the patent owner and NDA holder of the certification of invalidity or noninfringement of a patent).
- Section 505(c)(2) (requiring submission of patent information if that information becomes available after an NDA is submitted).
- Section 505(c)(3) (providing for delayed effective dates of approval of 505(b)(2) applications under patent provisions of the act).
- Section 505(d)(6) (allowing FDA to refuse to approve an application that does not contain required patent information).
- Section 505(e)(4) (requiring FDA to withdraw approval of an application if the applicant refuses to submit required patent information).
- Section 505(j)(2)(A)(vii) and (j)(2)(A)(viii) (requiring ANDA's to contain patent certifications or other patent information).
- Section 505(j)(2)(B) (requiring ANDA applicants to provide notice to the patent owner and NDA holder of the certification of invalidity or noninfringement of a patent).
- Section 505(j)(5)(B) (providing for delayed effective dates of approval of ANDA's under patent provisions of the act).[2]
- Section 505(j)(5)(D) (describing submission of and effective dates of approval of ANDA's under marketing exclusivity provisions of the act).

Section 125(d)(3) of the Modernization Act authorizes FDA to make available to the public the established name of each antibiotic drug that was the subject of a marketing application received by FDA under former section 507 of the act before November 21, 1997.

II. Description of the Rule

A. List of Regulatory Provisions That Are Not Applicable

This proposed rule would exempt from the regulatory requirements that correspond to the statutory requirements described above, applications or abbreviated applications in which the drug product that is the subject of the application contains a pre-repeal antibiotic drug. Specifically, under the proposed rule, the following provisions found in part 314 (21 CFR part 314) would not apply to marketing applications for drug products that contain pre-repeal antibiotic drugs:

- Sections 314.50(h) and 314.53 (relating to submission of patent information in NDA's).
- Section 314.50(i) (relating to patent certifications and statements about relevant method of use patents in 505(b)(2) applications).
- Section 314.52 (relating to notices to the patent owner and NDA holder of certification of invalidity or noninfringement of a patent by 505(b)(2) applicants).
- Section 314.94(a)(12) (relating to patent certifications and statements about relevant method of use patents in ANDA's).
- Section 314.95 (relating to notices to the patent owner and NDA holder of certification of invalidity or noninfringement of a patent by ANDA applicants).
- Section 314.107(b) through (f) (relating to delayed effective dates of approval of ANDA's and 505(b)(2) applications under patent provisions of the act).
- Section 314.108(b) (relating to submission of and effective dates of approval of ANDA's and 505(b)(2) applications under marketing exclusivity provisions of the act).
- Section 314.125(b)(18) (relating to refusal to approve an NDA that does not contain required patent information).
- Section 314.150(a)(2)(v) (relating to withdrawal of approval of an NDA if the applicant refuses to submit required patent information).

The brief parenthetical descriptions of the various provisions of part 314 in this section and in the codified portion of this proposed rule (as well as the similar descriptions of provisions of section 505 of the act given in section I of this document) are provided merely as aids to the reader in understanding the scope of the proposed rule. They are not intended to have any regulatory significance and should not be understood to be statements of agency policy regarding the provisions they describe.

B. List of Pre-Repeal of Antibiotic Drugs

In applying section 125(d)(2) of the Modernization Act, the agency must determine whether a drug that is the subject of an NDA or ANDA contains a pre-repeal antibiotic drug. As described in section I, the Modernization Act specifies patent listing and exclusivity provisions that will not apply when the drug that is the subject of any application contains an antibiotic drug, and the antibiotic drug was the subject of any application received under section 507 of the act prior to November 21, 1997. Section 125(d)(3) of the Modernization Act also authorizes FDA to publish the established name of each antibiotic drug that was the subject of any application for marketing received by FDA under former section 507 of the act.

The term ''antibiotic drug,'' as used in section 125(d) of the Modernization Act, is defined as:

> * * * any drug (except drugs for use in animals other than humans) composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other drug intended for human use containing any quantity of any chemical substance which is produced by a micro-organism and which has the capacity to inhibit or destroy micro-organisms in dilute solution (including a chemically synthesized equivalent of any such substance) or any derivative thereof.

21 U.S.C. 321(jj)

Thus, the term ''antibiotic drug'' includes not only the ''chemical substance which is produced by a

[1] The Modernization Act does not affect whatever rights patent holders may have regarding patent term extensions under 35 U.S.C. 156 for patents claiming antibiotic drug products.

[2] The Modernization Act added a new section 505(j)(3) to the act. This resulted in the renumbering of sections 505(j)(3) through (j)(8) as sections 505(j)(4) through (j)(9), respectively.

micro-organism,'' and which ''has the capacity to inhibit or destroy micro-organisms,'' but also ''any derivative'' of any such substance, such as a salt or ester of the substance.

For this reason, and the reasons discussed below, the determination under section 125(d) of the Modernization Act of whether a drug contains a pre-repeal antibiotic depends on whether the drug that is the subject of a marketing application contains an active moiety that can be found in a pre-repeal antibiotic drug.

An active moiety is the molecule or ion responsible for physiological or pharmacological action, excluding appended portions that would cause the drug to be an ester, salt, or other noncovalent derivative of the molecule (see § 314.108(a)). FDA has consistently looked at active moieties to determine if the exclusivity protection granted to a drug product would allow a subsequent ANDA or application described in section 505(b)(2) of the act to be submitted or approved.

The agency's primary regulation governing marketing exclusivity is found at § 314.108. This regulation, which was proposed in the **Federal Register** of July 10, 1989 (54 FR 28872), and made final in the **Federal Register** of October 3, 1994 (59 FR 50338), incorporated an interpretation of the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the Hatch-Waxman Amendments) that had been adopted by the agency shortly after the enactment of the Hatch-Waxman Amendments on September 24, 1984. The Hatch-Waxman Amendments established the exclusivity and patent provisions that are addressed by the exemptions described in section 125(d)(2) of the Modernization Act, and are the subject of this rulemaking. In interpreting the exclusivity provisions in the Hatch-Waxman Amendments, the agency concluded that Congress did not intend to confer significant periods of exclusivity on minor variations of previously approved chemical compounds. (See, e.g., Congressional Record H9124 (September 6, 1984) (statement of Representative Waxman); H. Rept. 857, Part I, 98th Cong., 2d sess. 38 (1984).) Therefore, the agency determined that it is appropriate to assess whether the drug seeking exclusivity is a new chemical entity, that is, a drug that does not contain any previously approved active moiety.

This approach is also consistent with FDA's drug classification system, which assesses and classifies NDA's based upon the characteristics of the active ingredient or ingredients of the product. (See 54 FR 28872 at 28897.)

The language of section 125(d)(2) of the Modernization Act likewise supports the conclusion that Congress did not intend to confer exclusivity on, or require patent listing for, products that represent minor or incremental variations on pre-repeal antibiotic drugs. As discussed above, Congress in section 125(d)(2) of the Modernization Act chose to exclude all drugs containing pre-repeal ''antibiotic drugs,'' a term that by definition includes the active drug substance and ''any derivative thereof'' (see section 201(jj) of the act (21 U.S.C. 321(jj)).

Accordingly, the agency is proposing to implement section 125(d)(2) of the Modernization Act by relying on a comparison of active moieties to determine whether the drug that is the subject of an NDA contains a pre-repeal antibiotic drug. NDA's for products that contain, for example, a salt of a pre-repeal antibiotic drug, or that propose such things as a new manufacturing process, new dosage form, or new use of a pre-repeal antibiotic drug, will be subject to the exceptions listed in section 125(d)(2) of the Modernization Act and proposed § 314.109(a).

To help interested persons determine which drug products would be exempt from the marketing exclusivity and patent provisions described above, FDA will maintain in the Code of Federal Regulations a list of the names of each pre-repeal active moiety. A proposed version of that list is included as § 314.109(b).

The list will provide all of the information required for an interested person to determine whether a marketing application is for a drug that contains a pre-repeal antibiotic drug. The list is intended to be comprehensive, but the inadvertent omission of an active moiety found in a pre-repeal antibiotic drug will not affect the regulatory status of a marketing application for a drug that contains that active moiety; the application will still be exempt from the statutory and regulatory requirements regarding marketing exclusivity and patents described above. A person who believes that a drug has been improperly included or omitted from the list should submit to the Dockets Management Branch (address above) written comments suggesting amendments to the list, along with any information that supports the suggested amendments. Comments should be identified with the docket number found in brackets in the heading of this document.

III. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. Because, the proposed rule is a significant regulatory action as defined by the Executive Order and it was subject to review under the Executive Order.

The Regulatory Flexibility Act requires that if a rule has a significant economic impact on a substantial number of small entities, the agency must analyze regulatory options to minimize the economic impact on small entities. The agency certifies, for the reasons discussed below, that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

The Unfunded Mandates Reform Act requires an agency to prepare a budgetary impact statement before issuing any rule likely to result in a Federal mandate that may result in expenditures by State, local, and tribal governments or the private sector of $100 million (adjusted annually for inflation) in any one year. Exempting applications for certain antibiotic drugs from regulatory provisions dealing with marketing exclusivity and patent information will not result in any

increased expenditures by State, local, and tribal governments or the private sector. Because this proposed rule will not result in an expenditure of $100 million or more by any governmental entity or the private sector, no budgetary impact statement is required.

This proposed rule is intended to bring FDA's regulations governing the new drug approval process into conformance with the transitional provisions found in section 125(d)(2) of the Modernization Act. This proposed rule is not intended to create any rights or responsibilities that are not found in the statute. For these reasons, the agency believes that this proposed rule is necessary and that it is consistent with the principles of Executive Order 12866; that it is not a significant regulatory action under that Executive Order; that it will not have a significant economic impact on a substantial number of small entities; and that it is not likely to result in an annual expenditure in excess of $100 million.

V. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VI. Request for Comments

Interested persons may, on or before April 24, 2000, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 314 be amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG

1. The authority citation for 21 CFR part 314 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 371, 374, 379e; sec. 125(d), Pub. L. 105–115, 111 Stat. 2296.

2. Add § 314.109 to subpart D to read as follows:

§ 314.109 Marketing exclusivity and patent provisions not applicable to certain antibiotic-related drug marketing applications.

(a) The following regulatory provisions do not apply to any application or abbreviated application in which the drug that is the subject of the application or abbreviated application contains an antibiotic drug that has the same active moiety (as defined in § 314.108(a)) as an antibiotic drug that was the subject of a marketing application received by FDA under former section 507 of the act (21 U.S.C. 357 (1996)) before November 21, 1997:

(1) Sections 314.50(h) and 314.53 (relating to submission of patent information in applications).

(2) Section 314.50(i) (relating to patent certifications and statements about relevant method of use patents in 505(b)(2) applications).

(3) Section 314.52 (relating to notices of certification of invalidity or noninfringement of a patent by 505(b)(2) applicants).

(4) Section 314.94(a)(12) (relating to patent certifications and statements about relevant method of use patents in 505(j) applications).

(5) Section 314.95 (relating to notices of certification of invalidity or noninfringement of a patent by 505(j) applicants).

(6) Section 314.107(b) through (f) (relating to delayed effective dates of approval of 505(j) applications and 505(b)(2) applications under patent provisions of the act).

(7) Section 314.108(b) (relating to submission of and effective dates of approval of 505(j) applications and 505(b)(2) applications under marketing exclusivity provisions of the act).

(8) Section 314.125(b)(18) (relating to refusal to approve an application that does not contain required patent information).

(9) Section 314.150(a)(2)(v) (relating to withdrawal of approval of an application if the applicant refuses to submit required patent information).

(b) The following are the active moieties of antibiotic drugs that were the subject of marketing applications received by FDA under former section 507 of the act before November 21, 1997. The list is intended to be comprehensive, but the inadvertent omission of an active moiety will not affect the regulatory status of a marketing application for a drug product that contains that active moiety.

Almecillin
Amdinocillin
Amikacin
Amoxicillin
Amphomycin
Amphotericin B
Ampicillin
Azacitidine
Azaserine
Azithromycin
Azlocillin
Aztreonam
Bacampicillin
Bacitracin
Benzyl penicilloyl-polylysine
Bleomycin
Candicidin
Capreomycin
Carbenicillin
Cefaclor
Cefadroxil
Cefamandole
Cefazolin
Cefdinir
Cefepime
Cefixime
Cefmenoxime
Cefmetazole
Cefodizime
Cefonicid
Cefoperazone
Ceforanide
Cefotaxime
Cefotetan
Cefotiam
Cefoxitin
Cefpiramide
Cefpodoxime
Cefprozil
Cefsulodin
Ceftazidime
Ceftibuten
Ceftizoxime
Ceftriaxone
Cefuroxime
Cephacetrile
Cephalexin
Cephaloglycin
Cephaloridine
Cephalothin
Cephapirin
Cephradine
Chloramphenicol
Chlortetracycline
Cilastatin
Clarithromycin
Clavulanate/clavulanic acid
Clindamycin
Clioquinol

Cloxacillin
Colistimethate
Colistin
Cyclacillin
Cycloserine
Cyclosporine
Dactinomycin
Dalfopristin
Daunorubicin
Demeclocycline
Detorubicin
Dicloxacillin
Dihydrostreptomycin
Dirithromycin
Doxorubicin
Doxycycline
Epirubicin
Erythromycin
Floxacillin
Fosfomycin
Fusidate/fusidic acid
Gentamicin
Gramicidin
Griseofulvin
Hetacillin
Idarubicin
Imipenem
Ivermectin
Kanamycin
Lincomycin
Loracarbef
Meclocycline
Meropenem
Methacycline
Methicillin
Mezlocillin
Minocycline
Mitomycin
Moxalactam
Mupirocin
Mycophenolate/mycophenolic acid
Nafcillin
Natamycin
Neomycin
Netilmicin
Niphimycin
Novobiocin
Nystatin
Oleandomycin
Oxacillin
Oxytetracycline
Paromomycin
Penicillamine
Penicillin G
Penicillin V
Phenethicillin
Piperacillin
Plicamycin
Polymyxin B
Quinupristin
Rifabutin
Rifampin
Rifamycin
Rolitetracycline
Sisomicin
Spectinomycin
Streptomycin
Streptozocin
Sulbactam
Sultamicillin
Tacrolimus
Tazobactam
Teicoplanin
Tetracycline
Ticarcillin
Tobramycin
Troleandomycin
Tyrothricin
Vancomycin
Vidarabine
Viomycin

Dated: October 5, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–1536 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 99N–4955]

Amendment of Various Device Regulations to Reflect Current American Society for Testing and Materials Citations; Companion Document to Direct Final Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend certain references in various medical device regulations. The amendments would update the references in those regulations to various standards of the American Society for Testing and Materials (ASTM) to reflect the current standards designations. This proposed rule is a companion document to the direct final rule published elsewhere in this issue of the **Federal Register**.

DATES: Submit written comments by April 10, 2000. If FDA receives no significant adverse comment on these various medical devices regulations within the specified comment period, the agency intends to publish in the **Federal Register** a document confirming the effective date of the final rule within 30 days after the comment period on the direct final rule ends. The direct final rule will be effective June 7, 2000. If FDA receives any significant adverse comment regarding this rule, FDA will publish a document withdrawing the direct final rule within 30 days after the comment period ends and will proceed to respond to all of the comments under this companion proposed rule using usual notice-and-comment procedures. The comment period for this companion proposed rule runs concurrently with the direct final rule comment period.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy, Planning, and Legislation (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

SUPPLEMENTARY INFORMATION:

I. Background

The ASTM notified FDA that ASTM had been working on a project to help Federal agencies update and maintain the ASTM standards that are referenced in the Code of Federal Regulations (CFR's). Use of consensus standards such as those developed by ASTM is consistent with the purposes of the National Technology Transfer and Advancement Act of 1995, signed into law on March 7, 1996 (Public Law 104–113). As part of the ASTM project, ASTM informed FDA that many ASTM standards cited in FDA's food additive and device regulations were out-of-date and provided a list of standards with their current year designations. ASTM listed 58 different regulations which, in its opinion, needed to be updated.

FDA examined the ASTM's documentation and, upon closer examination, found that 56 of the 58 different FDA regulations identified by ASTM cited obsolete ASTM standards or that, in some cases, cited ASTM standards that had been withdrawn. Most regulations involved direct and indirect food additives, although two of the affected regulations involved medical devices. Consequently, through this rulemaking, FDA is proposing to revise the device regulations identified by ASTM that contain obsolete or withdrawn ASTM standards to reflect

the current ASTM standards designations. FDA will update the citations for the food additive regulations in a separate rulemaking.

This rule is proposing to amend §§ 801.410(d)(2) and 801.430(f)(2) (21 CFR 801.410(d)(2) and 801.430(f)(2)) by incorporating by reference into the regulation the updated standard as follows:

- Section 801.410 *Use of impact-resistant lenses in eyeglasses and sunglasses*—The proposal would amend paragraph (d)(2) by removing ''ASTM Method D 1415–68 'Test for International Hardness of Vulcanized Rubber,' '' and by adding in its place ''ASTM Method D 1415–88, Standard Test Method for Rubber Property—International Hardness,'' and also by removing ''ASTM Method D 412–68 'Tension Test of Vulcanized Rubber,' '' and by adding in its place ''ASTM Method D 412–97, Standard Test Methods for Vulcanized Rubber and Thermoplastic Rubbers and Thermoplastic Elastomers—Tension,''.
- Section 801.430 *User labeling for menstrual tampons* —The proposal would amend paragraph (f)(2) by removing ''(ASTM), D 3492–83, 'Standard Specification for Rubber Contraceptives (Condoms)' '' and by adding in its place ''(ASTM) D 3492–96, Standard Specification for Rubber Contraceptives (Male Condoms)''.

In addition, FDA is updating in § 801.410(d)(2) the address for the American Society for Testing Materials.

II. Additional Information

This proposed rule is a companion to the direct final rule published in the final rule section of this issue of the **Federal Register**. This companion proposed rule is substantially identical to the direct final rule. FDA is publishing the direct final rule because the rule contains noncontroversial changes, and FDA anticipates that it will receive no significant adverse comments. A detailed discussion of this rule is set forth in the preamble of the direct final rule. If no significant comment is received in response to the direct final rule, no further action will be taken related to this proposed rule. Instead, FDA will publish in the **Federal Register** a confirmation within 30 days after the comment period ends confirming that the direct final rule will go into effect on June 7, 2000. Additional information about FDA's direct final rulemaking procedures is set forth in a guidance published in the **Federal Register** of November 21, 1997 (62 FR 62466).

If FDA receives any significant adverse comment regarding this rule, FDA will publish a document withdrawing the direct final rule within 30 days after the comment period ends and will proceed to respond to all of the comments under this companion proposed rule using usual notice-and-comment procedures. The comment period for this companion proposed rule runs concurrently with the direct final rule's comment period. Any comments received under this companion proposed rule will be considered as comments regarding the direct final rule.

A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without change. In determining whether a significant adverse comment is sufficient to terminate a direct final rulemaking, FDA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. For example, a comment recommending a rule change in addition to the rule will not be considered a significant adverse comment unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to an amendment, paragraph, or section of this rule and that provision can be severed from the remainder of the rule, FDA may adopt as final those provisions of the rule that are not the subject of a significant adverse comment.

III. Environmental Impact

The agency has determined, under 21 CFR 25.30(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. The revised ASTM standard citations that FDA is adopting in the medical device regulations reflect minor changes to the currently listed methods in those regulations. The updated citations are the result of periodic reapprovals of long-standing test methods or standards and should have no impact on those who use the standard. Thus, the proposal is not a significant regulatory action as defined in Executive Order 12866, and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant economic impact of a rule on small entities. The proposed rule, if finalized, would simply update ASTM citations used in various device regulations. The updated citations are the result of periodic re-approvals of long-standing ASTM test methods or standards and will have no significant adverse impact on those who use the ASTM standards. Under the Regulatory Flexibility Act, FDA certifies that the proposed rule will not impose any additional regulatory burdens on small entities.

V. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Interested persons may, on or before April 10, 2000, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 801

Hearing aids, Incorporation by reference, Medical devices, Professional and patient labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

of Food and Drugs, 21 CFR part 801 is amended as follows:

PART 801—LABELING

1. The authority citation for 21 CFR part 801 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 360i, 360j, 371, 374.

§ 801.410 [Amended]

2. Section 801.410 *Use of impact-resistant lenses in eyeglasses and sunglasses* is amended in paragraph (d)(2) by removing ''ASTM Method D 1415–68 'Test for International Hardness of Vulcanized Rubber,' '' and by adding in its place ''ASTM Method D 1415–88, Standard Test Method for Rubber Property—International Hardness,''; by removing ''ASTM Method D 412–68 'Tension Test of Vulcanized Rubber,''' and by adding in its place ''ASTM Method D 412–97, Standard Test Methods for Vulcanized Rubber and Thermoplastic Rubbers and Thermoplastic Elastomers—Tension,''; and by removing ''1916 Race St., Philadelphia, PA 19103, or available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC 20408).'' and by adding in its place ''100 Barr Harbor Dr., West Conshohocken, Philadelphia, PA 19428, or available for inspection at the Center for Devices and Radiological Health's Library, 9200 Corporate Blvd., Rockville, MD 10850, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.''

§ 801.430 [Amended]

3. Section 801.430 *User labeling for menstrual tampons* is amended in paragraph (f)(2) by removing ''(ASTM), D 3492–83, 'Standard Specification for Rubber Contraceptives (Condoms)' '' and by adding in its place ''(ASTM) D 3492–96, 'Standard Specification for Rubber Contraceptives (Male Condoms)' ''; and by revising the footnote to read ''Copies of the standard are available from the American Society for Testing Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428, or available for inspection at the Center for Devices and Radiological Health's Library, 9200 Corporate Blvd., Rockville, MD 10850, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.''

Dated: December 29, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–1405 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1

[REG–116048–99]

RIN 1545–AX63

Stock Transfer Rules: Supplemental Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document proposes, by cross-reference to temporary regulations, amendments to the final regulations concerning the Federal tax treatment of certain exchanges subject to section 367(b) of the Internal Revenue Code (Code). The temporary regulations, published in the Rules and Regulations section of this issue of the **Federal Register**, provide an election for certain taxpayers engaged in certain exchanges described in section 367(b). The temporary regulations provide guidance for taxpayers that make the specified election in order to determine the extent to which income must be included and certain corresponding adjustments must be made. The text of the temporary regulations also serves as the text of the proposed regulations. This document also provides notice of a public hearing on the proposed regulations.

DATES: Written comments must be received by April 24, 2000. Requests to speak (with outlines of oral comments) at the public hearing scheduled for April 20, 2000, must be submitted by March 31, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–116048–99), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–116048–99), 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 of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax—regs/regslist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Mark D. Harris, (202) 622–3860 (not a toll-free number); concerning submissions and the hearing, Guy Traynor, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collection of information should be received by March 24, 2000. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in § 1.367(b)–3(b)(4). This information is required to properly make an election to include an amount in income that is different than the inclusion currently required under § 1.367(b)–3 of the final regulations. This information will be used to verify proper compliance with the section 367(b) regulations, including that the election provided herein was made and that the required adjustments will be made by all parties to the section 367(b) transaction. The collection of information is mandatory. The likely respondents are businesses or other for-profit institutions.

Estimated total annual reporting burden: 85 hours.

Estimated average annual burden hours per respondent: 4 hours, 15 minutes.

Estimated number of respondents: 20

Estimated annual frequency of responses: once

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

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 367(b). The temporary regulations contain rules that provide an election for certain taxpayers engaged in certain exchanges described in section 367(b).

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the proposed regulations.

Proposed Effective Date

Except as otherwise specified, these regulations are proposed to apply to section 367(b) exchanges that occur on or after the date final regulations are published in the **Federal Register.**

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that the collection of information contained in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the number of section 367(b) exchanges that require reporting under these regulations is estimated to be only 20 per year. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury request comments on the clarity of the proposed regulation and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for April 20, 2000, beginning at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

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 timely written comments and an outline of the topics to be discussed and the time to be devoted to each topic by (preferably a signed original and eight (8) copies) March 31, 2000. However, comments not to be presented at the hearing must be submitted by April 24, 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 regulations is Mark Harris of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

Income taxes, Reporting and recordkeeping requirements.

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.367(b)–3 is amended by adding paragraph (b)(4) to read as follows:

§ 1.367(b)–3 Repatriation of foreign corporate assets in certain nonrecognition transactions.

* * * * *

(b) * * *

(4) [The text of this proposed addition is the same as the text of § 1.367(b)–3T(b)(4) published elsewhere in this issue of the **Federal Register**].

John M. Dalrymple,

Acting Deputy Commissioner of Internal Revenue.

[FR Doc. 00–1378 Filed 1–21–00; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OH–132; KY–116; KY–84; FRL–6527–7]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio and Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to determine that the Cincinnati-Hamilton moderate ozone nonattainment area (Cincinnati-Hamilton area) has attained the public health-based 1-hour ozone National Ambient Air Quality Standard (NAAQS). If EPA takes final action on this proposal, the Cincinnati-Hamilton area will be redesignated to attainment of the 1-hour ozone NAAQS. The Cincinnati-Hamilton area includes the Ohio Counties of Hamilton, Butler, Clermont, and Warren and the Kentucky Counties of Boone, Campbell, and Kenton. This proposed determination is based on three years of complete, quality-assured, ambient air monitoring data for the 1996 to 1998 ozone seasons that demonstrate that the ozone NAAQS has been attained in the area. Preliminary ozone monitoring data for 1999 continue to show the area attaining the ozone NAAQS. On the basis of this determination, EPA is also determining that certain attainment demonstration requirements, along with certain other related requirements, of part D of Title 1 of the Clean Air Act (CAA) are not applicable to the Cincinnati-Hamilton area.

The EPA is also proposing to approve the State of Ohio Environmental Protection Agency's (OEPA) and the Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet (Cabinet) requests to redesignate the Cincinnati-Hamilton

area to attainment of the 1-hour ozone NAAQS. The redesignation request from OEPA was received on July 2, 1999 and completed on December 22, 1999. The Cabinet sent the redesignation request to EPA on October 29, 1999. Approval of these redesignation requests would put into place a plan for maintaining the 1-hour ozone standard for the next 10 years.

The EPA is also re-proposing to approve an exemption from the nitrogen oxides (NO_X) requirements as provided for in section 182(f) for the Kentucky portion of the Cincinnati-Hamilton area. Section 182(f) establishes NO_X requirements for ozone nonattainment areas. However, it provides that these requirements do not apply to an area if the Administrator determines that NO_X reductions would not contribute to attainment. On November 11, 1994, the Cabinet submitted a request for a 182(f) NO_X exemption and on May 10, 1995, EPA proposed approval for the exemption. Subsequently, since the area monitored an exceedance that constituted a violation of the ozone NAAQS, EPA did not publish a final notice approving the NO_X exemption. Because the Cincinnati-Hamilton area is currently attaining the ozone NAAQS, EPA is proposing to grant the Kentucky portion a NO_X exemption. If final action is taken, then the Kentucky portion of the Cincinnati-Hamilton area would no longer be subject to NO_X requirements, however, all controls previously approved by the Cabinet must continue to be implemented.

DATES: Comments on EPA's proposed action must be received by February 23, 2000.

ADDRESSES: Written comments should be addressed to:

J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Kay Prince, Chief, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the OEPA's and the Cabinet's submittals and other information are available for inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file OH 132, KY–116 and KY 84. Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. U.S. Environmental Protection Agency, Region 4, Air Planning Branch, Regulatory Planning Section, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: William Jones, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6058, (*jones.william@epa.gov*). Karla L. McCorkle, Environmental Scientist, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303, 404–562–9043, (*mccorkle.karla@epa.gov*).

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I. Determination of Attainment

A. What Action Is EPA Proposing To Take?

The EPA is proposing to determine that the Cincinnati-Hamilton moderate ozone nonattainment area has attained the NAAQS for ozone. The Cincinnati-Hamilton area includes the Ohio Counties of Hamilton, Butler, Clermont, and Warren and the Kentucky Counties of Boone, Campbell, and Kenton. On the basis of this determination, EPA is also determining that certain attainment demonstration requirements (section 172(c)(1)), along with certain other related requirements, of Part D of Title 1 of the CAA, specifically the section 172(c)(9) contingency measure requirement, the section 182(b)(1) attainment demonstration requirement and the 182(j) multi-state attainment demonstration requirement are not applicable to the Cincinnati-Hamilton area as long as it continues to attain the ozone NAAQS.

B. Why Is EPA Taking This Action?

The EPA proposes to redesignate the area because three years of ambient air monitoring data demonstrate that the ozone NAAQS has been attained and the area has satisfied the other requirements for redesignation. The EPA believes it is reasonable to interpret provisions regarding attainment demonstrations, along with certain other related provisions, so as not to require State Implementation Plan (SIP) submissions, as described further below, if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (*i.e.,* attainment of the NAAQS is demonstrated with three consecutive years of complete, quality-assured, air quality monitoring data). The EPA is basing this determination upon three years of complete, quality-assured, ambient air monitoring data for the 1996 to 1998 ozone seasons that demonstrate that the ozone NAAQS has been attained in the entire Cincinnati-Hamilton area. Preliminary ozone monitoring data for 1999 continue to show that the area is attaining the ozone NAAQS.

C. What Would Be the Effect of This Action?

The requirements of section 172(c)(1), 182(b)(1) and 182(j) concerning the submission of the ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures for reasonable further progress (RFP) or attainment will not be applicable to the area. This proposal does not revoke the 1-hour standard (see discussion in II (A) of this document.)

D. What Is the Background for This Action?

Subpart 2 of part D of Title I of the CAA contains various air quality planning and SIP submission requirements for ozone nonattainment areas. The EPA believes it is reasonable to interpret provisions regarding RFP and attainment demonstrations, along with certain other related provisions, so as not to require SIP submissions if an

ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (*i.e.,* attainment of the NAAQS demonstrated with three consecutive years of complete, quality-assured, air quality monitoring data). EPA has interpreted the general provisions of subpart 1 of part D of Title I (sections 171 and 172) so as not to require the submission of SIP revisions concerning RFP, attainment demonstrations, or contingency measures. As explained in a memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' dated May 10, 1995, EPA believes it is appropriate to interpret the more specific attainment demonstration and related provisions of subpart 2 in the same manner. (See *Sierra Club* v. *EPA, 99 F.3d 1551 (10th Cir. 1996))*

The attainment demonstration requirements of section 182(b)(1) are that the plan provide for ''such specific annual reductions in emissions * * * as necessary to attain the national primary ambient air quality standard by the attainment date applicable under the CAA.'' If an area has in fact monitored attainment of the relevant NAAQS, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of certain section 172(c) requirements provided by EPA in the General Preamble to Title I. As EPA stated in the Preamble, no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since ''attainment will have been reached'' (57 FR 13564). Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

Similar reasoning applies to other related provisions of subpart 2. The first of these are the contingency measure requirements of section 172(c)(9) of the CAA. The EPA has previously interpreted the contingency measure requirement of section 172(c)(9) as no longer being applicable once an area has attained the standard since those ''contingency measures are directed at ensuring RFP and attainment by the applicable date'' (57 FR 13564).

The state must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The air quality data relied upon to determine that the area is attaining the ozone standard must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance and recorded in EPA's Aerometric Information Retrieval System (AIRS).

The determinations made in this notice do not shield an area from future EPA action to require emissions reductions from sources in the area where there is evidence, such as photochemical grid modeling, showing that emissions from sources in the area contribute significantly to nonattainment in, or interfere with maintenance by, any other states with respect to the NAAQS (see section 110(a)(2)(D)). The EPA has authority under sections 110(a)(2)(A) and 110(a)(2)(D) of the CAA to require such emission reductions if necessary and appropriate to deal with transport situations.

The EPA has reviewed the ambient air monitoring data for ozone (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS) for the Cincinnati-Hamilton moderate ozone nonattainment area from the 1996 through 1998 ozone seasons. This data is summarized in Table 1 covering EPA's analysis of the redesignation request. Preliminary monitoring data for 1999 show the area continues to attain the 1-hour ozone NAAQS. On the basis of this review, EPA determines that the area has attained the 1-hour ozone standard during the 1996–98 period, which is the most recent three-year time period of air quality monitoring data, and therefore is not required to submit an attainment demonstration, and a section 172(c)(9) contingency measure plan.

E. Where Is the Public Record and Where Do I Send Comments?

The official record for this proposed rule is located at the addresses in the **ADDRESSES** section at the beginning of this document. The addresses for sending comments are also provided in the **ADDRESSES** section at the beginning of this document. Public comments are solicited on EPA's proposed rulemaking action. Public comments received by February 23, 2000, will be considered in the development of EPA's final rulemaking action.

II. Redesignation Request

A. What Action Is EPA Proposing To Take?

The EPA is proposing approval of the maintenance plan submitted by the OEPA and the Cabinet and redesignation of the Cincinnati-Hamilton moderate ozone nonattainment area to attainment of the 1-hour ozone NAAQS. The Cincinnati-Hamilton area consists of the Ohio Counties of Butler, Warren, Clermont, and Hamilton and the Kentucky Counties of Boone, Campbell, and Kenton.

B. Why Is EPA Taking This Action?

The Cincinnati-Hamilton area meets the redesignation and maintenance plan requirements of the CAA.

EPA issued a proposal to determine the 1-hour ozone NAAQS inapplicable to the Cincinnati-Hamilton area in light of the new 8-hour ozone NAAQS on June 10, 1999 (64 FR 110), when the U.S. Court of Appeals for the D.C. Circuit issued its opinion in *American Trucking Ass'ns, Inc.* v. *EPA,* 175 F.3d 1027 (D.C. Cir. 1999) and modified in rehearing on October 29, 1999, WL 979463, which created uncertainty regarding the 8-hour ozone standard. Thus, EPA proposed to rescind findings of inapplicability of the 1-hour ozone standard on October 25, 1999 (64 FR 57424). Therefore, the 1-hour ozone standard remains applicable in the Cincinnati-Hamilton area.

C. What Would Be the Effect of the Redesignation?

The redesignation would change the official designation of the Ohio Counties of Butler, Warren, Clermont, and Hamilton and the Kentucky Counties of Boone, Campbell, and Kenton from nonattainment to attainment for the 1-hour ozone standard. It would also put into place a plan for maintaining the 1-hour ozone standard for the next 10 years. This plan includes contingency measures to correct any future violations of the 1-hour ozone standard.

D. What Is the Background for This Action?

The OEPA and the Cabinet submitted requests on August 16, 1999 and October 29, 1999, respectively, to redesignate the Ohio and Kentucky portions of the Cincinnati-Hamilton area from nonattainment to attainment for ozone.

Under section 107(d) of the 1977 amended CAA, the EPA promulgated the ozone attainment status for each geographic area of the country. All counties in the Cincinnati-Hamilton area were designated as an ozone nonattainment area in March 1978 (43 FR 8962). On November 15, 1990, the CAA Amendments of 1990 were enacted. Pursuant to section 107(d)(4)(A), on November 6, 1991 (56 FR 56694), the Ohio Counties of Butler,

Clermont, Hamilton, and Warren and the Kentucky Counties of Boone, Campbell, and Kenton were designated as the Cincinnati-Hamilton moderate ozone nonattainment area, as a result of monitored violations of the ozone NAAQS during the 1987–1989 time frame. On November 14, 1994, OEPA submitted a redesignation request for the Ohio portion of the Cincinnati-Hamilton area and EPA published a proposed redesignation rulemaking on May 5, 1995 (60 FR 22337), for the Ohio portion of the Cincinnati-Hamilton area. On November 11, 1994, the Cabinet submitted a redesignation request for the Kentucky portion of the Cincinnati-Hamilton area and revised the request on July 19, 1995.

During July of 1995, an ozone monitor in the area recorded an exceedance of the ozone standard resulting in a violation of the 1-hour ozone NAAQS. As a result of the violation the area was no longer attaining the ozone air quality standard. On September 27, 1996 (61 FR 50718), EPA disapproved the redesignation request for the Kentucky portion of the Cincinnati-Hamilton area and on February 18, 1997 (62 FR 7194), EPA proposed to disapprove the redesignation request for the Ohio portion based on the area's violation of the ozone NAAQS. Both Ohio and Kentucky were not meeting the requirements for redesignation specified under section 107(d)(3)(E) of the CAA during the time period when these actions were taken by EPA. The EPA will not respond to comments received on the February 18, 1997, proposed rulemaking, since that request is now moot, having been superseded by a new request. This subsequent request is the subject of this proposed rulemaking.

The Cincinnati-Hamilton area has since recorded three years of complete, quality-assured, ambient air quality monitoring data for the 1996 to 1998 ozone seasons, thereby demonstrating that the area has attained the 1-hour ozone NAAQS. Preliminary ozone monitoring data for 1999 continue to show the area is attaining the ozone NAAQS. On July 2, 1999, EPA received a redesignation request from OEPA which supersedes its request submitted on November 14, 1994. On August 16, 1999, OEPA submitted additional information for the request and on December 22, 1999, EPA received the results of OEPA's public hearing on the proposed revision which was the final portion of the initial request. On October 29, 1999, EPA received a request from the Cabinet to parallel process the prehearing redesignation submittal. On December 13, 1999, the Cabinet submitted to EPA the final redesignation request including the Cabinet's public hearing results.

E. What Are the Redesignation Review Criteria?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation providing that: (1) The Administrator determines that the area has attained the NAAQS; (2) The Administrator has fully approved the applicable implementation plan for the area under Section 110(k); (3) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable state implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175(A); and, (5) The State containing such area has met all requirements applicable to the area under section 110 and part D.

The EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498) and supplemented on April 28, 1992 (57 FR 18070). The EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994. (Nichols, October 1994)

2. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

3. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993.

4. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act Deadlines,'' John Calcagni, Director, Air Quality Management Division, October 28, 1992. (Calcagni, October 1992)

5. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992.

6. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992.

7. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498), April 16, 1992.

F. What Is EPA's Analysis of the Request?

1. The Area Must Be Attaining the 1-Hour Ozone NAAQS

For ozone, an area may be considered attaining the 1-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9 and appendix H, based on three complete, consecutive calendar years of quality assured monitoring data. A violation of the 1-hour ozone NAAQS occurs when the annual average number of expected daily exceedances is equal to or greater than 1.05 per year at a monitoring site. A daily exceedance occurs when the maximum hourly ozone concentration during a given day is 0.125 parts per million (ppm) or higher. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in AIRS. The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

The OEPA and the Cabinet submitted ozone monitoring data for the April through October ozone season from 1996 to 1998. Table 1 below summarizes the air quality data from 1996–1998.

TABLE 1.—1-HOUR OZONE NAAQS EXCEEDANCES IN THE CINCINNATI-HAMILTON, OHIO—KENTUCKY AREA FROM 1996 TO 1998

Site	County	Year	Exceedances measured	Expected exceedances
Middletown	Butler	1996	1	1.0
Middletown	Butler	1997	1	1.0
Middletown	Butler	1998	0	0.0
Hamilton	Butler	1996	0	0.0
Hamilton	Butler	1997	0	0.0
Hamilton	Butler	1998	0	0.0
4430 SR 222	Clermont	1996	0	0.0
4430 SR 222	Clermont	1997	0	0.0
4430 SR 222	Clermont	1998	1	1.0
11590 Grooms Rd.	Hamilton	1996	0	0.0
11590 Grooms Rd.	Hamilton	1997	1	1.0
11590 Grooms Rd.	Hamilton	1998	1	1.0
6950 Ripple Road	Hamilton	1996	0	0.0
6950 Ripple Road	Hamilton	1997	0	0.0
6950 Ripple Road	Hamilton	1998	0	0.0
Cincinnati	Hamilton	1996	0	0.0
Cincinnati	Hamilton	1997	0	0.0
Cincinnati	Hamilton	1998	0	0.0
Lebanon	Warren	1996	0	0.0
Lebanon (230 Cook Road)	Warren	1997	1	1.0
Lebanon (230 Cook Road)	Warren	1998	1	1.0
KY 338	Boone	1996	0	0.0
KY 338	Boone	1997	0	0.0
KY 338	Boone	1998	0	0.0
Dayton	Campbell	1996	1	1.0
Dayton	Campbell	1997	0	0.0
Dayton	Campbell	1998	0	0.0
Covington	Kenton	1996	1	1.0
Covington	Kenton	1997	0	0.0
Covington	Kenton	1998	1	1.0

This data has been quality assured and is recorded in AIRS. During the 1996 to 1998 time period, the Middletown, Grooms Road, Lebanon, and Covington monitors each recorded a total of 2.0 expected exceedances. This equates to 0.67 average expected exceedances per year and shows that the monitoring sites with the most exceedances are attaining the 1-hour ozone NAAQS. In addition, preliminary 1999 ambient air quality monitoring data indicate that the area continues to attain the 1-hour ozone standard. As a result, the Cincinnati-Hamilton area is currently meeting the air quality requirement for redesignation to attainment of the ozone NAAQS.

2. The Area Must Have a Fully Approved SIP Under Section 110(k); and the Area Must Have Met All Applicable Requirements Under Section 110 and Part D

Before the Cincinnati-Hamilton area may be redesignated to attainment for ozone, it must have fulfilled the applicable requirements of section 110 and part D. The Calcagni memorandum dated September 4, 1992, states that areas requesting redesignation to attainment have to fully adopt rules and programs that come due prior to the submittal of a complete redesignation request. If unimplemented and not necessary, these rules/programs may be moved into the area's maintenance plan as contingency measures rather than fully approved into the SIP. As described below in the section of this notice addressing Volatile Organic Compounds (VOC) reasonably available control technology (RACT) rules, however, the EPA is allowing an exception to this policy. While all requirements that come due prior to the submission of the redesignation request remain applicable requirements, the EPA believes it is appropriate, in this instance, to allow an exception to policy (Calcagni, September 4, 1992) to provide that the requirement for certain VOC RACT rules may be complied with simply through their incorporation among the contingency measures in the maintenance plan. For reasons described later in this action, these measures need not be fully adopted and approved prior to redesignation. Furthermore, requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request would continue to be applicable to the area until a redesignation is approved, but are not required as a prerequisite for redesignation (see section 175A(c)). If the redesignation is disapproved, the States remain obligated to fulfill those requirements.

Section 110 Requirements. General SIP elements are delineated in section 110(a)(2) of Title I, part A. These requirements include but are not limited to the following: submittal of a SIP that has been adopted by the state after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for part C, Prevention of Significant Deterioration (PSD), and Part D, New Source Review (NSR) permit programs, criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling, and provisions for public and local agency participation. For purposes of redesignation, the Ohio and Kentucky SIPs were reviewed to ensure that all requirements under the amended CAA were satisfied through approved SIP provisions.

Transport of Ozone Precursors to Downwind Areas. Modeling results utilizing EPA's regional oxidant model (ROM) indicate that ozone precursor

emissions from various states west of the ozone transport region (OTR) in the northeastern United States contribute to increases in ozone concentrations in the OTR. The EPA issued a SIP call on October 27, 1998, (63 FR 57356) requiring the District of Columbia (DC) and 22 states, including Ohio and Kentucky to reduce their emissions of oxides of nitrogen in order to reduce the transport of ozone and ozone precursors. The SIP Call submittal date of September 1999 has been stayed by the DC Circuit Court. Because of the stay of the submittal date, this is not an applicable requirement and thus, need not be met for purposes of redesignation.

EPA has determined that the Ohio and Kentucky SIPs for the Cincinnati-Hamilton 1-hour ozone nonattainment area satisfy all of the section 110 SIP requirements of the CAA.

Part D: General Provisions for Nonattainment Areas. Before the Cincinnati-Hamilton area may be redesignated to attainment, it must have fulfilled the applicable requirements of part D. Under part D, an area's classification determines the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under Table 1 of section 181(a). As described in the General Preamble for the Implementation of Title 1, specific requirements of subpart 2 may override subpart 1's general provisions (57 FR 13501, April 16, 1992). The Cincinnati-Hamilton area was classified as moderate ozone nonattainment. Therefore, in order to be redesignated, the State must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D.

Section 172(c) Requirements. EPA has determined that the redesignation request received from the OEPA and the Cabinet for the Cincinnati-Hamilton area has satisfied all of the relevant submittal requirements under section 172(c) necessary for the area to be redesignated to attainment. In the first part of this proposed rulemaking, EPA is proposing to determine that the requirement for a SIP revision providing an attainment demonstration to meet section 172(c)(1), 182(b)(1), and 182(j) is not applicable. The RFP requirement under section 172(c)(2) is defined as progress that must be made toward attainment. Section 182(b)(1)(A) sets forth the specific requirements for RFP. On March 14, 1994, Ohio submitted an RFP plan for Cincinnati and on January 28, 1998 (63 FR 4188) EPA approved the RFP plan as meeting the 15 percent RFP requirements of section 182(b)(1)(A). By meeting the specific 15% RFP requirements of section 182(b)(1)(A), Cincinnati is also meeting the RFP requirement of section 172(c)(2). Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. The OEPA submitted an actual emission inventory under section 182(a)(1) and EPA approved it on December 7, 1995 (60 FR 62737). The Cabinet submitted on September 11, 1998, a 15 Percent VOC Reduction Plan and the 1990 base year inventory for the Kentucky Counties of Boone, Campbell, and Kenton and EPA approved the submittal on December 8, 1998 (63 FR 67586). EPA has determined that the RFP and actual emission inventory requirement for Ohio and Kentucky is satisfied.

Section 172(c)(5) requires permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. Section 182(b)(5) requires all major new sources or modifications in a moderate nonattainment area to achieve offsetting reductions of VOCs at a ratio of at least 1.15 to 1.0. The EPA has determined that areas being redesignated do not need to comply with the requirement that a NSR program be approved prior to redesignation provided that the area demonstrates maintenance of the standard without part D NSR in effect. The rationale for this decision is described in a memorandum from Mary Nichols dated October 14, 1994. See discussion in the Grand Rapids, Michigan document published on June 21, 1996 (61 FR 31831). The States have demonstrated that the Cincinnati-Hamilton area will be able to maintain the standard without part D NSR in effect, and, therefore, the States need not have fully approved part D NSR programs prior to approval of the redesignation request for the Cincinnati-Hamilton area. The OEPA's federally delegated PSD program will become effective in the Cincinnati area upon redesignation to attainment. The Cabinet has a statewide NSR rule. EPA approved the latest version of the NSR rule on June 23, 1994 (59 FR 32343) and the latest version of the statewide PSD rule on June 24, 1998 (63 FR 39741). Kentucky's PSD requirements will remain enforceable after the redesignation of the Cincinnati-Hamilton area.

Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. of the Federal Transit Act (''transportation conformity''), as well as to all other Federally supported or funded projects (''general conformity''). Section 176 further provides that state conformity revisions must be consistent with Federal conformity regulations that the CAA required the EPA to promulgate. The EPA believes it is reasonable to interpret the conformity requirements as not applying for purposes of evaluating the redesignation request under section 107(d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the CAA continues to apply to areas after redesignation to attainment, since such areas would be subject to a section 175A maintenance plan. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of Federally approved state rules. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if state rules are not yet approved, the EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. Consequently, EPA may approve the ozone redesignation request for the Ohio and Kentucky portion of the Cincinnati-Hamilton area without a fully approved conformity SIP. See Detroit, Michigan, carbon monoxide redesignation published on June 30, 1999 (64 FR 35017), Cleveland-Akron-Lorain ozone redesignation published on May 7, 1996 (61 FR 20458), and Tampa, Florida, published on December 7, 1995 (60 FR 52748).

Subpart 2 Section 182 Requirements. The Cincinnati-Hamilton area is classified moderate nonattainment; therefore, part D, subpart 2, section 182(b) requirements apply. In accordance with the September 17, 1993, EPA guidance memorandum, the requirements which came due prior to the submission of the request to redesignate the area must be fully approved into the SIP before or at the time of the request to redesignate the area to attainment. Those requirements are discussed below:

1990 Base Year Inventory. The 1990 base year emission inventory was due on November 15, 1992. OEPA submitted

the 1990 base year emission inventory on March 14, 1994, for the Ohio portion and EPA approved it on December 7, 1995 (60 FR 62737). The Cabinet submitted the 1990 base year emission inventory on September 11, 1998, and EPA approved it on December 8, 1998 (63 FR 67586).

Periodic Emissions Inventory. Periodic inventories were required to be submitted on November 15, 1995, and November 15, 1998, providing an estimate of emissions for 1993 and 1996, respectively. This inventory is not considered a SIP requirement for the Cincinnati-Hamilton area, therefore they do not need to be approved into the SIP. Ohio provided its most recent estimates of emissions for 1993 and 1996 in its redesignation request and these emissions are summarized in the tables provided in this proposed action. Kentucky also provided EPA with periodic emissions for 1993 and 1996.

Emission Statements. The emission statement SIP was due on November 15, 1992. The OEPA submitted an emission statement SIP for Ohio on March 18, 1994 and EPA approved it on October 13, 1994 (59 FR 51863). The Cabinet submitted the emission statement SIP for Kentucky on January 15, 1993 and supplemented the submittal on December 29, 1994 to satisfy the federal requirements. EPA published approval of the Kentucky emission statement on May 2, 1995 (60 FR 21445).

15 Percent Plan. The 15 percent RFP plan for VOC reductions was required to be submitted by November 15, 1993, and, therefore, is applicable to the Cincinnati-Hamilton moderate ozone nonattainment area. The OEPA submitted the 15 percent RFP plan on March 14, 1994 and EPA approved it on January 28, 1998 (63 FR 4188). The Cabinet originally submitted a 15 percent plan in November 1993 and revised the plan in March 1994. By the end of the 1994 ozone season, air quality monitoring data for the entire Cincinnati area showed attainment of the 1-hour ozone NAAQS. Therefore, on June 29, 1995, the Cabinet requested that EPA take no further action on the submitted 15 percent plan. Subsequently, during the 1995 ozone season the area monitored a violation making the 15 percent plan again an applicable requirement for the area. On September 11, 1998, the Cabinet submitted a revised 15 percent VOC Reduction Plan and EPA approved it on December 8, 1998 (63 FR 67586).

VOC RACT Requirements. SIP revisions requiring RACT for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) All sources covered by a CTG issued prior to November 15, 1990; (3) All other major non-CTG stationary sources. The non-CTG rules were due by November 15, 1992, and apply to the Ohio and Kentucky submittal. The EPA approved Ohio's VOC RACT rules on April 25, 1996 (61 FR 18255), September 7, 1994 (59 FR 46182) and October 23, 1995 (60 FR 54308). EPA approved Kentucky's VOC RACT rules on January 25, 1980 (45 FR 6092), August 7, 1981 (46 FR 40188), February 7, 1990 (55 FR 4169), June 23, 1994, (59 FR 32344), and June 28, 1996 (61 FR 33674). Upon redesignation of the area, all new major VOC sources locating in Kentucky and all major modifications to existing major VOC sources will continue to be subject to the RACT requirements. These actions satisfy requirements (2) and (3) above for the Ohio and Kentucky portion of the Cincinnati-Hamilton area. Since November 15, 1990, EPA has issued CTG documents for the VOC source categories of aerospace, synthetic organic compound manufacturing industry (SOCMI) reactor and distillation processes, shipbuilding, and wood furniture. To satisfy the requirement of (1) above, the Cabinet submitted a negative declaration on December 14, 1999 for the CTG categories of aerospace, SOCMI reactor and distillation processes, shipbuilding, and wood furniture. Ohio has satisfied requirement (1) above by including these CTG categories as contingency measures in their maintenance plan. This is discussed below.

In regards to requirement (1) above, EPA's policy on redesignations would require full adoption, submission and approval of these rules prior to approval of the redesignation request. Since the due date for the CTG RACT rules at issue preceded the submission of the redesignation request, EPA believes, however, that, in the context of the particular circumstances of this redesignation, that it is permissible to depart from that policy and instead accept a commitment to implement these RACT rules as contingency measures in the maintenance plan rather than require full adoption and approval of the rules prior to approval of the redesignation. See Grand Rapids, Michigan, redesignation (61 FR 31831, June 21, 1996). The State of Ohio has included these RACT rules as contingency measures in its maintenance plan for Cincinnati. The reasons justifying this exception to EPA's general policy are explained in the above cited Grand Rapids, Michigan, redesignation and as explained below. The EPA believes that several factors in combination justify this approach with respect to the Cincinnati-Hamilton redesignation. First, the RACT rules at issue in this redesignation were not needed to bring about attainment of the standard in Cincinnati. Second, Ohio has demonstrated continued maintenance of the ozone standard through 2010 without the implementation of these measures. Third, Ohio has placed other contingency measures in the maintenance plan that would bring about far greater emission reductions than the RACT rules and would therefore be substantially more effective in terms of correcting violations attributable to local emissions from the Cincinnati area that may occur after redesignation. An analysis of emission reduction estimates, based on documentation contained in Ohio's 15 percent RFP Plan, shows that the implementation of low Reid Vapor Pressure (RVP) or Reformulated Gasoline programs would bring about greater reductions than the CTG VOC RACT rules issued since 1990. As a consequence, EPA believes that the other, more effective contingency measures, should and would be implemented first even if the RACT rules were to be fully adopted prior to redesignation. The EPA emphasizes that even under the exception to its policy proposed herein, the requirement for these RACT rules remains an applicable requirement for purposes of evaluating the redesignation request since it predated the submission of the request. The requirement, however, would be met in the form of the submission and full approval of a commitment to adopt and implement these rules as contingency measures in the maintenance plan. (Under EPA's existing policy, contingency measures in maintenance plans may consist of commitments to adopt and implement measures upon a violation of the standard (Calcagni, September 1992)).

The EPA further notes that even without this exception to its general policy, the State would have been able to have the RACT rules become a part of the contingency measures in the maintenance plan upon approval of the redesignation. That could have occurred only after or upon EPA's full approval of the adopted RACT rules, however. Thus, the only difference between EPA's general policy and the exception to that policy described in this proposal is that a commitment to adopt and implement the RACT rules in an expeditious

manner, rather than fully adopted RACT rules, would be among the contingency measures in the maintenance plan. In light of the combination of factors discussed above, including in particular the presence of other, significantly more effective, contingency measures in the maintenance plan, EPA believes that this difference has no significant environmental consequence and that it is legally permissible to approve the Cincinnati-Hamilton redesignation on this basis.

Stage II Vapor Recovery. Section 182(b)(3) requires states to submit Stage II rules no later than November 15, 1992. The Ohio Stage II rules were submitted as a SIP revision on June 7, 1993 and on October 20, 1994. The EPA partially approved and partially disapproved Ohio's SIP revision for implementation of Stage II (58 FR 52911). As stated in that rulemaking action, with the exception of paragraph 3745–21–09 (DDD)(5), EPA considers Ohio's Stage II program to fully satisfy the criteria set forth in the September 17, 1993, EPA guidance document for such programs entitled ''Enforcement Guidance for Stage II Vehicle Refueling Control Programs.'' On February 3, 1998 the Cabinet submitted Stage II controls and EPA approved the rule on December 8, 1998 (63 FR 67586).

Only those Stage II provisions previously approved by EPA are part of the Cincinnati-Hamilton area maintenance plan. The September 17, 1993, guidance memorandum listed above states that once onboard vapor recovery regulations are promulgated, the Stage II regulations are no longer applicable for moderate ozone nonattainment areas. The EPA promulgated onboard vapor recovery rules in February 1994. Therefore, pursuant to section 202(a)(6) of the CAA, Stage II would no longer be required. However, both Ohio and Kentucky have opted to include reductions in VOCs from the Stage II program as part of the submitted maintenance plan and the previously approved 15 percent RFP plans (63 FR 4188 and 63 FR 67586).

Vehicle Inspection and Maintenance (I/M). The EPA's final I/M regulations in 40 CFR Part 85 require the States to submit a fully adopted I/M program by November 15, 1993. Ohio submitted rules for an enhanced I/M program (E–Check), on May 26, 1994 and EPA published approval of the rules on April 4, 1995 (60 FR 16989). On September 11, 1998, the Cabinet submitted the Kentucky I/M program and EPA approved the program rule on December 8, 1998 (63 FR 67586).

NO_X Requirement. Section 182(f) establishes NO_X requirements for ozone nonattainment areas. However, it provides that these requirements do not apply to an area if the Administrator determines that NO_X reductions would not contribute to attainment. The Administrator made such a determination for the Ohio portion of the Cincinnati-Hamilton nonattainment area on July 13, 1995 (60 FR 36060). After this waiver was approved, the Cincinnati-Hamilton area monitored a violation of the 1-hour ozone standard. Since that time the area has returned to monitoring attainment and continues to do so. EPA is leaving the NO_X waiver in place based on the area returning to attainment. Since the NO_X waiver is approved as a final rule, OEPA is not required to impose NO_X control measures pursuant to section 182(f) for the Cincinnati-Hamilton area to be redesignated. OEPA has committed to adopt NO_X RACT rules as a contingency measure to be implemented upon a violation of the ozone NAAQS which occurs after initial contingency measures are in place for the Cincinnati-Hamilton area.

On May 10, 1995, EPA proposed approval for an exemption from NO_X requirements for the Kentucky portion of the Cincinnati-Hamilton area. Subsequently, since the area monitored an exceedance that constituted a violation of the ozone NAAQS, EPA did not publish a final notice approving the NO_X exemption. As discussed below, EPA is also re-proposing to approve a request from the Cabinet for a section 182(f) NO_X exemption for the Kentucky portion of the Cincinnati-Hamilton area. This proposal is based on the area attaining the ozone NAAQS. Therefore, upon redesignation the Kentucky portion of the Cincinnati-Hamilton area would no longer be subject to NO_X requirements. However, all controls previously approved by the Cabinet must continue to be implemented, but no additional NO_X measures would be required.

Ohio and Kentucky have satisfied the requirement that the area must have a fully approved SIP under section 110(k) and the area must have met all applicable requirements under section 110 and part D.

3. The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions

The improvement in air quality must be due to permanent and enforceable reductions in emissions resulting from the SIP, Federal measures, and other state adopted measures. The improvement in air quality in the Ohio portion of the Cincinnati-Hamilton area is due to emissions reductions from the Federal Motor Vehicle Emissions Control Program (FMVECP), Stage II vapor recovery program, VOC RACT controls, and the partial implementation of E-Check. Between 1993 and 1996, the Ohio area's VOC emissions were reduced by 6.7 percent. Kentucky attributes the improvement in air quality to emission reductions achieved prior to the attainment year of 1996 through the following programs: FMVECP; VOC RACT; fleet turnover of automobiles; low Reid Vapor Pressure (RVP) gasoline; reformulated gasoline; and ceased operation and improved technology at facilities in the area. Between 1990 and 1996, the Kentucky area's VOC emissions were reduced by 2.93 tons per day. Additional programs have been implemented in the Kentucky area since the 1996 attainment year which have provided substantial emission reductions for Kentucky. These programs include: Stage II vapor recovery; vehicle emission testing program, increased rule effectiveness of Stage I vapor control; Architectural Coatings, Traffic Paints, Auto Body Refinishing, and Commercial/Consumer Products rules; and Open Burning controls. The State control programs listed above have been approved into the Ohio and Kentucky SIP. Based on the listed programs, Ohio and Kentucky have shown that the improvement in air quality is based on permanent and enforceable reductions in emissions and meets this requirement.

4. The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan is a SIP revision which provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. The Calcagni memorandum dated September 4, 1992, provides additional guidance on the required content of a maintenance plan. An ozone maintenance plan should address the following five areas: the attainment emissions inventory, maintenance demonstration, monitoring network, verification of continued attainment and, a contingency plan. The attainment emissions inventory identifies the emissions level in the area which is sufficient to attain the 1-hour ozone NAAQS, and includes emissions during the time period which had no monitored violations. Maintenance is demonstrated by showing that future

emissions will not exceed the level established by the attainment inventory. Provisions for continued operation of an appropriate air quality monitoring network are to be included in the maintenance plan. The state must show how it will track and verify the progress of the maintenance plan. Finally, the maintenance plan must include a list of potential contingency measures which ensure prompt correction of any violation of the ozone standard.

The OEPA and the Cabinet included a 1996 emissions inventory as the attainment inventory. Both of the maintenance plans for Ohio and Kentucky portion of the Cincinnati-Hamilton area provide emissions estimates from 1990 to 2010 for VOCs, NO_X, and carbon monoxide. The emissions in the Cincinnati-Hamilton area are projected to decrease from 1996 levels. The results of this analysis show that the area is expected to maintain the air quality standard for at least 10 years into the future after redesignation. Table 2 and Table 3 provide the emissions summary for VOCs and NO_X for the Ohio portion and Table 4 and Table 5 provide the emission summary for VOCs and $_X$ for the Kentucky portion of the Cincinnati-Hamilton area. Table 6 and Table 7, respectively provides the emissions summary for VOCs and NO_X for the entire Cincinnati-Hamilton area. Although carbon monoxide levels were provided, there is no requirement to evaluate these for an ozone area.

TABLE 2.—VOC EMISSIONS IN TONS PER SUMMER DAY FOR OHIO COUNTIES (HAMILTON, BUTLER, CLERMONT, AND WARREN)

	1990 base	1993	1996 attainment	1999 projected	2002 projected	2005 projected	2010 projected
Point	70.9	72.8	74.9	77.0	79.2	81.4	83.0
Area	69.0	69.8	70.7	71.4	72.3	73.1	75.0
Mobile	125.8	85.3	67.1	49.6	41.6	36.8	37.9
Totals	265.7	227.9	212.7	198.0	193.1	191.3	195.9

TABLE 3.—NO_X EMISSIONS IN TONS PER SUMMER DAY FOR OHIO COUNTIES (HAMILTON, BUTLER, CLERMONT, AND WARREN)

	1990 base	1993	1996 attainment	1999 projected	2002 projected	2005 projected	2010 projected
Point	280.0	279.4	279.0	278.6	278.3	277.6	277.4
Area	29.8	30.3	30.9	31.4	32.1	32.2	34.0
Mobile	130.7	115.6	101.3	84.4	72.0	65.5	52.3
Totals	440.5	425.3	411.2	394.4	382.4	375.3	363.7

TABLE 4.—VOC EMISSIONS IN TONS PER SUMMER DAY FOR KENTUCKY COUNTIES (BOONE, CAMPBELL, AND KENTON)

	1990 base	1996 attainment	1999 projected	2002 projected	2005 projected	2008 projected	2010 projected
Point	3.9	4.14	3.96	4.07	4.19	4.33	4.4
Area	12.6	13.57	10.27	10.45	10.76	11.13	11.35
Mobile	17.54	12.69	12.07	8.25	7.38	6.47	5.83
Non-Highway	8.6	9.31	9.58	9.82	10.23	10.65	10.97
Total	42.64	39.71	35.88	32.59	32.56	32.58	32.55

TABLE 5.—NO_X EMISSIONS IN TONS PER SUMMER DAY FOR KENTUCKY COUNTIES (BOONE, CAMPBELL, AND KENTON)

	1990 base	1996 attainment	1999 projected	2002 projected	2005 projected	2008 projected	2010 projected
Point	43.59	29.06	29.47	29.9	30.34	30.77	31.07
Area	0.42	12.07	0.33	0.34	0.34	0.35	0.37
Mobile	15.4	24.90	25.55	22.73	20.14	16.99	15.13
Non-Highway	9.23	0.51	12.87	13.27	13.95	14.69	15.2
Total	68.64	66.54	68.22	66.24	64.77	62.8	61.77

TABLE 6.—VOC EMISSIONS IN TONS PER SUMMER DAY FOR THE ENTIRE CINCINNATI-HAMILTON AREA

	1990 base	1996 attainment	1999 projected	2002 projected	2005 projected	2010 projected
Point	74.8	79.04	80.96	83.27	85.59	87.4
Area	90.2	93.58	91.25	92.57	94.09	97.32
Mobile	143.34	79.79	61.67	49.85	44.18	43.73

TABLE 6.—VOC EMISSIONS IN TONS PER SUMMER DAY FOR THE ENTIRE CINCINNATI-HAMILTON AREA—Continued

	1990 base	1996 attainment	1999 projected	2002 projected	2005 projected	2010 projected
Total	308.34	252.41	233.88	225.69	223.86	228.45

TABLE 7.—NO_X EMISSIONS IN TONS PER SUMMER DAY FOR THE ENTIRE CINCINNATI-HAMILTON AREA

	1990 base	1996 attainment	1999 projected	2002 projected	2005 projected	2010 projected
Point	323.59	308.06	308.07	308.2	307.94	308.47
Area	39.45	43.48	44.6	45.71	46.49	49.57
Mobile	146.1	126.2	109.95	94.73	85.64	67.43
Total	509.14	477.74	462.62	448.64	440.07	425.47

The OEPA and the Cabinet commit to continue the operation of the monitors in the area in accordance with 40 CFR part 58. The States will also track maintenance by regularly updating the emissions inventory for the area. The emission projections for 2010 are the budgets for transportation conformity.

The contingency plan for the Cincinnati-Hamilton area contains three major components: Attainment tracking, contingency measures to be implemented in the event that a violation of the ozone NAAQS occurs in the Cincinnati-Hamilton area, and a mechanism with which to trigger the implementation of the contingency measures.

Two methods of attainment tracking will be utilized in the Ohio portion of the Cincinnati-Hamilton area: (1) Air quality monitoring using the existing ozone monitoring network, and (2) inventory updates on a regular schedule. Stationary, mobile, and area source inventories will be updated at a minimum of once every three years beginning with 1996. Area emission inventories will be updated using revised census data. Mobile source emission inventories will be updated using new vehicle miles traveled (VMT) estimates and any new EPA mobile emission models. Annual progress reports will summarize available VOC and NO_X emissions data.

The contingency measures to be considered for implementation for the Ohio portion of the Cincinnati-Hamilton area are listed below.

1. Lower RVP gasoline.
2. Reformulated gasoline.
3. Broader geographic coverage of existing regulations.
4. Application of RACT on sources covered by new control technology guidelines issued in response to the 1990 CAA Amendments.
5. Application of RACT to smaller existing sources.
6. Implementation of one or more transportation control measures sufficient to achieve at least a 0.5 percent reduction in actual area wide VOC emissions. The transportation control measures to be considered would include: (1) Trip reductions programs, including but not limited to employer-based transportation management programs, area wide rideshare programs, work schedule change, and telecommuting; (2) transit improvements; (3) traffic flow improvements; and, (4) other measures.
7. Alternative fuel programs for fleet vehicle operations.
8. Controls on consumer products consistent with those adopted elsewhere in the United States.
9. VOC offsets for new or modified major sources.
10. VOC offsets for new or modified minor sources.
11. Increased ratio of VOC offsets required for new sources.
12. Requirements of VOC controls on new minor sources.

Selection of one or more of the contingency measures will be based on various considerations including cost-effectiveness, VOC reduction potential, economic and social consideration, and other factors the State determines to be appropriate.

Consideration and selection of one or more of the contingency measures will take place in the event the ozone NAAQS is violated. Initially, the State of Ohio will conduct an analysis to determine the level of control measures needed to assure expedient future attainment. If a subsequent violation of the ozone NAAQS occurs after implementation of the VOC controls measures, NO_X RACT will be activated. Contingency measures on the Ohio portion of the area will be implemented according to the following schedule:

TABLE 8.—CONTINGENCY MEASURE SCHEDULE FOR OHIO

Activity—VOC measure implementation	Completion time after triggering event
Verify a violation has occurred	1 month.
Identify VOC plan and submit schedule for implementation	3 months.
Implement VOC control program	12 months.
Activity—NO_X measure implementation	**Completion time for second triggering event after implementation of the VOC contingency measure**
Verify a violation has occurred	1 month.
Submit schedule for implementation of NO_X RACT	3 months.
Implement NO_X RACT	18 months.

Reformulated gasoline and low RVP gasoline would not be able to be implemented as contingency measures by the State of Ohio unless the State first requested and received from EPA a waiver of federal preemption under section 211(c)(4) of the CAA. However, in light of the State's listing of other potential contingency measures and the State's commitment to implement contingency measures within 12 months of a violation, the identification of reformulated gasoline and low RVP gasoline does not detract from the approvability of the contingency plan.

The Cabinet commits to perform triennial reviews of actual emissions for the redesignated area using the latest emission factors, models, and methodologies. The Cabinet will begin the triennial assessments in 2000 for calendar year 1999. At the time of this periodic inventory, the Cabinet will review the assumptions made for the purpose of the maintenance demonstration concerning projected growth in activity levels. If any of these assumptions appear to have changed substantially, then the Cabinet will re-project emissions.

In the event that exceedances of the 1-hour ozone standard are measured in any portion of the nonattainment area, or if periodic emission inventory updates reveal excessive or unanticipated growth greater than 10 percent in ozone precursor emissions, the Cabinet will evaluate existing control measures to determine the further emission reduction measures that should be implemented at that time.

In the event of a monitored violation of the 1-hour ozone standard, the Cabinet commits to adopt, within nine months, one or more of the following contingency measures to achieve reductions sufficient to bring the area back into attainment with the 1-hour ozone NAAQS. All regulatory programs will be implemented within 18 months. The Cabinet will also evaluate existing control measures to see if any further emission reductions should be implemented at that time.

1. Implementation of a program to require additional emission reductions on stationary sources.

2. New Source Review.

3. Implementation of a more frequent, or more stringent vehicle emissions testing program.

4. Restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high-occupancy vehicles.

5. Trip-reduction ordinances.

6. Employer based transportation management plans, including incentives.

7. Programs to limit or restrict vehicle use in downtown areas, or other areas of emission concentration, particularly during periods of peak use.

8. Programs for new construction and major construction of paths or tracks for use by pedestrians or by non-motorized vehicles when economically feasible and in the public interest.

The OEPA and the Cabinet submittals adequately address the five basic components which comprise a maintenance plan (attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan) and therefore, satisfy the maintenance plan requirement.

The CAA section 175A(b) also requires the OEPA and the Cabinet to submit a revision of the SIP eight years after the original redesignation request is approved to provide for maintenance of the NAAQS for an additional 10 years following the first-10 year period. The Cabinet has committed to submit the revision to the SIP 8 years after redesignation of the Cincinnati-Hamilton area. Ohio did not formally commit to submit this revision in the redesignation request, however, OEPA is still required to submit a revision to the SIP 8 years after this request is approved.

G. Where Is the Public Record and Where Do I Send Comments?

The official record for this proposed rule has been established under OH–132 and KY–116 and is located at the addresses in the **ADDRESSES** section at the beginning of this document. The addresses for sending comments are also provided in the **ADDRESSES** section at the beginning of this document.

Public comments are solicited on EPA's proposed rulemaking action. Public comments received by February 23, 2000, will be considered in the development of EPA's final rulemaking action. EPA will not respond to comments received on the February 18, 1997 (62 FR 7194), proposed rulemaking, since a new request has been submitted and is the subject of this proposed rulemaking.

III. 182(f) NO_X Exemption for Kentucky

A. What Action Is EPA Proposing To Take?

EPA is also re-proposing to approve an exemption from the NO_X requirement as provided for in Section 182(f) for the Kentucky portion of the Cincinnati-Hamilton area. Section 182(f) establishes NO_X requirements for ozone nonattainment areas which require the same provisions for major stationary sources of NO_X as apply to major stationary sources of VOCs. One of the requirements of major sources of VOCs is RACT. Therefore, pursuant to section 182 of the CAA, RACT is a requirement for major sources of NO_X in an ozone nonattainment area. However, it provides that these requirements do not apply to a nonattainment area outside an ozone transport region if the Administrator determines that NO_X reductions would not contribute to attainment. A NO_X exemption request must be based upon the most recent three years of monitoring data, and demonstrate that additional reductions of NO_X would not contribute to attainment of the NAAQS.

The EPA memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, dated February 8, 1995, entitled, ''Section 182(f) Nitrogen Oxides (NO_X) Exemptions-Revised Process Criteria,'' decouples the section 182(f) exemptions from NO_X transport issues. The memorandum states that for an area that did not implement section 182(f) NO_X requirements, but did attain the ozone standard as demonstrated by ambient air monitoring data (consistent with 40 CFR part 58 and recorded in the AIRS), it is apparent that additional NO_X reductions required by section 182(f) would not contribute to attainment of the NAAQS in the area.

On November 11, 1994, the Cabinet submitted a request for a 182(f) NO_X RACT exemption for the Kentucky portion of the Cincinnati-Hamilton area and on May 10, 1995 (60 FR 24813), EPA proposed approval of the exemption. Subsequently, since the area monitored an exceedance that constituted a violation of the ozone NAAQS, EPA did not publish a final notice approving the NO_X exemption.

Based on evidence that the area is currently demonstrating compliance with the ozone NAAQS, EPA is re-proposing approval of Kentucky's request to exempt the Kentucky portion of the Cincinnati-Hamilton area from the 182(f) NO_X requirement. Discussed in detail above, the EPA is also proposing to determine the Cincinnati-Hamilton area has attained the 1-hour ozone NAAQS. This proposed determination of attainment is based on three years of complete, quality-assured, ambient air monitoring data for the 1996 to 1998 ozone seasons that demonstrate that the ozone NAAQS has been attained in the area. Because the Cincinnati-Hamilton area has presently attained the ozone NAAQS, this

exemption request for the area meets the applicable requirements. If final action is taken on this proposal to exempt the Kentucky portion from 182(f) requirements, upon redesignation it would no longer be subject to NO_X requirements for moderate nonattainment areas. However, all controls previously approved by the Cabinet must continue to be implemented, but no additional NO_X measures would be required. If there is a violation of the ozone NAAQS in any portion of the Cincinnati-Hamilton area, the exemption would no longer be applicable.

B. Where Is the Public Record and Where Do I Send Comments?

The official record for this proposed rule has been established under KY–84 and is located only at the EPA Region 4 address in the **ADDRESSES** section at the beginning of this document. The address for sending comments to EPA Region 4 is also provided in the **ADDRESSES** section at the beginning of this document.

Public comments are solicited on EPA's proposed rulemaking action. Public comments received by February 23, 2000, will be considered in the development of EPA's final rulemaking action.

IV. Disclaimer Language Approving SIP Revisions in Audit Law States

Nothing in this action should be construed as making any determination or expressing any position regarding Kentucky's audit privilege and penalty immunity law Kentucky—''KRS 224.01–040'' or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Kentucky's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

V. What Administrative Requirements Were Considered?

A. Executive Order 12866

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

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612 (Federalism) and Executive Order 12875 (Enhancing the Intergovernmental Partnership). Executive Order 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 Executive Order 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 Executive Order 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 Executive Order 13132. Thus, the requirements of section 6 of the Executive Order 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 Executive Order 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 proposed rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 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, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 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 proposed 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 CAA 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 CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA 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).

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

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. 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 new regulations. To comply with NTTAA, the 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 proposed action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 12, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

Dated: January 7, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–1555 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6526–8]

RIN 2060–A177

National Emission Standards for Hazardous Air Pollutants: Aerospace Manufacturing and Rework Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: This action proposes to amend the national emission standards for hazardous air pollutants (NESHAP) for Aerospace Manufacturing and Rework Facilities to include a separate emission standard for exterior primers used for large commercial aircraft components (parts or assemblies) or fully assembled large commercial aircraft at existing facilities that produce fully assembled large commercial aircraft. We are proposing these amendments based on review of data that support significant technical concerns of an aircraft manufacturer's ability to achieve the current 350 grams per liter (g/L) (2.9 pounds per gallon (lb/gal)) hazardous air pollutant (HAP) and volatile organic compound (VOC) content limit requirements when using exterior primers.

DATES: *Comments:* Written comments must be received by February 23, 2000, unless a hearing is requested by February 3, 2000. If a hearing is requested, written comments must be received by March 9, 2000.

ADDRESSES: *Comments:* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–92–20, Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below in **FOR FURTHER INFORMATION CONTACT.** Comments may also be submitted electronically by following the instructions provided in **SUPPLEMENTARY INFORMATION.**

Public Hearing: Anyone requesting a public hearing must contact the EPA by February 3, 2000. If requested, a public hearing will be held February 7, 2000. If a public hearing is requested, the comment period will end 30 days after the date of the public hearing, in which case EPA will publish a document in the **Federal Register** announcing the hearing information and the extended comment period. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium. Persons interested in attending the hearing to present oral testimony should contact Ms. Dorothy Apple; Policy, Planning, and Standards Group (MD-13); U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–4487.

Docket: Docket number A–92–20, containing information relevant to this proposed rulemaking, is available for public inspection between 8:00 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street, SW, Washington, DC 20460, telephone: (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. James Szykman or Mr. Jaime Pagan; Policy, Planning, and Standards Group, Emission Standards Division (MD–13); U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2452 (Szykman) or (919) 541–5340 (Pagan), electronic mail address szykman.jim@epa.gov or pagan.jaime@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities

The regulated category and entities affected by this action include:

Category	Examples of regulated entities
Industry	Facilities which are major sources of hazardous air pollutants and manufacture large commercial aircraft.

This table is not intended to be exhaustive but, rather, provides a guide for readers likely to be interested in the proposed amendments to the regulations affected by this action. If you have any questions regarding the applicability of these proposed amendments to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Electronic Access and Filing Addresses

These proposed amendments, the promulgated NESHAP (40 CFR part 63, subpart GG), and other background information are available in Docket Number A–92–20 or by request from the EPA's Air and Radiation Docket and Information Center (**ADDRESSES**). These documents can also be accessed through the EPA web site at: http://www.epa.gov/ttn/oarpg. For further information and general questions regarding the Technology Transfer Network (TTN) call Mr. Hersch Rorex (919) 541–5637. Electronic comments and data may be submitted by sending electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov. Submit comments as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on diskette in Word Perfect 5.1, 6.1, Corel 8, or ACSII file format. Identify all comments and data in electronic form by the docket number A–92–20. No Confidential Business Information (CBI) should be submitted through electronic mail. Electronic comments may be filed online at many Federal Depository Libraries.

Outline. The information presented in this preamble is organized as follows:

I. Why are we taking this action?
II. What provisions of the Aerospace NESHAP would these proposed amendments affect?
III. Whom would these proposed amendments affect?
IV. What are the administrative requirements for this proposal?
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
C. Paperwork Reduction Act
D. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
E. Unfunded Mandates Reform Act
F. Executive Order 13084, Consultation and Coordination With Indian Tribal Governments
G. National Technology Transfer and Advancement Act
H. Executive Order 13132: Federalism

I. Why Are We Taking This Action?

On September 1, 1995, we promulgated the NESHAP for Aerospace Manufacturing and Rework Facilities (60 FR 45948). The NESHAP contains standards to control organic HAP and VOC emissions from primer application operations. These standards require the use of a primer with an organic HAP and VOC content level of 350 g/L (2.9 lb/gal) or less (40 CFR 63.745(c)(1),(2)) where no add-on control system is used, or the use of a control system to reduce the organic HAP and VOC emissions to the atmosphere by 81 percent or greater (§ 63.745(d)). We set these standards at the maximum achievable control technology (MACT) floor for new and existing sources.

In the preamble to the proposed NESHAP (59 FR 29241), we explained the basis of the MACT floor for primer application operations. We established the MACT floor for existing facilities based on the weighted average VOC content that represented the average of the top 12 percent of facilities. Because of the limited available data on the corresponding organic HAP content, we proposed a HAP content limit at the same level as the VOC content limit. Also, in applying these standards within the source category, we did not identify any technical reason to distinguish between the different types of market segments (commercial or military), or the work type (original equipment manufacture or rework). Therefore, we applied these standards to all market segments within the source category.

In public comments received on the proposed rule, aircraft manufacturers raised concerns about the inclusion of exterior primers for large commercial aircraft in the data set for the MACT floor on primer operations. The industry expressed concerns about whether a suitable exterior primer would be available by the September 1, 1998 NESHAP compliance deadline for existing sources. However, at that time, industry did not provide adequate supporting data to justify separate treatment of exterior primers for large commercial aircraft.

Recently, an aircraft manufacturer raised these same concerns and submitted additional data indicating that it has not been able to find a satisfactory exterior primer for use in manufacturing and assembling large commercial aircraft that will meet the current HAP and VOC content limits in the NESHAP and their own performance needs. This aircraft manufacturer has stated that several factors exist that create a distinction between facilities that produce fully assembled large commercial aircraft and facilities that manufacture other types of aerospace components and vehicles. One of the primary differences is the annual utilization rates for large commercial aircraft versus other aircraft. Large commercial aircraft often remain in constant use with multiple take-offs and landings daily and much higher annual flight hours than other aircraft. The total flight time, flight frequency, and flight altitudes for large commercial aircraft are often much higher than for other types of aircraft, such as defense aircraft and general aviation aircraft. These higher utilization rates associated with large commercial aircraft create distinct stresses for the paint systems used. In addition, the largest of the commercial aircraft are often designed for overseas travel (transcontinental routes) which creates a greater exposure to salt, a strong corrosive agent. Finally, this aircraft manufacturer has stated that differing paint requirements, such as replicability of color and gloss, and differing maintenance requirements due to its large number of customers (200 plus), are also factors that can contribute to the acceptability of a paint system. This aircraft manufacturer expressed significant technical concern about its ability to find an exterior primer that would provide adequate protection to large commercial aircraft without pitting or peeling and that would meet the VOC and HAP content standards for primers. This aircraft manufacturer has stated that available low-VOC exterior primers have very different physical and chemical properties, such as the rheology and cross-link density of the coating, from the primers that were in use when the MACT floor was established in 1995. Primers that were in use at that time contained 1,1,1

trichloroethane (TCA) but TCA has since been phased out due to its adverse effect on the stratospheric ozone layer. New TCA-free, high solids/low-VOC primers represent a distinct technology from the previous TCA primer technology. The manufacturer has stated that this has resulted in changes to the performance characteristics of the primer, particularly the adhesion, flexibility, and impact resistance, which have resulted in a greater chance of the coatings peeling and pitting. This aircraft manufacturer provided summary test data on the 50 exterior primers tested since the Aerospace NESHAP was promulgated.

The compliance date for the NESHAP was September 1, 1998. We have granted compliance extensions based on this issue; however, these extensions expired September 1, 1999.

Today, we are proposing to amend the current emission limits contained in 40 CFR 63.745(c)(1) and (2) for primer operations with no add-on control systems by proposing a separate emission limit of 650 g/L (5.4 lb/gal) or less of organic HAP and VOC for exterior primers as applied to large commercial aircraft components (parts or assemblies) or fully assembled large commercial aircraft at existing affected sources that produce fully assembled large commercial aircraft; and an emission limit of 350 g/L (2.9 lb/gal) or less of organic HAP and VOC for exterior primers as applied to large commercial aircraft components (parts or assemblies) or fully assembled large commercial aircraft at new affected sources that produce fully assembled large commercial aircraft. Our bases for these amendments are data recently submitted to us by a manufacturer of large commercial aircraft and a reevaluation of the original data used to establish the MACT floor for primer application operations. Also based on the fact that TCA-based primer is no longer available, as previously discussed, we reevaluated the original data used to establish the MACT floor for primer application operations of 350 g/L (2.9 lb/gal) or less of organic HAP and VOC.

In order to determine if a separate limit should be established for exterior primers used on large commercial aircraft at existing facilities that produce fully assembled large commercial aircraft, we considered whether these facilities are distinct from other segments of the industry. Because large commercial aircraft often have much higher annual utilization rates and greater exposure to corrosive environments, creating the need for higher performance coating systems, and the manufacturer of such aircraft has many different customer specifications it must satisfy, we determined that a separate limit should be established for these facilities. We then re-evaluated the original data only for facilities that manufactured fully assembled large commercial aircraft. In our re-evaluation of the data, we identified four facilities which manufactured fully assembled large commercial aircraft. To account for the fact that TCA-based primer is no longer available, we removed all TCA-based primer data. The data from these four facilities on the annual usage of primers used in the primer operations for large commercial aircraft had a VOC content that ranged from 650 g/L (5.3 lb/gal) to 670 g/L (5.6 lb/gal). A more detailed discussion of this analysis can be found in the Docket (No. A–92–20) within the document titled, ''MACT Floor for Aerospace Commercial Aircraft Original Equipment Operations—Interior and Exterior Primers.''

The Clean Air Act requires that emission standards for HAP established under section 112(d)(2) be based on ''* * * the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section * * * that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standards applies * * *.'' This basis is commonly referred to as MACT.

Section 112(d)(3) further clarifies the minimum acceptable stringency for the MACT level of emission reduction. For new sources, MACT shall be no ''* * * less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator.'' For existing sources, MACT ''* * * shall not be less stringent, and may be more stringent than—

(A) the average emission limitation achieved by the best performing 12 percent of the existing sources * * * in the category or subcategory for categories and subcategories with 30 or more sources, or

(B) the average emission limitation achieved by the best performing five sources * * * in the category or subcategory for categories or subcategories with fewer than 30 sources.''

In prior rulemaking where fewer than five sources exist, we have based the MACT floor for existing sources on the average emission limitation achieved by all the sources. Use of the arithmetic average would result in a VOC content of 655 g/L. This method for calculating the MACT floor yields a number that does not correspond to an actual VOC content of primer used at these facilities. Therefore, we determined the MACT floor for these four facilities based on the median VOC content for primer operations at these facilities. The MACT floor for primer operations at these facilities is 650 g/L (5.4 lb/gal) or less of organic HAP and VOC. This represents the existing source MACT floor for all primer operations at facilities that manufacture fully assembled large commercial aircraft.

We then considered exterior versus interior primers. The data recently submitted to us by the aircraft manufacturer relate only to technical problems concerning the use of ''exterior'' primers at existing facilities that manufacture fully assembled large commercial aircraft. We do not have any data indicating that similar problems exist with the use of interior primers at these facilities. We believe that the 350 g/L (2.9 lb/gal) level has already been demonstrated to be an achievable level of control for interior primers used at facilities that manufacture fully assembled large commercial aircraft. Therefore, we propose to go beyond the MACT floor level of control (650 g/L (2.9 lb/gal) or less of organic HAP and VOC to 350 g/L (2.9 lb/gal) or less of organic HAP and VOC for interior primer operations used at existing and new facilities that manufacture fully assembled large commercial aircraft.

We are not proposing to establish MACT at a level beyond the MACT floor for exterior primers used on large commercial aircraft at facilities that produce fully assembled large commercial aircraft. This is because we believe that meeting a standard more stringent than a 650 g/L level is not technically achievable for all existing commercial production facilities that manufacture and assemble large commercial aircraft at this time. However, the manufacturer in question has stated that it will continue to test and evaluate exterior primers, used to manufacture and assemble large commercial aircraft, with the goal of achieving the current content limit of 350 g/L. Should this manufacturer find an exterior primer that meets its specifications and is lower than the proposed content limit of 650 g/L prior to promulgation of these proposed amendments, we intend to promulgate an emission limit for exterior primers used on large commercial aircraft at facilities that manufacture fully

assembled large commercial aircraft that would be at this lower level.

For new sources, section 112(d)(3) states that MACT ''* * * shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator.''

Based on our reevaluation of these original data, the new source MACT floor for primer operations used on large commercial aircraft at facilities that produce fully assembled large commercial aircraft is 650 g/L (5.4 lb/gal) or less of organic HAP and VOC. This represents the ''best controlled similar source'' from these four facilities. Since the original data were collected, new high-solids chemistry, without TCA, has been employed to achieve the 350 g/L levels. Some existing sources may not be able to use this new technology, combined with other changes to low-HAP and low-VOC topcoats and new application techniques, because of design constraints in their overall operation. The use of this technology may only be feasible for facilities with maximum flexibility in physical plant, climate control, contaminant control (keeping the surface clean prior to primer application), etc. However, for a new source that manufactures fully assembled large commercial aircraft, the operation as a whole could be designed to accommodate the new high-solids technology. Indeed, at least one large commercial aircraft facility is currently using this technology (Boeing Long Beach facility, formerly the McDonnell Douglas facility). This is new information that is not in the original data set used to determine the MACT floor.

Based on the recent data provided, EPA concludes that although technological problems exist at the 350 g/L level for most of the existing facilities, manufacturers can design new facilities with this new technology in mind. Thus, we believe that it is appropriate to set MACT above the floor for new facilities. As a result, we propose to set the limit for exterior primer used on large commercial aircraft at new facilities that produce fully assembled large commercial aircraft at 350 g/L (2.9 lb/gal) or less of organic HAP and VOC.

Although we are not addressing other sectors of the industry, such as the military, in today's proposal, we reviewed the data from the remainder of the responses to section 114 questionnaires for these sectors of the aerospace manufacturing and rework industry that perform primer operations. Our preliminary analysis indicates that the MACT floor for these sectors of the industry would also be in the range of 650 g/L, assuming that we removed the TCA-based data from the data set. However, even if the floor for these sectors were to change, we would see no reason not to adopt the current 350 g/L limit as an above-the-floor requirement. We have received no information indicating that this limit is not achievable for these sectors of the industry. In addition, on September 1, 1998, we issued amendments to the Aerospace NESHAP (63 FR 46533) that set new standards for the control of organic HAP and VOC emissions from primer and topcoat application operations for general aviation rework facilities. We believe that those standards resolved any similar problems for the general aviation rework facilities. Therefore, the proposed organic HAP and VOC emission limit of 650 g/L (5.4 lb/gal) or less for exterior primers applies only to large commercial aircraft components (parts or assemblies) or fully assembled large commercial aircraft at existing affected sources that produce fully assembled large commercial aircraft.

In deciding how to define ''large commercial aircraft,'' we evaluated several different criteria. A review of current Federal Aviation Agency (FAA) regulations revealed two definitions of large aircraft in the Code of Federal Regulations, Title 14 (-) Aeronautics and Space. Under title 14, part 1, general definitions are provided which are applicable for the majority of FAA regulations, sub-chapters A through K. Part 1.1 of title 14 defines large aircraft as ''an aircraft of more than 12,500 pounds, maximum certified take-off weight.'' Under 14 CFR 268.1, which is a regulation applicable to air carriers known as air taxi operators and commuter air carrier operations, large aircraft is defined as ''any aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.'' These definitions suggest the use of maximum certified take-off weight, maximum payload capacity, or maximum passenger capacity as possible criteria to define large aircraft. However, factors cited in the data submitted by the aircraft manufacturer indicated that total flight time, flight frequency and flight altitudes were distinguishing criteria which create more demanding performance characteristics for exterior primers used to manufacture and assemble large commercial aircraft. This suggests that one or all of these criteria could serve as another possible alternative for defining large commercial aircraft.

Based on our review of the data, we believe that the weight of the aircraft is the best defining factor. Greater weight frequently is related to aircraft that are designed to have greater flight time, flight frequency and flight altitude. After reviewing the FAA definitions of large aircraft, we believe that maximum take-off weight would be an appropriate criterion to define large commercial aircraft. The maximum take-off weight is well known and documented within the industry. However, based on the data received, the current definition within FAA regulations (a maximum take-off weight of 12,500 lbs) does not characterize the size of the aircraft where we believe the problems exist for exterior primers.

With respect to the second part of this definition, ''commercial,'' this manufacturer has not indicated that this is a problem for the large military aircraft it manufactures. Therefore, we are defining the term commercial to exclude large aircraft manufactured for military use.

We are proposing to define a large commercial aircraft as an aircraft of more than 110,000 pounds, maximum certified take-off weight manufactured for non-military use. We are requesting comments on this definition along with the use of the other criteria discussed for defining large commercial aircraft.

II. What Provisions of the Aerospace NESHAP Would These Proposed Amendments Affect?

We are proposing to amend section 63.745(c)(1) and (2) of the NESHAP by adding a separate HAP and VOC content limit of 650 g/L for exterior primers applied to large commercial aircraft components (parts or assemblies) or fully assembled large commercial aircraft at existing affected sources that produce fully assembled large commercial aircraft.

III. Whom Would These Proposed Amendments Affect?

These proposed amendments would affect you if you are the owner or operator of an existing or new exterior primer application operation at a facility that, either in part or in whole, manufactures and assembles large commercial aircraft and is a major source as defined in 40 CFR 63.2.

IV. What Are the Administrative Requirements for This Proposal?

A. Executive Order 12866, Regulator Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must

determine whether the regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in standards that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlement, 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.

It has been determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is, therefore, not subject to OMB review.

B. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997), applies to any rule that is determined to be ''economically significant'' as defined under Executive Order 12866, and 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.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposal is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

C. Paperwork Reduction Act

These proposed amendments would not impose any new information collection requirements would result in no change to the currently approved collection. The OMB has approved the information collection requirements contained in the Aerospace Manufacturing and Rework Facilities NESHAP under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB Control Number 2060–0314.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed amendments on small entities, small entity is defined as: (1) A small business that has less than 1,500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. These proposed amendments will not impose any requirements on small entities. They affect only manufacturers of large commercial aircraft. There are no small-entity manufacturers of large commercial aircraft.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed amendments contain no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, or tribal governments or the private sector. These proposed amendments would amend certain existing emission limits in a de-regulatory manner and would not impose any new enforceable duty on any State, local or tribal governments or the private sector. Thus, today's proposed amendments are not subject to the requirements of sections 202 and 205 of the UMRA. The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's proposed amendments are not subject to the requirements of section 203 of the UMRA.

F. Executive Order 13084, Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance

costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed amendments do not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to these proposed amendments.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling and analytical procedures, and business practices) that are developed or adopted by one or more voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through OMB, with explanations when EPA decides not to use available and applicable voluntary consensus standards.

These proposed action amendments do not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

H. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), 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 Executive Order 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 Section 6 of Executive Order 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. The 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.

These proposed amendments do not have federalism implications. They 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 Executive Order 13132. These proposed amendments would amend portions of an existing rule, the Aerospace NESHAP, in a de-regulatory manner. They would not impose any obligations on State or local governments. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 11, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart GG—National Emission Standards for Aerospace Manufacturing and Rework Facilities

2. Section 63.742 is amended by adding in alphabetical order definitions for ''Exterior primer'' and ''Large commercial aircraft'' to read as follows:

§ 63.742 Definitions.

* * * * *

Exterior primer means the first layer and any subsequent layers of identically formulated coating applied to the exterior surface of an aerospace vehicle or component where the component is used on the exterior of the aerospace vehicle. Exterior primers are typically used for corrosion prevention, protection from the environment, functional fluid resistance, and adhesion of subsequent exterior topcoats. Coatings that are defined as specialty coatings are not included under this definition.

* * * * *

Large commercial aircraft means an aircraft of more than 110,000 pounds, maximum certified take-off weight manufactured for non-military use.

* * * * *

3. Section 63.745 is amended by revising paragraphs (c)(1) and (c)(2) to read as follows:

§ 63.745 Standards: Primer and topcoat application operations.

* * * * *

(c) * * *

(1) Organic HAP emissions from primers shall be limited to an organic HAP content level of no more than: 540 g/L (4.5 lb/gal) of primer (less water), as applied, for general aviation rework facilities, or 650 g/L (5.4 lb/gal) of exterior primer (less water), as applied, to large commercial aircraft components (parts or assemblies) or fully assembled large commercial aircraft at existing affected sources that produce fully assembled large commercial aircraft, or 350 g/L (2.9 lb/gal) of primer (less water), as applied.

(2) VOC emissions from primers shall be limited to a VOC content level of no more than: 540 g/L (4.5 lb/gal) of primer (less water and exempt solvents), as applied, for general aviation rework facilities, or 650 g/L (5.4 lb/gal) of exterior primer (less water and exempt solvents), as applied, to large commercial aircraft components (parts or assemblies) or fully assembled large commercial aircraft at existing affected sources that produce fully assembled large commercial aircraft, or 350 g/L (2.9

lb/gal) of primer (less water and exempt solvents), as applied.

* * * * *

[FR Doc. 00–1557 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of the Comment Period for the Columbian Sharp-Tailed Grouse Status Review

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Status review; notice of reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of the reopening of the comment period for the Columbian sharp-tailed grouse (*Tympanuchus phasianellus columbianus*) status review. The comment period is reopened to accommodate requests by various federal and state wildlife resource agencies for additional time to provide input. Reopening of the comment period will also allow further opportunity for all interested parties to submit additional information and written comments to be considered by the Service for this status review (see **DATES** and **ADDRESSES**).

DATES: Written materials from all interested parties must be received by March 27, 2000.

ADDRESSES: Written comments, data, reports, map products, and other information concerning this status review should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Upper Columbia River Basin Field Office, 11103 East Montgomery Drive, Spokane, Washington 99206.

FOR FURTHER INFORMATION CONTACT: Chris Warren, at the address listed above (telephone 509/891–6839; facsimile 509/891–6748).

SUPPLEMENTARY INFORMATION:

Background

The Columbian sharp-tailed grouse is one of six recognized subspecies of sharp-tailed grouse that occur in North America (AOU 1957). Compared to the other subspecies, Columbian sharp-tailed grouse are described as slightly smaller with darker gray plumage. Historically, Columbian sharp-tailed grouse range extended westward from the continental divide in Montana, Idaho, Wyoming, and Colorado to northeastern California and eastern Oregon and Washington; southward to northern Nevada and central Utah; and northward through central British Columbia.

Columbian sharp-tailed grouse rely on a variety of native habitats within the sagebrush-bunchgrass, meadow-steppe, mountain shrub, and riparian zones of the northwestern United States (Giesen and Connelly 1993). Various upland habitats, with a component of more dense riparian or mountain shrub habitat to provide escape cover, are important to the subspecies from spring to fall. The availability of suitable wintering habitat, containing a dominant component of deciduous trees and shrubs, is also thought to be a key element to healthy Columbian sharp-tailed grouse populations (Marks and Marks 1987, Giesen and Connelly 1993).

In 1979, the range wide population estimate for the Columbian sharp-tailed grouse was approximately 60,000 to 170,000 individuals, with roughly 60 to 80 percent occurring in British Columbia (Miller and Graul 1980). Miller and Graul (1980) also estimated that the subspecies occupied less than 10 percent of its historic range in Idaho, Montana, Utah, and Wyoming, 10 to 50 percent in Colorado and Washington, and 80 percent or more in British Columbia. The current minimum to maximum range wide population estimate for the Columbian sharp-tailed grouse is approximately 30,000 to 70,000 individuals, with roughly 60 to 70 percent occurring in southeastern Idaho. The Columbian sharp-tailed grouse has been extirpated from California (*circa* 1920), Nevada (*circa* 1950), and Oregon (*circa* 1960) (Miller and Graul 1980).

Declines in the overall abundance of Columbian sharp-tailed grouse and the extent of its occupied range have acted to isolate various populations of the subspecies. Three relatively large populations of Columbian sharp-tailed grouse still exist; one in northwestern Colorado to south-central Wyoming, one in southeastern Idaho to northern Utah, and one in central British Columbia. To varying degrees, the remaining areas occupied by the subspecies are made up of relatively small and isolated local populations.

Much of the historic area used by Columbian sharp-tailed grouse has been converted for crop production and affected by other influences including rural and suburban development, dam construction, minerals exploitation, chaining, herbicide spraying, and fire (Miller and Graul 1980, Wood 1991, Giesen and Connelly 1993). In addition, grazing practices over large portions of Columbian sharp-tailed grouse range may negatively impact native habitats (Hart *et al.* 1950, Miller and Graul 1980, Kessler and Bosch 1982, Giesen and Connelly 1993). Intensive grazing pressure may be especially detrimental to nesting and wintering habitats used by Columbian sharp-tailed grouse populations, primarily due to impacts on their cover and food resources.

Much of the area currently and potentially occupied by Columbian sharp-tailed grouse is in private ownership. Presently, large portions of these privately owned lands are withdrawn from crop production and planted to native and non-native cover under the Federal Conservation Reserve Program (CRP) (USDA 1998). CRP lands have become very important to Columbian sharp-tailed grouse in Colorado, Idaho, Oregon, Utah, and Washington. A number of CRP contracts are scheduled to expire from 1999 through the year 2002. The potential net changes that may occur under the CRP vary considerably by the counties and states occupied by Columbian sharp-tailed grouse. Presently, it is unclear what affects these potential changes may have on the subspecies' populations.

Currently, Columbian sharp-tailed grouse are hunted in Colorado, Idaho, and British Columbia. Hunting is not likely to have an additive affect over natural mortality for relatively large, stable populations of upland birds under managed conditions (Braun *et al.* 1994). However, depending on the status of the hunted population and hunter access patterns, some areas may act as population ''sinks'' and be adversely impacted by additional mortality. Incidental or illegal take of the subspecies may also occur, especially in areas hunted extensively for other upland game (Hart *et al.* 1950, Miller and Graul 1980).

Reintroduction efforts for Columbian sharp-tailed grouse have taken place in Washington, Montana, Oregon, Nevada, and Idaho. Many early reintroduction efforts conducted for prairie grouse (including sharp-tailed grouse) failed to produce self-sustaining populations or to increase the size or distribution of augmented populations (Toepfer *et al.* 1990). However, several recent efforts have shown greater potential to be effective as the techniques for reintroductions have improved.

The Service published a notice in the **Federal Register** on October 26, 1999, announcing that a range wide status review for the Columbian sharp-tailed

grouse was being conducted (64 FR 57620). The original comment period for this status review closed December 27, 1999. The Service will now accept information concerning this status review through March 27, 2000. The Service will also solicit the opinions of appropriate and independent specialists regarding the data, assumptions, and supportive information presented for the Columbian sharp-tailed grouse status review, per the Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities (59 FR 34270).

References Cited

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Hart, C.M., O.S. Lee, and J.B. Low. 1950. The Sharp-tailed Grouse in Utah—Its Life History, Status, and Management. Pub. No. 3, Utah State Dept. of Fish and Game.

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Toepfer, J.E., R.L. Eng, and R.K. Anderson. 1990. Translocating Prairie Grouse: What Have We Learned? Trans. 55th N.A. Wildl. and Nat. Res. Conf. pp 569–579.

USDA. 1998. The Conservation Reserve Program: 16th Signup. January 29, 1998 Report by the Farm Service Agency. 249 pp.

Wood, M.A. 1991. Columbian Sharp-tailed Grouse Mitigation Implementation Plan for Western Montana. Report by the Montana Dept. of Fish, Wildlife, and Parks. 24 pp.

Author: The primary author of this notice is Chris Warren of the Upper Columbia River Basin Field Office, U.S. Fish and Wildlife Service, 11103 East Montgomery Drive, Spokane, Washington 99206 (Telephone: 509/891–6839).

Authority: The authority of this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 13, 2000.

Thomas Dwyer,

Acting Regional Director, Fish and Wildlife Service.

[FR Doc. 00–1446 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–55–p

Notices

Federal Register
Vol. 65, No. 15
Monday, January 24, 2000

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

Food and Nutrition Service

The Emergency Food Assistance Program, Availability of Commodities for Fiscal Year 2000

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the surplus and purchased commodities that the Department expects to make available for donation to States for use in providing food assistance to the needy under the Emergency Food Assistance Program (TEFAP) in Fiscal Year (FY) 2000. The commodities made available under this notice shall, at the discretion of the State, be distributed to organizations for use in preparing meals, and/or for distribution to households for home consumption.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Lillie Ragan, Assistant Branch Chief, Household Programs Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594 or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION:

Background and Need for Action

Surplus Commodities

Surplus commodities donated for distribution under TEFAP are Commodity Credit Corporation (CCC) commodities determined to be available for donation by the Secretary of Agriculture under the authority of section 416 of the Agricultural Act of 1949, 7 U.S.C. 1431 (section 416) and commodities purchased under the surplus removal authority of section 32 of the Act of August 24, 1935, 7 U.S.C. 612c (section 32). The types of commodities typically made available under section 416 include dairy, grains, oils, and peanut products. The types of commodities purchased under section 32 include meat, poultry, fish, vegetables, dry beans, juices and fruits. Donations of surplus commodities were initiated in 1981 as part of the Department's efforts to reduce stockpiles of government-owned commodities, such as cheese, flour, butter, and cornmeal, which had been acquired under section 416. These donations responded to concern over the costs to taxpayers of storing large quantities of foods, while at the same time there were persons in need of food assistance. The authority to donate surplus commodities for distribution through TEFAP is currently codified in Section 202 of the Emergency Food Assistance Act of 1983, 7 U.S.C. 7502 (EFAA).

The supply of surplus commodities has been drastically reduced from the levels available in the early 1980s. These reductions are the result of changes in the agricultural commodity loan programs which have brought supply and demand into better balance, and accelerated donations and sales. However, this trend reversed itself beginning in FY 1997. In FY 1999, the Department purchased over $106.4 million worth of surplus commodities. The large surpluses were the result of the reduction in foreign sales due primarily to the Asian economic downturn. The following surplus commodities were purchased for donation in FY 1999 but will be delivered in the first quarter of FY 2000, because they did not become available for purchase until late in the year: frozen bison and instant nonfat dried milk. In addition to delivering these products for distribution in FY 2000, the Department anticipates that there will be sufficient quantities of nonfat dry milk available for donation under section 416, and salmon, pork, walnut pieces, trailmix, and canned chicken purchased under section 32, to support the donation of these commodities for distribution through TEFAP in FY 2000. The Department would like to point out that commodity acquisitions are based on changing agricultural market conditions; therefore, the availability of commodities is subject to change.

Purchased Commodities

Congress responded to the reduced availability of surplus commodities with section 104 of the Hunger Prevention Act of 1988, Pub. L. 100–435, which added sections 213 and 214 to the EFAA. Those sections require the Secretary to purchase commodities for distribution to States in addition to those surplus commodities which otherwise might be provided to States for distribution under TEFAP. Pursuant to section 871(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, Congress repealed the authorization of funds for food purchases under section 214 of the EFAA. In addition, section 871(g) added a new section 27 to the Food Stamp Act of 1977, 7 U.S.C. 2011 *et seq.* (FSA), under which the Secretary is required to use $100 million from the funds made available to carry out the FSA for each of FYs 1997 through 2002 to purchase a variety of nutritious and useful commodities and distribute the commodities to States for distribution through TEFAP. However, Pub. L. 106–78 (An Act making appropriations for the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes), limits the amount of funds available to purchase TEFAP commodities in FY 2000 to $98 million. A separate administrative funding appropriation of $45 million, as divided among the States, may be used, in whole or in part, at the discretion of each State, by the Department for the purchase of additional commodities for TEFAP.

For FY 2000, the Department anticipates purchasing the following commodities for distribution through TEFAP: fresh apples, peanut butter, roasted peanuts, rice, macaroni, spaghetti, egg noodles, oats, fortified cereal, bakery mix, egg mix, dehydrated potatoes, corn syrup, vegetable oil, dry bagged beans, raisins, prunes, the following canned foods: apple juice, applesauce, peaches, pears, plums, vegetarian beans, refried beans, green beans, potatoes, tomatoes, tomato sauce, vegetarian and tomato reduced-sodium soups, spaghetti sauce, tomato juice, corn, orange juice, grapefruit juice, pineapple juice, pork, tuna, beef, and chicken, as well as the following frozen foods: ground beef, whole chicken,

ground turkey, and turkey roasts. The amounts of each item purchased will depend on the prices the Department must pay, as well as the quantity of each item requested by the States. Changes in agricultural market conditions may result in the availability of additional types of commodities or the non-availability of one or more types listed above. State officials will be responsible for determining how to allocate the commodities each State receives among eligible organizations. States have full discretion in determining the amount of commodities that will be made available to organizations for distribution to needy households for use in home-prepared meals or for providing prepared meals to the needy at congregate feeding sites.

Dated: January 11, 2000.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 00–1575 Filed 1–20–00; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 00–002N]

Codex Alimentarius: 4th Session of the Codex Committee on Milk and Milk Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting, request for comments.

SUMMARY: The Agricultural Marketing Service and the Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture; and the Food and Drug Administration, U.S. Department of Health and Human Services, are sponsoring a public meeting on February 15, 2000, to provide information and receive public comments on agenda items that will be discussed at the 4th Session of the Codex Committee on Milk and Milk Products, which will be held in Wellington, New Zealand, on February 28–March 3, 2000.

DATES: The public meeting is scheduled for Tuesday, February 15, 2000, from 9:00 a.m. to 12:00 noon.

ADDRESSES: The public meeting will be held in Room 0745, South Agriculture Building, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW, Washington, DC 20250. To receive copies of the documents referenced in the notice contact the FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.fao.org/waicent/faoinfo/economic/esn/codex/ccmmp4/MM00 01E.htm*. When submitting comments, send an original and two copies to the FSIS Docket Clerk and reference the Docket # *00–002N* and the appropriate document number. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, FSIS, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–3700, telephone (202) 205–7760; Fax (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Patrick J. Clerkin, telephone (202) 205–7760; Fax (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission (Codex) was established in 1962 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Milk and Milk Products was established to elaborate codes and standards for Milk and Milk Products. The Government of New Zealand hosts this committee and will chair the committee meeting.

Issues to be Discussed at the Public Meeting

The following specific issues will be discussed during the public meeting:

1. Matters referred by the Codex Alimentarius Commission and other Codex committees.

2. Draft Standard for Unripened Cheeses including Fresh Cheese at Step 7.

3. Review of the Proposed Draft and Draft Revised Standards: Cream; Fermented Milk Products; Dairy Spreads; Processed Cheese; Individual Cheeses; Whey Powders; and Edible Casein Products; at Step 4.

4. Heat Treatment Definitions.

5. Model Export Certificate for Milk Products.

6. Review of Proposals for New Standards for ''Parmesan'' and ''Cheese Speciality''.

Each issue listed will be fully described in documents distributed, or to be distributed, by the New Zealand Secretariat to the Meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development are important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this public meeting, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: January 19, 2000.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 00–1662 Filed 1–21–00; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 00–001N]

Codex Alimentarius Commission: Thirty-Second Session of the Codex Committee on Food Additives and Contaminants

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of Public meeting; request for comment.

SUMMARY: The Office of the Under Secretary for Food Safety, and the Food Safety and Inspection Service (FSIS), United States Department of Agriculture, and the Food and Drug Administration (FDA) are sponsoring a public meeting on February 4, 2000. The purpose of the meeting is to provide information and receive public comment on agenda items that will be discussed at the Thirty-second Session of the Codex Committee on Food Additives and Contaminants (CCFAC), which will be held in Beijing, China on March 20–24, 2000.

DATES: The public meeting is scheduled for Friday, February 4, 2000, from 1:30 p.m. to 3:00 p.m.

ADDRESSES: The public meeting will be held in Room 1409, FOB 8, 200 C. St. S.W., Washington, DC. Documents referenced in this notice can be reviewed at the FSIS Docket Clerk's office, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.fao.org/waicent/faoinfo/economic/esn/codex/ccfac32/Fa00—01e.htm.* Send an original and two copies of comments to the FSIS Docket Clerk, Docket #00–001N, to the above address. All comments submitted in response to this notice will be available for public inspection in the FSIS Docket Clerk's office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue S.W., Washington, DC 20250, Telephone: (202) 205–7760, Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Codex is the principal international organization for protecting the health and economic interests of consumers and encouraging fair international trade in food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The CCFAC establishes or endorses maximum or guideline levels for individual food additives, for contaminants (including environmental contaminants), and for naturally occurring toxicants in foodstuffs and animal feeds. In addition, the Committee prepares priority lists of food additives and contaminants for toxicological evaluation by the Joint FAO/WHO Expert Committee on Food Additives; recommends specifications of identity and purity for food additives for adoption by the Commission; considers methods of analysis for their determination in food; and considers and elaborates standards or codes for related subjects such as the labeling of food additives when sold as such and food irradiation. The Netherlands chairs the committee.

Issues To Be Discussed at the Public Meeting

The following lists the provisional agenda items that will be discussed during the public meeting on February 4, 2000:

1. Adoption of the Agenda.
2. Matters referred by the Codex Alimentarius Commission and other Codex Committees.
3. Summary Report of the 53rd Meeting of the Joint FAO/WHO Expert Committee on Food Additives (JECFA).
4. Action Required as a Result of Changes in Acceptable Daily Intake Status and other Toxicological Recommendations.
5. Discussion Paper on the Application of Risk Analysis Principles for Food Additives and Contaminants.

Food Additives

1. Endorsement and/or Revision of Maximum Levels for Food Additives in Codex Standards.
2. Consideration of the Codex General Standard for Food Additives.
3. Discussion Paper on the Use of Colours in Foods.
4. Discussion Paper on Processing Aids.
5. Proposed Draft Revision to the Codex General Standard for Irradiated Foods.
6. Specifications for the Identity and Purity of Food Additives Arising from the 53rd JECFA Meeting.
7. Proposed Amendments to the International Numbering System.

Contaminants

1. Endorsement and/or Revision of Maximum Levels for Contaminants in Codex Standards.
2. Consideration of the Codex General Standard for Contaminants and Toxins in Foods.
3. Methodology and Principles for Exposure Assessment in the Codex General Standard for Contaminants and Toxins in Foods.
4. Mycotoxins in Food and Feed:
   (a) Aflatoxin M_1 in Milk
   (b) Ochratoxin A in Cereals
   (c) Zearalenone
   (d) Patulin
   (e) Fumonisins.
5. Industrial and Environmental Contaminants in Foods:
   (a) Proposed Draft Code of Practice for Source Directed Measures to Reduce Contamination of Food with Chemicals
   (b) Lead
   (c) Cadmium
   (d) Dioxins.

General Issues

1. Proposals for Priority Evaluation of Food Additives and Contaminants by JECFA.
2. Other Business and Future Work:
   (a) Comments on Methods of Analysis for the Determination of Food Additives and Contaminants in Foods.
   (b) Comments on the Inventory of Processing Aids.
   (c) Comments on Packaging Provisions to Maintain the Stability of Iodized Salt in the Codex Standard for Food Grade Salt.

Each issue listed will be fully described in documents distributed, or to be distributed, by Commission Secretariat or by The Netherlands' Secretariat to the Meeting. Members of the public may review copies of these documents (see **ADDRESSES**).

Public Meeting

At the February 4, 2000, public meeting, the agenda items will be described, discussed, and attendees will have the opportunity to pose questions and offer comments.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development are important. Consequently, in an effort to better ensure that minorities, women,

and persons with disabilities are aware of this public meeting notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: January 19, 2000.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 00–1663 Filed 1–21–00; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Task Force on Agricultural Air Quality

AGENCY: Natural Resources Conservation Service (NRCS).

ACTION: Notice of meeting.

SUMMARY: The Task Force on Agricultural Air Quality will meet for the second time in FY 2000 to discuss the relationship between agricultural production and air quality. Special emphasis will be placed on promoting a greater understanding of agriculture's impact on air quality and the role it plays in the local and national economy. The meeting is open to the public.

DATES: The meeting will convene Tuesday, February 15, 2000 at 8:30 a.m. and continue until 5:00 p.m. The meeting will resume Thursday, February 17, 2000 from 8:30 a.m. to 2:45 p.m. Written material and requests to make oral presentations should reach the Natural Resources Conservation Service on or before February 7, 2000.

ADDRESSES: The meeting will be held at the Amerisuites, 6080 Bluebonnet Boulevard, Baton Rouge, LA 70809, telephone (225) 769–4400/Fax (225) 769–7444. Written material and requests to make oral presentations should be sent to George Bluhm, University of California, Land, Air, and Water Resources, 151 Hoagland Hall, Davis, CA 95616–6827.

FOR FURTHER INFORMATION: Questions or comments should be directed to George Bluhm, Designated Federal Official, telephone (530) 752–1018, fax (530) 752–1552, email bluhm@crocker.ucdavis.edu.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information about the Task Force on Agricultural Air Quality, including any revised agendas for the November 9 and 10, 1999 meeting that may appear after this **Federal Register** Notice is published, may be found on the World Wide Web at http://www.nhq.nrcs.usda.gov/faca/aaqtf.html.

Draft Agenda of the February 15 And 17, 1999 Meeting

A. Welcome to Louisiana by State and local officials
B. Business, Pearlie Reed, Chief, NRCS and Chairperson, AAQTF
1. Approve minutes of the November 9 and 10, 1999 AAQTF meeting
2. Update on Agricultural Burning Policy recommendation
3. Update on Voluntary Program recommendation
C. GIS as an Emission Factor Tool, LDEQ Staff
D. Subcommittee Reports, Pearlie Reed, Chief, NRCS and Chairperson, AAQTF
1. Confined animals and emission factors subcommittee report, John Sweeten, Chairperson
2. Research priorities and oversight subcommittee report, James Trotter, Chairperson
3. Monitoring and health effects subcommittee report, Phillip Wakelyn, Chairperson
E. EPA Update, Sally Shaver, EPA
F. Set date and location for next meetings

Procedural

This meeting is open to the public. At the discretion of the Chair, members of the public may present oral presentations during the February 15 and 17, 2000 meeting. Persons wishing to make oral presentations should notify George Bluhm no later than February 7, 2000. If a person submitting material would like a copy distributed to each member of the committee in advance of the meeting, that person should submit 25 copies to George Bluhm no later than February 7, 2000.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact George Bluhm as soon as possible.

Dated: January 11, 2000.

Lawrence E. Clark,

Deputy Chief for Science and Technology, Natural Resources Conservation Service.

[FR Doc. 00–1632 Filed 1–21–00; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Carolina Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on February 9, 2000, at the North Carolina A&T State University, Hodgin Hall, Room 106, Greensboro, North Carolina 27411. The purpose of the meeting is to finalize a project proposal and to review civil rights issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 11, 2000.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 00–1600 Filed 1–21–00; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Reduction in the Size of Antidumping/Countervailing Duty Federal Register Notices

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Reduction in the Size of **Federal Register** Notices.

SUMMARY: On August 21, 1998, the Department of Commerce published a notice of intent to modify the manner in which its final determinations are made available to the public in an effort to reduce publishing costs. See 63 FR 44837. We proposed to publish a notice in the **Federal Register** (FR) announcing our final determinations in investigations and reviews and to make a decision memorandum available simultaneously on Import Administration's web page in which we would summarize comments and present our position on the issues.

Based on our budget constraints and the widespread access to the Internet, we are proceeding with reducing the size of our FR notices and ensuring access to decision memoranda on our web page. Based on our analysis of the comments received in response to our August 21, 1998, proposal we have alerted traditional services such as Lexis and Westlaw to our plans and they have indicated that they will make the decision memoranda available to their clients in an electronically searchable format.

EFFECTIVE DATE: February 15, 2000.

FOR FURTHER INFORMATION: Please contact Laura Merchant or Laurie Parkhill, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW, Washington, D.C. 20230, at (202) 482–0367 and (202) 482–4733, respectively.

The Applicable Statute: Under section 771(i) of the Tariff Act of 1930, as amended, the Department is required to make public the facts and conclusions of its determinations.

Background: On August 21, 1998, the Department of Commerce (the Department) published a notice of intent to modify the manner in which its final determinations are made available to the public in efforts to reduce publishing costs. We invited parties to comment on our proposal. The Department has evaluated the proposed changes and the comments regarding those changes and has decided to implement the proposal.

As described in the August 1998 proposal, final determinations will be divided into two sections: (1) the notice to be published in the FR; and (2) an ''Issues and Decision Memorandum'' to be posted simultaneously on the Import Administration web page. In addition, traditional services such as Lexis and Westlaw have indicated that they will make the decision memoranda available to their clients in an electronically searchable format. Access to paper copies of these documents will continue to be available through the IA Central Records Unit, room B–099 of the main Department building.

The published notice will contain information relating to the Department's decisions, including margins, Department contacts, deadlines, cash-deposit requirements, and, for administrative reviews, the duty-assessment methodology. The notice will state explicitly that the public can find a paper copy of the discussion of the issues and relevant memoranda on file in the IA Central Records Unit and will also provide the public with an Internet address that will allow public access to the electronic version of these documents.

The ''Issues and Decision Memorandum'' (Decision Memo) will contain the complete discussion of issues parties raise in case and rebuttal briefs, and it will be adopted and incorporated by reference into the notice we publish in the FR. It will be identical in content to the ''Analysis of Comments'' section in current final determinations. Specifically, the Decision Memo will be a memorandum from a Deputy Assistant Secretary with a summary of comments received and the Department's position with respect to each of those comments. The Decision Memo will be available on the IA web page simultaneously with the publication of the notice in the FR. We will follow this approach for all FR final notices regardless of the type of proceeding.

Locating Memoranda on the Internet: We will make the Decision Memo, and, as applicable, other memoranda, such as a scope memorandum, available on IA's web page. These memoranda will be located in the electronic library of IA documents. The Internet address for the final notices and Decision Memo will be: ''www.ita.doc.gov/import__admin/records/frn''. This address will take the user to a list of countries which contains electronic links to the FR notices and decision memoranda for each case pertaining to each country. Any special instructions parties might need to locate pertinent memoranda will be included in the FR notice. This index with links to relevant documents for each order will appear in the following sample format of the IA home page. The numbered items represent links to the corresponding documents.

[A-XXX–XXX]

Product
1. Final Results of Antidumping Duty Administrative Review (POR)
2. Decision Memorandum (Published 00/00/200X)

Examples of the FR document, Issues in Decision Memo, and Decision Memo are located in Appendices 1, 2, and 3 at the end of this notice.

Analysis of Comments Received

Comment 1: All commenters urged the Department not to change its present policy of publication. They argue that the proposed change will make it more difficult, time-consuming, and costly to research Departmental precedents and policy because the IA web site does not contain adequate text-searching tools which are available on other services including the Government Printing Office (GPO) web site. They conclude that to ''publish'' a Decision Memo only on IA's web site would effectively deny meaningful access to the Department's decisions through the GPO site and other commercial research services. This change, they contend, will reduce the Department's current level of transparency to all parties. At a minimum, commenters urge IA to either include a robust text-searching tool on its web site and/or arrange for traditional research services such as Lexis and Westlaw to include the Department's complete decisions in their services.

We have consulted with the traditional commercial services such as Westlaw and Lexis about our proposed changes. They have indicated that they will make IA's decision memoranda available through their services just as they make the FR Notices available to their customers. Access to IA's decision memoranda and related documents through traditional commercial services should mitigate these concerns. With this search capability and the wide availability of internet access, we believe that our decisions and policy will be more publicly available than is presently the case.

Comment 2: We received one comment arguing that we are required by statute to publish the full facts and our conclusions in the FR.

We disagree. The Department is required by section 771(i) of the Tariff Act of 1930, as amended, to make public its decisions and the basis of those decisions. Nowhere does the statute

require the Department to publish its decision in a specific publication.

The Department will continue to publish notices of final determinations containing all fundamental information relating to the Department's decisions. In addition, the Department will provide access to the electronic version of these documents through both the IA web site and through traditional commercial services. Paper copies will remain available through the IA Central Records Unit.

Comment 3: Several commenters argued that the proposed change will affect the quality of advocacy and quality of Department decision-making adversely because the Department will no longer be able to research electronically the entire set of its prior decisions.

We disagree. Changing the location of publicly available documents should have little impact on the quality of advocacy or our decision-making abilities. The Department's decision memoranda and related documents will continue to be available and accessible to the public through the IA web site, the Central Records Unit, and the traditional electronic research services.

Comment 4: Several commenters contend that our proposed change could result in increased costs, including the cost of maintaining the new information on the IA web page. One commenter anticipated that the costs of maintaining the information on our web site will rise beyond savings we anticipate. Another argued that, if the Department's proposed changes were to cause a delay in the resolution of any Antidumping or Countervailing proceedings, the additional amount of interest payable for estimated duties incurred during the delay could exceed the savings in publication costs.

We disagree. The information currently available in our FR notices will remain available to the public through other means, as well as continued access through Lexis and Westlaw, thereby providing the ability to research precedents and avoiding delay in access to the information. While the Department acknowledges additional effort may be involved in locating and tracing documents during the initial stages of transition to this new format, the technology and resources available should not increase time spent on researching Department decisions, policies, and precedents substantially. Any increased cost of conducting proceedings would not arise from changing the location of publicly available documents.

We do not anticipate significantly increased maintenance costs. Moreover, we expect significant increased net savings resulting from lower publishing costs. Additional server space on the IA web site as well as time compiling the documents onto the web page and making electronic copies available to the public and any commercial services cost far less than continuing to publish lengthy documents in the **Federal Register**.

Comment 5: We received several comments expressing a general fear of loss of access to IA decisions due to the unreliability of the Internet. Other commenters suggested that the availability of memoranda through the CRU is not an adequate substitute for access through the Internet. One commenter stressed the importance of continued availability of Department decisions in the CRU. Several comments noted that, unlike the IA web site, the GPO web site maintains searchable back issues of the FR from June 1980, from which the public may access and search Department decisions.

We understand this concern and will strive whenever possible to create alternative access locations for all publicly available documents using the CRU and traditional commercial Internet services. The Department will continue to maintain its files of all publicly available information in the CRU.

Contrary to what commenters contend, we believe that the historical information will be more publicly available than is presently the case. Lexis and Westlaw have indicated that they will include both the Department's FR notice and the accompanying Decision Memo in their databases which include information dating from 1980. Our Decision Memo and FR Notices will also be posted on the IA web site in addition to all of our FR notices published since 1995. In addition, all past and future FR Notices will remain on the GPO site.

Comment 6: Many commenters pointed out that the IA web site does not have a full-text searching capability like the Lexis and Westlaw sites. They contend that, without such a searching tool, the availability of decision memoranda on the IA web site cannot substitute for these current services.

As noted in response to Comment 1, the Department recognizes these concerns and has discussed solutions with Westlaw and Lexis to carry both the FR notice and the decision memoranda. In addition, the Department affirms its commitment to maintain an effective and user-friendly web site available to any party that does not have access to these commercial services. In addition to any searching capabilities that we can incorporate into our web site, we will also post our FR notices and decision memoranda using meaningful indexes and links.

Comment 7: Of great concern to all commenters is the lack of an effective search mechanism on IA's web site. We received comments suggesting that we include a search engine on our web site that is similar to the ones currently available through the leading commercial legal on-line services and the GPO web site. Three commenters suggested that, in addition to decision memoranda being posted on the Internet, prior decisions, disclosed orders, and interpretations of applicability in prior cases also be available through the web site, including all documents relevant to a particular case, a full history of agency analysis and actions, remand results, liquidation instructions, assessment rates in graphical format, and internal memoranda associated with each order.

If possible, we will incorporate a robust search engine on the IA web site as a substitute to what is currently available on the GPO web site. While including all relevant documents in a particular case, such as remand results, liquidation instructions, and assessment rates might be a valuable research tool in some cases, we are not prepared to make such a commitment at this time. The IA web site is an extremely useful and important information dissemination tool and we strive to post as many public documents as feasible in a useful fashion.

Comment 8: Several commenters proposed various indexing schemes to better identify and group documents on the IA web site for easy identification.

We are sympathetic to the need to identify notices and decision memoranda quickly and effectively on the IA web site. We view our web site to be an integral part of our information-dissemination efforts and will arrange the information in a way that is both useful and easy to locate.

Comment 9: We received one comment suggesting that, in lieu of our proposed changes to reduce the size of our final notices in the FR, subscription prices for the FR should be increased instead.

It is not in the Department's power to increase subscription prices to the FR, which is maintained by a separate federal agency, nor does the Department receive proceeds from such subscriptions. Therefore, this point is irrelevant.

Comment 10: We received two comments expressing concern over the simultaneous timing of the release of the Decision Memo on the Internet and

publication of the notice in the FR. These commenters feared simultaneous publication would not always run smoothly. One commenter suggested that publication of the notice alone should not be construed as satisfying our statutory obligation and that only when both documents are publicly available should our statutory obligation to publish our decisions be fulfilled. In addition, the commenter stressed the need to assign the exact same validity and importance of the on-line documents as documents which are currently published in the FR.

The Department has established procedures to ensure simultaneous release of documents on the Internet and in the FR. The Department will not consider its obligations fulfilled until both documents are available publicly.

Comment 11: We received one comment expressing concern that interested parties may not continue to receive an advance copy of the notice for publication in the FR and the Decision Memo or that the Department may publish the FR Notice but not release the Decision Memo to the parties on the same day.

The Department will continue to provide paper copies of the final notice and the Decision Memo to interested parties in advance of the date of publication of the FR notice under this new system.

Implementation

The procedures outlined in this notice will be applied to all final determinations which are subject to a publication requirement and issued after February 15, 2000, the effective date of this notice. If necessary, additional information on procedures to follow for locating our decisions on the internet will be posted on the IA web site at www.ita.doc.gov/import__admin/records/. Any questions concerning file formatting, access on the Web, or other electronic filing issues should be addressed to Andrew Lee Beller, IA Webmaster, at (202)482–0866 or via e-mail at andrew__lee__beller@ita.doc.gov.

Dated: January 13, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

Appendix 1—Sample FR Document

This will be published in the FR. (Please note that this sample reflects final results of an administrative review. All IA final determinations will be subject to this modified format.)

DEPARTMENT OF COMMERCE

International Trade Administration

[Case Number]

(Product) from (Country); Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On (date), the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on (product) from (country). The merchandise covered by this order is (brief description). The review covers (number) manufacturers/exporters. The period of review is (date) through (date).

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: (Insert date of publication in the **Federal Register**).

FOR FURTHER INFORMATION CONTACT: (Analyst), Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–XXXX.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1998).

Background

On (date), the Department published the preliminary results of administrative review of the antidumping duty order on (product) from (country) (FR citation). The review covers (number) manufacturers/exporters. The period of review (POR) is (date) through (date). We invited parties to comment on our preliminary results of review. At the request of certain interested parties, we held a public hearing on (date). The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

The product covered by this review is (product) and (description). (Standard scope language will appear here unless, for reasons of length, the complete scope description is in a separate memorandum. Such a memorandum will also be available on the IA web site.)

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (Decision Memo) from (name), Deputy Assistant Secretary, Import Administration, to (name), Assistant Secretary for Import Administration, dated (date), which is hereby adopted and incorporated by reference into this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import__admin/records/frn/, under the heading ''(Applicable Country).'' The paper copy and electronic version of the Decision Memo are identical in content.

Use of Facts Available (if Necessary)

For a discussion of our application of facts available, see the ''Facts Available'' section of the Decision Memo, which is on file in B–099 and available on the Web at www.ita.doc.gov/ import__admin/records/frn/, under the heading ''(Applicable Country).''

Sales Below Cost in the Home Market (Where Applicable)

The Department disregarded home market sales below cost for (names of firms) in these final results of review.

Duty Absorption (Where Applicable)

We have determined that duty absorption has/has not occurred with respect to (name of firm) with respect to (XX) percent of sales which this firm made through its U.S. affiliated party. For a discussion of our determination with respect to this matter, see the ''Duty Absorption'' section of the Decision Memo, accessible in B–099 and on the Web at www.ita.doc.gov/import__admin/records/frn/, under the heading ''(Applicable Country).''

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations. We have also corrected certain programming and clerical errors in our preliminary results, where applicable. Any alleged programming or clerical errors with which we do not agree are discussed in the relevant sections of the ''Decision Memorandum,'' accessible in B–099 and on the Web at www.ita.doc.gov/import__admin/records/frn/, under the heading ''(Applicable Country).''

Final Results of Review

We determine that the following percentage weighted-average margins exist for the period (date) through (date):

Manufacturer/exporter	Margin (Percent)
(Company Name)	XX.XX
(Company Name)	XX.XX

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. With respect to both export price and constructed export price sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct Customs to assess the resulting percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of (product) from (country) entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent and therefore *de minimis,* the Department shall require no deposit of estimated antidumping duties; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be (rate). This rate is the ''All Others'' rate from the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 771(i) of the Act.

(Name)

Assistant Secretary for Import Administration

(Date)

Appendix 2—Issues in Decision Memo (Sample)

Comments and Responses

1. Facts Available
2. Discounts, Rebates, and Price Adjustments
3. Circumstance-of-Sale Adjustments
   A. Technical Services and Warranty Expenses
   B. Credit
   C. Indirect Selling Expenses
4. Level of Trade
5. Cost of Production and Constructed Value
   A. Cost-Test Methodology
   B. Research and Development
   C. Profit for Constructed Value
   D. Affiliated-Party Inputs
   E. Abnormally High Profits
   F. Credit and Inventory Costs
   G. Other Issues
6. Further Manufacturing
7. Packing and Movement Expenses
8. Affiliated Parties
9. Sample Sales and Prototypes/Zero-Price Transactions
10. Export Price and Constructed Export Price
11. Programming and Clerical Errors
12. Duty Absorption
13. Reimbursement
14. Tooling Revenue
15. Cash Deposit Financing
16. Miscellaneous Issues
   A. Ocean and Air Freight
   B. Burden of Proof
   C. HTS
   D. Certification of Conformance of Past Practice
   E. Pre-Existing Inventory
   F. Inland Freight
   G. Other Issues

Appendix 3—Sample Decision Memo

This will be available on IA's Web page.

(Case Number)
AR X/XX–X/XX
Public Document
MEMORANDUM TO: (Name)
Assistant Secretary for Import Administration
FROM: (Name)
Deputy Assistant Secretary for Import Administration
SUBJECT: Issues and Decision Memorandum for the Administrative Review of (product) from (country)—(date) through (date)

Summary

We have analyzed the comments and rebuttals of interested parties in the (date) administrative review of the antidumping duty order covering (product) from (country). As a result of our analysis, we have made changes, including corrections of certain inadvertent programming and clerical errors, in the margin calculations. We recommend that you approve the positions we have developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comments and rebuttals by parties:

1. Facts Available
2. Discounts, Rebates, and Price Adjustments
3. Circumstance-of-Sale Adjustments
   A. Technical Services and Warranty Expenses
   B. Credit
   C. Indirect Selling Expenses
4. Level of Trade
5. Cost of Production and Constructed Value
   A. Cost-Test Methodology
   B. Research and Development
   C. Profit for Constructed Value
   D. Affiliated-Party Inputs
   E. Abnormally High Profits
   F. Credit and Inventory Costs
   G. Other Issues
6. Further Manufacturing
7. Packing and Movement Expenses
8. Affiliated Parties
9. Sample Sales and Prototypes/Zero-Price Transactions
10. Export Price and Constructed Export Price
11. Programming and Clerical Errors
12. Duty Absorption
13. Reimbursement
14. Tooling Revenue
15. Cash Deposit Financing
16. Miscellaneous Issues
   A. Ocean and Air Freight
   B. Burden of Proof
   C. HTS
   D. Certification of Conformance to Past Practice
   E. Pre-Existing Inventory
   F. Inland Freight
   G. Other Issues

Background

On (date), the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on (product) from (country). The merchandise covered by this order is (brief description). The period of review (POR) is (date) through (date). We invited parties to comment on our preliminary results of review. At the request of certain interested parties, we held a public hearing on (date).

Discussion of the Issues

1. Facts Available
   Comment 1:
   Department's Position:
2. Discounts, Rebates, and Price Adjustments
   Comment 1:
   Department's Position:
3. Circumstance-of-Sale Adjustments
Comment 1:
   Department's Position:

* * * * *

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions and adjusting all related margin calculations accordingly. If these recommendations are accepted, we will publish the final results of review and the final weighted-average dumping margins for all reviewed firms in the **Federal Register**.

AGREE__
DISAGREE__

(Name)
Assistant Secretary for Import Administration

(Date)

[FR Doc. 00–1654 Filed 1–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803, A–570–803]

Preliminary Results of Full Sunset Reviews: Bars and Wedges and Hammers and Sledges From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Full Sunset Reviews: Bars and Wedges and Hammers and Sledges from the People's Republic of China.

SUMMARY: On July 1, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on bars and wedges and on hammers and sledges from the People's Republic of China (''PRC'') (64 FR 35588) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of notices of intent to participate filed on behalf of domestic interested parties and adequate substantive comments filed on behalf of domestic and respondent interested parties, the Department determined to conduct full reviews. As a result of these reviews, the Department preliminarily finds that revocation of the antidumping orders would likely lead to continuation or recurrence of dumping at the levels indicated in the Preliminary Results of Reviews section of this notice.

EFFECTIVE DATE: January 24, 2000.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

These reviews are being conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*'') and 19 CFR Part 351 (1999) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

Although we provide the full scope language for the order on heavy forged hand tools (''HFHTs'') below, this determination applies only to the types of HFHTs which fall under the orders (A–570–803) on bars/wedges and hammers/sledges from the PRC. HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wool splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to the required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing, and painting, and the insertion of handles for handled products. HFHTs are currently classifiable under the following Harmonized Tariff Schedule (''HTS'') item numbers 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kilograms (3.33 pounds) in weight and under, and hoes and rakes, and bars 18 inches in length and under. The HTS item numbers are provided for convenience and customs purposes only. The written description of the scope remains dispositive.

There has been one scope ruling with respect to the orders on HFHTs from the PRC in which the Forrest Tool Company's Max Multipurpose Tool was determined to be within the scope of the order (58 FR 59991; November 12, 1993).

These reviews cover imports from all manufacturers and exporters of bars and wedges and hammers and sledges from the PRC.

History of the Orders

The Department published its final affirmative determination of sales at less than fair value (''LTFV'') with respect to imports of HFHTs from the PRC on January 3, 1991 (56 FR 241). In this determination, the Department published four country-wide weighted-average dumping margins, one each for hammers/sledges, bars/wedges, picks/mattocks and axes/adzes. These margins were all subsequently affirmed when the Department issued the antidumping duty orders on HFHTs from the PRC on February 19, 1991 (56 FR 6622). Since the imposition of the orders, the Department has conducted several administrative reviews. [1] The orders remain in effect for all manufacturers and exporters of the subject merchandise from the PRC.

To date, the Department has not issued any duty absorption findings in these cases.

Background

On July 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on bars and wedges and on hammers and sledges

[1] *See Heavy Forged Hand Tools, Finished and Unfinished, With or Without Handles, from the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews*, 60 FR 49251 (September 22, 1995); *Heavy Forged Hand Tools, Finished and Unfinished, With or Without Handles, from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 61FR 15028 (April 4, 1996); as amended, *Heavy Forged Hand Tools, Finished and Unfinished, With or Without Handles, from the People's Republic of China; Amendment of Final Results of Antidumping Duty Administrative Review* 61 FR 24285 (May 14, 1996); *Heavy Forged Hand Tools, Finished and Unfinished, With or Without Handles, from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 61 FR 51269 (October 1, 1996); as amended, *Heavy Forged Hand Tools from the People's Republic of China; Notice of Amendment of Final Results of Antidumping Duty Administrative Review*, 62 FR 24416 (May 5, 1997); *Heavy Forged Hand Tools from the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 11813 (March 13, 1997); *Heavy Forged Hand Tools, Finished and Unfinished, With or Without Handles, from the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 16758 (April 6, 1998); as amended, *Amended Final Results of Antidumping Duty Administrative Reviews Pursuant to Remand from the Court of International Trade: Heavy Forged Hand Tools, Finished and Unfinished, With or Without Handles, from the People's Republic of China*, 63 FR 55577 (October 16, 1998) and *Amended Final Results of Antidumping Duty Administrative Reviews Pursuant to Remand from the Court of International Trade: Heavy Forged Hand Tools, Finished and Unfinished, With or Without Handles, from the People's Republic of China: Correction*, 64 FR 851 (January 6, 1999); *Heavy Forged Hand Tools, Finished and Unfinished, With or Without Handles, from the People's Republic of China; Final Results and Partial Recission of Antidumping Duty Administrative Reviews*, 64 FR 43659 (August 11, 1999).

from the PRC (64 FR 35588), pursuant to section 751(c) of the Act. For both of the reviews, the Department received notices of intent to participate on behalf of O. Ames Co. and its division, Woodings-Verona (collectively, ''domestic interested parties'') on July 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. Pursuant to section 771(9)(C) of the Act, the domestic interested parties claimed interested party status as domestic manufacturers of the subject merchandise. The Department received complete substantive responses from the domestic interested parties on August 2, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). In addition, we received substantive responses on behalf of Fujian Machinery and Equipment Import and Export Corp., Shandong Huarong General Group Corp., Shandong Machinery Import and Export Corp., and Tianjin Machinery Import and Export Corp. (collectively, ''respondents''). The respondents claimed interested party status under section 771(9)(A) of the Act as exporters of the subject merchandise. The Department determined that the respondent's response constituted an adequate response to the notice of initiation. As a result, the Department determined, in accordance with section 351.218(e)(2) of the *Sunset Regulations*, to conduct a full (240 day) review.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). On October 26, 1999, the Department determined that the sunset reviews of the antidumping duty order on HFHTs are extraordinarily complicated and extended the time limit for completion of the final results of these reviews until not later than January 18, 2000, in accordance with section 751(c)(5)(B) of the Act. [2]

Determination

In accordance with section 751(c)(1) of the Act, the Department is conducting these reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margins of dumping likely to prevail if the order were revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, domestic interested parties' and respondents' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2). In addition, the Department indicated that it normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In their substantive responses, the domestic interested parties argue that revocation of the orders would likely lead to continuation or recurrence of dumping. They base their conclusion on the combined facts that dumping has continued over the life of the orders at levels well above *de minimis* and that import volumes declined significantly after the issuance of the orders. The domestic interested parties maintain that imports of hammers/sledges from the PRC declined dramatically since the imposition of the order. They argue that Chinese exporters shipped approximately 8,735 units of striking tools (*e.g.*, hammers and sledges) in 1990, and this number fell to approximately 3,810 units in 1997 and 3,835 units in 1998. Moreover, the domestic interested parties argue that since the imposition of the order, import volumes of bars/wedges have declined from approximately 2,429 tons in 1989 to 2,233 tons in 1997. Therefore, they conclude that it is reasonable to assume that the PRC exporters could not sell in the United States without dumping, and in order to reenter to U.S. market, they would have to resume dumping (*see* August 2, 1999, substantive response of the domestic interested parties at 3–4).

The respondents argue that if the order were revoked, shipments would likely continue at average levels as seen in 1996 through 1998. They maintain that there is greater competition from other supplying countries and that demand in the U.S. is fairly inelastic, indicating that even with lower prices (without dumping duties), demand for imports of the subject merchandise from the PRC is not likely to change much (*see* July 30, 1999, substantive response of the respondents at 2).

As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, if companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. As pointed out above, dumping margins above *de minimis* continue to exist for shipments of the subject merchandise from the PRC for at least one producer/exporter.

Consistent with section 752(c) of the Act, the Department also considers the volume of imports before and after issuance of the order. As mentioned above, the domestic interested parties maintain that imports of bars/wedges and hammers/sledges from the PRC declined significantly following the imposition of the order.

Using the Department's statistics, including IM146 reports, on imports of the subject merchandise from the PRC, the Department concludes that imports of bars/wedges and hammers/sledges from the PRC have fluctuated over the life of the order, showing no overall trend.

As noted above, in conducting its sunset reviews, the Department considers the weighted-average dumping margins and volume of imports when determining whether revocation of an antidumping duty order would lead to the continuation or recurrence of dumping. Based on this analysis, the Department finds that the existence of dumping margins above *de minimis* levels is highly probative of the

[2] *See Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 57628 (October 26, 1999).

likelihood of continuation or recurrence of dumping. A deposit rate above a *de minimis* level continues in effect for exports of the subject merchandise by at least one Chinese manufacturer/exporter. Therefore, given that dumping has continued over the life of the order, the Department preliminarily determines that dumping is likely to continue if the orders were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it normally will provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin.*) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin.*) We note that, to date, the Department has not issued any duty absorption findings in either of these cases.

In their substantive responses, the domestic interested parties recommend that the Department deviate from its normal practice of forwarding margins from the original investigation and instead recommend using margins from more recent administrative reviews. In the case of bars/wedges, the domestic interested parties recommend forwarding to the Commission a margin of 36.76 percent for Fujian Machinery & Equipment Import & Export Corp. and 38.30 percent for Shandong Machinery Import & Export Corp., as calculated in the second administrative review; 31.76 percent for Tianjin Machinery Import & Export Corp. and Liaoning Machinery Import & Export Corp., as calculated in the original investigation; and 34 percent for Shandong Huarong General Group Corp., as calculated in the sixth administrative review. The domestic interested parties argue that since the imposition of the order, the dumping margins have increased for three companies as well as for the PRC as a whole. They argue further that because import volumes of bars/wedges have declined since the imposition of the order, the Department should use a more recently calculated rate for several PRC companies.

For hammers/sledges, the domestic interested parties recommend forwarding to the Commission the margin of 45.42 percent calculated in the original investigation.

The respondents argue that the dumping margin likely to prevail if the order were revoked would be zero, but no higher than the average margin for the latest reviews. They base this argument on the fact that recent reviews conducted by the Department confirm that different surrogate steel values than were used in the original investigation significantly reduce the dumping margin (*see* July 30, 1999, substantive response of respondents at 3).

As noted in the *Sunset Regulations* and *Sunset Policy Bulletin*, the Department may provide to the Commission a more recently calculated margin for a particular company where dumping margins increased after the issuance of the order where that particular company increased dumping to maintain or increase market share. In this case, the domestic interested parties did not provide any company-specific argument or evidence that any Chinese companies have increased dumping in order to gain or maintain market share or increase import volumes. Moreover, while it is true that the dumping margins have increased for some Chinese companies, we have no company-specific information demonstrating that imports of the subject merchandise have not increased substantially over the life of the order. Since we have no company-specific information correlating an increase in exports for one company with an increase in the dumping margin for that particular company, we cannot conclude that use of more recently calculated margins is warranted in this case.

Additionally, the Department disagrees with the respondents' argument that a dumping margin of zero percent is likely to prevail were the order to be revoked. Specifically, as noted in the *Sunset Policy Bulletin*, the Department will consider forwarding to the Commission more recently calculated margins where dumping margins have declined over the life of the order and imports have remained steady or increased or where a company increases dumping in order to maintain or increase market share. The respondent's argument concerning changes in methodology (*e.g.*, different surrogate steel values) does not fit either criteria. Therefore, consistent with the *Sunset Policy Bulletin*, the Department preliminarily finds that the margins calculated in the original investigation are probative of the behavior of Chinese producers/exporters if the order were to be revoked as they are the only margins which reflect their behavior absent the discipline of the order. As such, the Department will report to the Commission the PRC-wide rates from the original investigation as contained in the Preliminary Results of Reviews section of this notice.

Preliminary Results of Reviews

As a result of these reviews, the Department preliminarily finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

PRC-wide	Margin (percent)
Bars/Wedges	31.76
Hammers/Sledges	45.42

Any interested party may request a hearing within 30 days of publication of this notice in accordance with19 CFR 351.310(c). Any hearing, if requested, will be held on March 15, 2000. Interested parties may submit case briefs no later than March 7, 2000, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than March 13, 2000. The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than June 26, 2000.

These five-year (''sunset'') reviews and notices are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: January 18, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–1660 Filed 1–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–820]

Final Results of Five-Year (''Sunset'') Review and Revocation of Antidumping Duty Order: Certain Compact Ductile Iron Waterworks Fittings and Glands From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On November 2, 1999, the Department of Commerce (''the

Department'') initiated a sunset review of the antidumping duty order on certain compact ductile iron waterworks fittings and glands (''CDIW'') from the People's Republic of China (''PRC''). Because no domestic party responded to the sunset review notice of initiation by the applicable deadline, the Department is revoking this order.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1993, the Department issued the antidumping duty order on CDIW from the PRC (58 FR 47117). Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department initiated a sunset review of this order by publishing notice of the initiation in the **Federal Register**, November 2, 1999 (64 FR 59160). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for this proceeding to inform them of the automatic initiation of the sunset review on this order.

No domestic interested party in the sunset review on this order responded to the notice of initiation by the November 17, 1999 deadline (*see* § 351.218(d)(1)(i) of *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13520 (March 20, 1998) (''*Sunset Regulations*'')).

Determination To Revoke

Pursuant to section 751(c)(3)(A) of the Act and § 351.218(d)(1)(iii)(B)(*3*) of the *Sunset Regulations,* if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the finding or order. Because no domestic interested party responded to the notice of initiation by the applicable deadline, November 17, 1999, we are revoking this antidumping duty order.

Effective Date of Revocation and Termination

Pursuant to section 751(c)(6)(A)(iv) of the Act, the Department will instruct the United States Customs Service to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse, on or after January 1, 2000. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: January 14, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–1658 Filed 1–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–602]

Final Results of Full Sunset Review: Industrial Phosphoric Acid From Belgium

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Full Sunset Review: Industrial Phosphoric Acid from Belgium.

SUMMARY: On September 23, 1999, the Department of Commerce (''the Department'') published a notice of preliminary results of the full sunset review of the antidumping duty order on industrial phosphoric acid from Belgium (64 FR 51511) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). We provided interested parties an opportunity to comment on our preliminary results. We received comments from the domestic interested parties. The Department did not receive a request for a public hearing, and, therefore, no hearing was held. As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

EFFECTIVE DATE: January 24, 2000.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to this antidumping duty order is industrial phosphoric acid (''IPA'') from Belgium. IPA is currently classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description remains dispositive.

Background

On September 23, 1999, the Department issued its *Preliminary Results of Full Sunset Review: Industrial Phosphoric Acid from Belgium* (64 FR 51511) (''*Preliminary Results*''). In our *Preliminary Results,* we found that revocation of the order would likely result in continuation or recurrence of dumping. In addition, we preliminarily determined that the magnitude of the margin of dumping likely to prevail were the order revoked was 14.67 percent for Societe Chimique Prayon-Rupel, S.A. (''Prayon'') as well as for ''all other'' producers and/or exporters.

On November 8, 1999, within the deadline specified in 19 CFR 351.309(c)(1)(i), we received comments on behalf of Albright and Wilson Americas, Inc., FMC Corporation, and Solutia Inc. (collectively, the ''domestic interested parties''). We have addressed the comments received below.

Comments

Comment 1: The domestic interested parties maintain that the Department

correctly found that dumping would likely continue or recur if the antidumping duty order were revoked. The domestic interested parties base their conclusion on the fact that dumping has continued over the life of the order as well as the fact that import volumes have declined significantly over the life of the order. In addition, the domestic interested parties argue that the Department correctly rejected Prayon's argument that future exchange rates would eliminate Prayon's dumping margin.

Department: The Department agrees with the domestic interested parties. For reasons provided in greater detail in our *Preliminary Results,* we find that dumping has continued over the life of the order and is likely to continue if the order were revoked.

Comment 2: The domestic interested parties argue that the Department correctly chose the margin of dumping found in the original less than fair value (''LTFV'') determination as the margin to report to the International Trade Commission (''the Commission''). The domestic interested parties maintain that the Department was correct in selecting the margins from the original investigation to forward to the Commission because these margins are the only calculated rates which reflect the behavior of producers/exporters without the discipline of the order in place.

Department: The Department agrees with the domestic interested parties. Again, for reasons provided in detail in our *Preliminary Results,* we find that the margins likely to prevail were the order revoked would be 14.67 percent for Prayon and 14.67 percent for ''all others''.

Final Results of Review

As a result of this review, the Department preliminarily finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Prayon	14.67
All Others	14.67

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: January 18, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–1659 Filed 1–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India; Final Results of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty new shipper review of stainless steel bar from India.

SUMMARY: On August 25, 1999, the Department of Commerce published the preliminary results of the new shipper review of the antidumping duty order on stainless steel bar from India. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have made certain changes for the final results.

This review covers three producers/exporters of stainless steel bar to the United States during the period February 1, 1998, through July 31, 1998.

EFFECTIVE DATE: January 24, 2000.

FOR FURTHER INFORMATION CONTACT: James Breeden or Melani Miller, Import Administration, AD/CVD Enforcement Group I, Office 1, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–1174 or 482–0116, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, all references to the Department of Commerce's (''the Department's'') regulations are to 19 CFR Part 351 (April 1998).

SUPPLEMENTARY INFORMATION:

Background

On August 25, 1999, the Department published the preliminary results of the new shipper review of the antidumping duty order on stainless steel bar from India (64 FR 46350) (''*Preliminary Results*''). The manufacturers/exporters in this new shipper review are Jyoti Steel Industries (''Jyoti''), Parekh Bright Bars Pvt. Ltd. (''Parekh''), and Shah Alloys Ltd. (''Shah''). We verified information provided by Jyoti as discussed in the *Verification* section, below. We received a case brief from the petitioners [1] on December 22, 1999. We received rebuttal briefs from Jyoti and Shah on January 7, 2000.

Scope of the Review

Imports covered by this review are shipments of stainless steel bar (''SSB''). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to this review is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for

[1] Al Tech Specialty Steel Corp., Carpenter Technology Corp., Crucible Specialty Metals Division, Crucible Materials Corp., Electroalloy Corp., Republic Engineered Steels, Slater Steels Corp., Talley Metals Technology, Inc. and the United Steelworkers of America (AFL–CIO/CLC).

convenience and customs purposes, our written description of the scope of this review is dispositive.

Verification

As provided in section 782(i) of the Act, we verified information provided by Jyoti using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant cost data and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public and business proprietary versions of the verification report, dated December 13, 1999.

Comparisons

We calculated export price and normal value based on the same methodology used in the *Preliminary Results*, with the following exceptions:

With respect to Shah, we used facts available as discussed in the *Use of Facts Otherwise Available* section, below.

For Jyoti, we adjusted its direct material costs, internal taxes on direct material purchases, direct labor costs, variable overhead costs, general and administrative costs, interest expenses, and international freight expense based on information gathered at verification. *See* Memorandum to Susan H. Kuhbach: ''Jyoti Steel Industries Verification Report'' dated December 13, 1999 (''Verification Report'') and ''Company-specific Calculation Notes for Final Results: Jyoti Steel Industries'' dated January 15, 2000.

Use of Facts Otherwise Available

Section 776(a)(2)(A) of the Act provides for the use of facts available when an interested party withholds information that has been requested by the Department. As described in more detail below, Shah failed to provide information explicitly requested by the Department; therefore, we have used facts otherwise available in determining Shah's dumping margin.

However, pursuant to section 782(e) of the Act, in using the facts otherwise available we must determine whether information Shah already submitted for the record of this review may be used in calculating a dumping margin. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and that is necessary to the determination but which does not meet all the applicable requirements established by the Department if—

(1) the information is submitted by the deadline established for its submission;

(2) the information can be verified;

(3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination;

(4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and

(5) the information can be used without undue difficulties.

While Shah did respond to our original questionnaire and supplemental questionnaires, it refused our request to revise its constructed value (''CV'') using cost data relevant to the POR, or in the alternative, explain or document why the cost data it did submit was representative of the costs incurred during the POR. Because of Shah's refusal to respond to our requests for additional information, we did not verify the company as planned. Thus, pursuant to section 782(e)(3), we found the information on the record so incomplete for the POR being examined that we determined that it could not serve as a reliable basis for calculating a dumping margin. Also, pursuant to section 782(e)(4), Shah failed to act to the best of its ability in providing the requested information. Consequently, we are not using any of the information submitted by Shah for our final results and are relying instead on facts available.

In selecting from among the facts otherwise available, section 776(b) of the Act provides that the Department may use an inference that is adverse to the interests of a party if it determines that party has failed to cooperate to the best of its ability. On August 19, 1999, we issued a supplemental questionnaire to Shah, which instructed the company to either revise its CV database based on costs incurred during the POR or to submit supporting documentation as to why its fiscal year cost information accurately reflected the costs incurred by the company during the POR. In its supplemental questionnaire response, Shah failed to address either issue. We issued Shah another supplemental questionnaire on September 29, 1999, requesting that it submit CV data based on actual costs incurred during the POR. Shah responded in its October 16, 1999, supplemental questionnaire response that it was not revising its CV database and that it was continuing to provide CV information based on fiscal year 1998–1999 data.

We find that by not providing necessary information specifically requested by the Department, Shah failed to cooperate to the best of its ability. Therefore, in selecting facts available, we have determined that an adverse inference is warranted. As adverse facts available, we have assigned a margin of 21.02 percent to Shah's sales of the subject merchandise.

This margin, calculated for sales by Mukand Limited during the original less than fair value (''LTFV'') investigation, represents the highest weighted-average margin determined for any firm during any segment of this proceeding. Information from prior segments of the proceeding constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (''SAA'') provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value (*see*, H.R. Doc. 103–316, Vol. 1, 870 (1994)).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

As discussed above, it is not necessary to question the reliability of a calculated margin from a prior segment of the proceeding. Further, there are no

circumstances indicating that this margin is inappropriate as facts available. Therefore, we find that the 21.02 percent rate is corroborated.

In our *Preliminary Results*, we applied a total adverse facts available margin for Parekh. We have not changed this finding for these final results. For a detailed explanation of our reasons for applying adverse facts available, please see our *Preliminary Results* and the Department's response to Comment 1 below.

Interested Party Comments

In accordance with 19 CFR 351.309, we invited interested parties to comment on our *Preliminary Results*. We received written comments from the petitioners and rebuttal comments from Jyoti and Shah.

Comment 1: Use of Facts Available for Parekh and Shah

The petitioners argue that the Department should rely on facts available for Parekh and Shah for purposes of the final results because each company failed to report critical information required for the calculation of dumping margins. With respect to Parekh, the petitioners note that the company failed to respond to the Department's supplemental request for information. Therefore, the petitioners argue that the Department should continue to rely on facts available when calculating Parekh's margin, as it did in the *Preliminary Results*. With respect to Shah, the petitioners argue that the Department has no choice but to apply the facts otherwise available because the company failed to report costs of production in a manner consistent with Department requirements and provided no explanation for its failure to do so. In support of their argument, the petitioners cite to the Department's December 17, 1999, memorandum which states that Shah's failure to comply with Department requests warrants the use of adverse facts available. *See* December 17, 1999, Memorandum from Team to Richard Moreland, ''Failure by Shah Alloys to Respond to Requests for Information.''

Shah argues that the CV information it provided to the Department was the only cost data that it had available when it received the Department's requests. Therefore, Shah contends that it has cooperated to the best of its ability with the Department requests for information.

Department's Position

We agree with the petitioners and have applied the facts otherwise available to both Shah and Parekh for the final results. As discussed in the *Preliminary Results*, we did not have the data necessary to calculate a dumping margin for Parekh, because Parekh failed to respond to the Department's supplemental questionnaire and request for cost information, and discontinued all communication with the Department. In light of this withholding of necessary information, pursuant to section 776(a)(2)(A) of the Act, we found it necessary to apply the facts available. Furthermore, not only did Parekh fail to provide necessary information specifically requested by the Department and to discontinue its participation in this review, Parekh provided the Department with no explanation or reasons for its failure to participate. Based on these facts, pursuant to section 776(b) of the Act, we determined that Parekh failed to cooperate to the best of its ability; therefore, we used an adverse inference when selecting among the facts otherwise available.

Moreover, we corroborated the facts available rate applied to Parekh as explained in the *Preliminary Results*. We have received no information that would call into question our corroboration of that rate and, therefore, continue to use it for our final results.

As noted above in the *Facts Otherwise Available* section, Shah did not submit information requested by the Department and failed to cooperate by not acting to the best of its ability to comply with a request for information. As was stated in the Department's December 17, 1999, memorandum, although Shah did submit cost information, that information was based on a time period that included eight months that were not included in the POR. We gave Shah numerous opportunities to explain why this data was representative of the costs incurred during the POR or to revise its data, opportunities that were declined by Shah. At the time the Department requested the cost information, Shah offered no explanation as to why it chose not to take advantage of the opportunities provided by the Department. It is only now, in its rebuttal brief, that Shah informs the Department that the cost data it had provided was the only cost data that it had available when it received the Department's requests. However, we find that this explanation is belated.

Section 776(a)(2)(A) of the Act provides for the use of facts available when an interested party withholds information that has been requested by the Department. As explained in the *Facts Otherwise Available* section above and in our *Preliminary Results*, because we found that both Shah and Parekh withheld critical information that was requested by the Department, the use of facts otherwise available is appropriate.

Furthermore, as is also noted above, in accordance with section 776(b) of the Act, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Because we found that neither Shah nor Parekh cooperated to the best of its ability, the use of an adverse inference is also appropriate for the final results for both Shah and Parekh.

Comment 2: The Department Should Apply Facts Available to Jyoti

The petitioners argue that Jyoti has significantly impeded the proceeding by failing to report its sales to third country markets and, therefore, the Department should rely on facts available for Jyoti. Moreover, contrary to Jyoti's explanation at verification that it misunderstood the Department's reporting instructions, the petitioners allege that record evidence indicates Jyoti clearly understood the Department's instructions. Given that Jyoti has intentionally withheld information requested, the Department should disregard the constructed value information submitted by Jyoti as the basis for the calculation of normal value and assign an adverse facts available rate to Jyoti for the final results. In support of their argument, the petitioners cite *Stainless Steel Sheet and Strip in Coils From Taiwan, Notice of Final Determination of Sales at Less than Fair Value*, 64 FR 30592 (June 8, 1999) (''*Sheet and Strip from Taiwan*''), in which the Department applied adverse facts available to a respondent company that failed to report all of its home market sales.

Jyoti argues that it reported the sales that are identical to its U.S. sales. The company states that the merchandise it sold to third country markets is different in physical and chemical properties. Thus, according to Jyoti, those sales should not have been reported.

Department's Position

As discussed in the *Preliminary Results,*Jyoti reported that it had a viable home market and no third-country market sales of the foreign like product. We agreed with Jyoti that it had a viable home market, but preliminarily determined that a ''particular market situation'' existed making it inappropriate to use home

market sales as a basis for normal value. Therefore, based upon our understanding at the time that Jyoti had no third country sales, we requested and received CV information from Jyoti and used it as the basis for normal value for the preliminary results. At verification, we discovered that Jyoti did make third-country sales of the foreign like product during the POR. However, as discussed in the verification report, we believe that the misreporting was based on a misunderstanding and that information was not intentionally withheld from the Department. *See* page 3 of the *Verification Report*.

We do not agree that applying adverse facts available is appropriate in this situation. Unlike the situation in *Sheet and Strip from Taiwan*, in this instance we find that Jyoti has had difficulty understanding our reporting instructions. This situation is complicated by the fact that it is the first time the company is involved with an antidumping proceeding. Jyoti's misunderstanding was substantiated at verification when company officials expressed their confusion regarding the reporting of third-country sales. Jyoti's rebuttal comments also illustrate its continued misunderstanding. While we have not found that Jyoti fully complied with this request for information, we have not found that this error in reporting demonstrates Jyoti's failure to cooperate to the best of its ability. Rather, Jyoti's subsequent responses to our supplemental questions and its cooperation at verification are indicative of a cooperative respondent. In addition, the CV information was verified by the Department and can be used without difficulties. Moreover, the information is complete and can serve as a reliable basis for calculating an antidumping duty margin.

Comment 3: Jyoti's CV Reporting Methodology

The petitioners contend that the information obtained by the Department at verification demonstrates that Jyoti's reporting methodology is flawed. Specifically, the petitioners argue that Jyoti's use of a single, average cost for all of its products fails to measure accurately the direct labor and overhead expenses allocable to the different bar sizes produced by Jyoti. The petitioners contend that Jyoti's failure to revise its allocation methodology, despite the requests made by the Department, warrants the use of facts available.

Jyoti contends that the size and simplicity of its operations does not necessitate allocating labor and overhead costs differently across the various bar sizes it produces. Jyoti further argues that any deviations from the single, average cost it reported are marginal and do not have an impact on the calculation of CV.

Department's Position

Although we found at verification that the allocation methodology used in Jyoti's questionnaire response contained certain errors, we agree with Jyoti that none of these errors was so significant as to warrant the rejection of Jyoti's data. In general, when we deem a respondent's data to be acceptable, our practice is to correct it for errors found at verification. Accordingly, we have reallocated Jyoti's direct labor and variable overhead expenses based on the information collected at verification for purposes of the final results.

Comment 4: Jyoti's Calculation of U.S. Credit Expense Is Incorrect

The petitioners argue that Jyoti's calculation of U.S. credit expense does not take into account the correct number of days between the shipment of the merchandise and the receipt of payment from the customer. According to the petitioners, the Department should adjust this expense to reflect the correct number of days outstanding between shipment and customer payment.

Jyoti argues that it has correctly used the number of days between the issuance of the invoice and receipt of payment from its bank.

Department's Position

We disagree with the petitioners that the calculation of credit expense is incorrect. The Department's preference is to use actual credit cost information. As discussed in the *Verification Report*, Jyoti finances its exports accounts receivable by entering into a discount arrangement with its bank. *See* page 4 of the *Verification Report*. Jyoti has submitted on the official record bank documentation detailing the credit costs incurred in connection with its U.S. sale. This information was also reviewed at verification. Because the reported amount represents the actual credit expenses incurred by Jyoti, we have continued to use it for our final results.

Comment 5: The Department Should Reject Jyoti's Offsets to Constructed Value

The petitioners argue that the Department should not allow an adjustment to constructed value for internal taxes on raw material purchases because Jyoti failed to provide evidence of rebates from the government. The petitioners note that it is the Department's practice to allow an adjustment for tax rebates only if a respondent can demonstrate a link between claimed rebates and its cost of manufacture. *See Canned Pineapple Fruit From Thailand, Final Results and Partial Recession of Antidumping Duty Administrative Review*, 64 FR 69481, 69485 (December 13, 1999). According to the petitioners, Jyoti failed to provide such a link and, thus, the Department should not allow this cost adjustment.

Jyoti contends that there is a direct link between the sales tax rebate and the cost of manufacture. However, Jyoti argues that this tax rebate is difficult to document because reimbursement occurs through the reduction of taxes payable to the government.

Department's Position

We agree with the petitioners, in part. At verification, company officials were unable to provide supporting documentation with respect to the rebates received in connection with sales taxes paid on raw material purchases. Accordingly, we have not made an adjustment to Jyoti's CV data for these tax rebates. However, company officials were able to document the refund of excise duties paid on the raw materials used to produce subject merchandise. Therefore, we have offset Jyoti's CV data by the amount of excise duties refunded in connection with the purchase of the raw materials used in the production of the subject merchandise.

Final Results of Review

As a result of this review, we find that the following margins exist for the period February 1, 1998, through July 31, 1998:

Manufacturer/Exporter	Margin (percent)
Jyoti	0.00
Parekh	21.02
Shah	21.02

The Department will disclose to a party to the proceeding calculations performed in connection with these final results within five days after the date of announcement or, if there is no public announcement, within five days after the date of publication of this notice. *See* 19 CFR 351.224. The result of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the review and for future deposits of estimated duties for the manufacturers/exporters subject to this review. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales

to the total value of those sales examined. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this new shipper review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed companies will be the rates indicated above; (2) for companies not covered in this review, but covered in previous reviews or the LTFV investigation (59 FR 66915, December 28, 1994), the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the most recent rate established for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or any previous review or the original investigation, the cash deposit rate will be the ''all others'' rate of 12.45 percent established in the LTFV investigation.

These deposit requirements will remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This new shipper review and notice are in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

January 18, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–1661 Filed 1–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Application may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 00–001. Applicant: USDA, Agricultural Research Service, 800 Buchanan Street, Albany, CA 94710. Instrument: Picking and Gridding Q-Bot System. Manufacturer: Genetix Ltd., United Kingdom. Intended Use: The instrument is intended to be used in experiments that will include: isolation, characterization and DNA sequencing of genes from organisms of agronomic importance; gridding of clone collections onto filters for gene isolation and genome characterization; construction of DNA microarrays; rearraying clones and samples into new matrix collections; replication of clones and clone library samples.

Application accepted by Commissioner of Customs: January 6, 2000.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 00–1657 Filed 1–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Boston University; Notice of Decision on Application for Duty-Free Entry of Electron Microscope

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 99–026. Applicant: Boston University, Boston, MA 02215. Instrument: Electron Microscope, Model JEM–2010. Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 64 FR 63788, November 22, 1999. Order Date: May 24, 1999.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 00–1656 Filed 1–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of North Carolina; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 99–025. Applicant: University of North Carolina, Chapel Hill, NC 27599. Instrument: Nose Only Inhalation System. Manufacturer: ADG Developments Ltd., United Kingdom.

Intended Use: See notice at 64 FR 63788, November 22, 1999.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides delivery of drug aerosols by nose-only exposure to mycobacterium infected guinea pigs to evaluate novel therapies for the treatment of tuberculosis in animal models. The National Institutes of Health advises in its memorandum of December 10, 1999 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 00–1655 Filed 1–21–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology Advanced Technology Program Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Advanced Technology Program Advisory Committee, National Institute of Standards and Technology (NIST), will meet Wednesday, February 2, 2000, from 8:30 a.m. to 5 p.m. The Advanced Technology Program Advisory Committee is composed of seven members appointed by the Director of NIST; who are eminent in such fields as business, research, new product development, engineering, education, and management consulting. The purpose of this meeting is to review and make recommendations regarding general policy for the Advanced Technology Program (ATP), its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include a background and briefing on the ATP, a briefing from each ATP program area, and a presentation by the ATP Economic Assessment Office. Discussions scheduled to begin at 8:30 a.m. and to end at 9:30 a.m. and to begin at 3 p.m. and to end at 5 p.m. on February 2, 2000, on the ATP budget issues and staffing of positions will be closed.

DATES: The meeting will convene February 2, 2000, at 8:30 a.m. and will adjourn at 5 p.m. on February 2, 2000.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building Tenth Floor Conference Room, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Janet R. Russell, National Institute of Standards and Technology, Gaithersburg, MD 20899–1004, telephone number (301) 975–2107.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 13, 2000 that portions of the meeting of the Advanced Technology Program Advisory Committee which involve discussion of proposed funding of the Advanced Technology Program may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because those portions of the meetings will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of meetings which involve discussion of staffing of positions in ATP may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: January 13, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–1647 Filed 1–21–00; 8:45 am]

BILLING CODE 3510–13–M

COMMODITY FUTURES TRADING COMMISSION

RIN 3038–ZA05

Chicago Mercantile Exchange: Proposed Amendments to the Lean Hogs Futures and Option Contracts Increasing the Contracts' Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed amendments to contract terms and conditions.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has proposed amendments to the Exchange's lean hogs cattle futures and option contracts. The proposed amendments would increase to 2,400 contracts from 2,000 contracts the speculative position limit applicable to individual non-spot contract months. The proposed amendments also would increase to 950 contracts from 650 contracts the speculative position limit that is applicable to positions held on and after the close of business of the fifth business day of the expiring contract month. The proposed amendments were submitted under the Commission's 45-day Fast Track procedures which provides that, absent any contrary action by the Commission, the proposed amendments may be deemed approved on February 24, 2000—45 days after the Commission's receipt of the proposals. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposed amendments is in the public interest and will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before February 8, 2000.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the proposed amendments to the CME lean hogs futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact John Bird of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581, telephone (202) 418–5274. Facsimile number: (202) 418–5527. Electronic mail: jbird @cftc.gov

SUPPLEMENTARY INFORMATION: The lean hogs futures contract is cash settled based on cash prices reported by the U.S. Department of Agriculture during the last two trading days of expiring contract month. Contract months for the

lean hog futures option contract that correspond to contract months for the underlying lean hogs futures contract expire simultaneously with such futures contract months. Currently, traders' combined positions in the futures and option contracts are subject to speculative position limits of 2000 contracts for positions held in individual non-spot contract months and 650 contracts for positions held in the expiring contract month from the close of business on the fifth business day of that month through the last trading day of the expiring contract month (the tenth business day of the month).

The proposed amendments would increase the speculative position limit applicable to individual non-spot contract months to 2,400 contracts from 2,000 contracts. The proposed amendments also would increase to 950 contracts from 650 contracts the speculative limit applicable from the close of business on the fifth business day of the expiring contract month through the last trading day for that month.

The CME intends to make the proposed amendments effective upon Commission approval for all existing and newly listed contract months.

The Commission is requesting comments on the proposed amendments.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW., Washington, DC 20581. Copies of the proposed amendments can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418–5100, or via the Internet at secretary@cftc.gov.

Other materials submitted by the Exchange in support of the proposal may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 146 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments, or with respect to other materials submitted by the Exchange, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 14, 2000.

Richard Shilts,

Acting Director.

[FR Doc. 00–1566 Filed 1–21–00; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

RIN 3038–ZA04

Chicago Mercantile Exchange: Proposed Amendments to the Live Cattle Futures and Option Contracts Increasing the Contracts' Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed amendments to contract terms and conditions.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has proposed amendments to the Exchange's live cattle futures and option contracts. The proposed amendments would increase to 3,200 contracts from 2,400 contracts the speculative position limit applicable to individual non-spot months. The proposed amendments also would increase to 900 contracts from 600 contracts the speculative position limit applicable to positions held in the expiring contract month from the close of business on the business day following the first Friday of the contract month to the business day preceding the last five trading days of the expiring month. The proposed amendments were submitted under the Commission's 45-day Fast Track procedures which provides that, absent any contrary action by the Commission, the proposed amendments may be deemed approved on February 24, 2000—45 days after the Commission's receipt of the proposals. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulations 140.96, has determined that publication of the proposed amendments is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before February 8, 2000.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the proposed amendments to the speculative position limits for the CME live cattle futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact John Bird of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW, Washington, DC 20581, telephone (202) 418–5274. Facsimile number: (202) 418–5527. Electronic mail: jbird@cftc.gov.

SUPPLEMENTARY INFORMATION: The live cattle futures calls for delivery of 40,000 pounds of live steers at specified CME-approved livestock yards located in Iowa, Kansas, Oklahoma, Texas, New Mexico and Colorado or, at the delivery receiver's request, at CME-approved cattle slaughter plants located near the CME-approved livestock yards. The live cattle futures option contract is exercisable into the futures contract and option contract months expire prior to the last five trading days for the underlying futures contract month (the last trading day for expiring contract months is the last business day of the month). Non-delivery period option contract months expire on the last Friday of the month and delivery period options expire on the business day preceding the last nine business days of the underlying futures contract month. Currently, traders' combined positions in the futures and option contracts are subject to speculative position limits of 2,400 contracts in individual non-spot contract months and 600 contracts commencing at the close of business on the business day following the first Friday of the contract month. In addition, positions in the expiring futures contract month are subject to a speculative position limit of 300 contracts during the last five trading days of the expiring contract month.

The proposed amendments would increase to 3,200 contracts from 2,400 contracts the speculative position limit applicable to combined futures and option positions in individual non-spot months. The proposed amendments also would increase to 900 contracts from 600 contracts the speculative position limit applicable to combined futures and option positions held in the expiring contract month from the close of business on the business day following the first Friday of the contract

month to the business day preceding the last five trading days of the expiring month. The speculative position limit applicable to futures positions during the last five trading days of the futures contract would remain unchanged at 300 contracts.

The CME intends to make the proposed amendments effective upon Commission approval for all existing and newly listed contract months beginning with the April 2000 contract month.

The Commission is requesting comments on the proposed amendment.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW, Washington, DC 20581. Copies of the proposed amendments can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418–5100, or via the Internet at secretary@cftc.gov.

Other materials submitted by the Exchange in support of the proposal may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff at the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments, or with respect to other materials submitted by the Exchange, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 14, 2000.

Richard Shilts,

Acting Director.

[FR Doc. 00–1567 Filed 1–21–00; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

RIN 3038–ZA06

The Chicago Mercantile Exchange's Proposal To Establish a Cross-Margining Program With the London Clearing House

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rule amendments of the Chicago Mercantile Exchange to implement cross-margining with the London Clearing House.

SUMMARY: The Chicago Mercantile Exchange (''CME'' or ''Exchange'') has submitted to the Commodity Futures Trading Commission (''Commission'') proposed rule amendments that would establish a ''two-pot'' cross-margining program between the CME and the London Clearing House (''LCH''). The program would permit participants to cross-margin their positions at the CME Clearing House and LCH while holding those positions at each clearing house in separate accounts.

Acting pursuant to the authority delegated by Commission Regulation 140.96(b), the Division of Trading and Markets (''Division'') has determined to publish the CME's proposal for public comment. The Division believes that publication of the proposal is in the public interest and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before February 8, 2000.

ADDRESSES: Comments should be submitted to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Comments also may be sent by facsimile to (202) 418–5221 or by electronic mail to secretary@cftc.gov. Reference should be made to ''Chicago Mercantile Exchange's Proposal To Establish A Cross-Margining Program With the London Clearing House.''

FOR FURTHER INFORMATION CONTACT: Joshua R. Marlow, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone (202) 418–5490.

SUPPLEMENTARY INFORMATION:

I. Background

On October 22, 1999, CME submitted to the Commission proposed rule amendments that would set forth a framework for the establishment of guaranteed cross-margining programs with other clearing organizations. These proposed rule amendments were submitted by CME in anticipation of its plan to establish a cross-margining program with LCH,[1] based on an electronic trading link between CME and the London International Financial Futures Exchange (''LIFFE'').[2] All transactions executed at LIFFE are cleared by LCH. Because the October 22, 1999 submission lacked certain details regarding specifics of the CME–LCH program, CME agreed to allow the Commission to stay its review of the proposal until providing the Commission with such details. On December 27, 1999, CME submitted additional materials to the Commission, including a letter summarizing the proposal; a ''Cross-Margining Agreement'' between the CME, LCH and LIFFE; a copy of the ''Cross-Margining Participant Agreement'' for clearing members participating in the Cross-Margining Program; an opinion of outside counsel regarding the cross-border bankruptcy implications of the program's payment guaranty provision;[3] and an overview of the proposal's loss-sharing arrangement.

II. Description of the Proposed Cross-Margining Program

Under the program, CME clearing members that either (1) are clearing

[1] The proposed amendments involve CME Rules 802 and 830. Amended CME Rule 830 would, as proposed, add definitions distinguishing between a ''Joint Cross-Margining Program,'' also known as the ''one-pot'' approach, and a ''Guaranteed Cross-Margining Program,'' also known as the ''two-pot'' approach. Both of these approaches are described *infra*. Amendments to CME Rule 830 would also, among other things, delineate which Exchange members are eligible to participate in a guaranteed cross-margining program. Amended CME Rule 802, as proposed, would mandate how the obligations of a cross-margining program participant would be discharged in the event of default.

[2] CME submitted the proposed CME–LIFFE link to the Commission by letters dated November 23, 1999 and December 14, 1999. The Division informed CME that the CME–LIFFE link could become effective without prior Commission approval, pursuant to Commission Regulation 1.41(c), by letter dated December 21, 1999. In brief, the program permits individuals and firms with access to CME Globex terminals to obtain cross-exchange access through Globex to the contracts listed by LIFFE on LIFFE's electronic trading system, CONNECT, provided they are approved by LIFFE as members (pursuant to a fast-track procedure), affiliate with a clearing member of LCH to clear trades made in LIFFE contracts, and agree to abide by LIFFE rules. Likewise, individuals and firms with access to LIFFE CONNECT could obtain cross-exchange access through CONNECT to the contracts listed by CME on Globex, provided they are LIFFE members identified to CME, affiliate with a clearing member of CME to clear trades made in CME contracts, and agree to abide by the Globex trading rules of CME.

[3] The Division verbally requested a document of this nature during an August 19, 1999 meeting with representatives from CME.

members at both LCH and LIFFE, or (2) have affiliates that are clearing members at both LCH and LIFFE,[4] would be eligible to cross-margin proprietary positions that they maintain in Euro Euribor and Euro Libor futures and option contracts at LIFFE and Eurodollar futures and option contracts at CME. This program would take the ''two-pot'' approach to cross-margining, whereby performance bond and positions of participants are held in separate accounts by the CME Clearing House and by LCH, rather than a ''one-pot'' approach in which cross-margined positions and performance bond are maintained by the participating clearing organizations in jointly-held accounts. The CME Clearing House and LCH, by the terms of the Cross-Margining Agreement, would calculate daily the amount that each participant in the program could, with cross-margining, reduce its margin levels at LCH and CME. LCH and the CME Clearing House would then provide each other with cross-guaranties in the amount of the associated margin reductions to protect each clearing organization in the event of default by a clearing member of the other clearing organization. CME's proposal is unique in that, unlike the ''two-pot'' guaranteed cross-margining arrangement between the Government Securities Clearing Corporation and the New York Clearing Corporation (''NYCC'') recently deemed approved by the Commission,[5] the current proposal raises issues of transnational insolvency which have not been previously considered in the cross-margining context.

III. Request for Comment

The Commission requests comment from interested persons concerning any aspect of CME's proposed cross-margining program. The Commission is especially interested in comments regarding the cross-border bankruptcy aspects of this proposal.

Copies of CME's proposed rule amendments and certain other materials are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies of the proposed amendments and related materials may also be obtained through the Office of the Secretariat by mail at the above address, by telephone at (202) 418–5100, or by electronic mail at secretary@cftc.gov. Other materials submitted by CME may be available upon request pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the Commission's regulations thereunder, 17 CFR § 145 (1987), except to the extent they are entitled to confidential treatment as set forth in 17 CFR §§ 145.5, 145.9. Requests for copies of such materials should be made to the FOIA, Privacy Act, and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR §§ 145.7, 145.8.

Issued in Washington, D.C. on January 14, 2000 by the Commission.

Alan L. Seifert,

Deputy Director.

[FR Doc. 00–1569 Filed 1–21–00; 8:45 am]

BILLING CODE 6351–01–U

[4] All LIFFE clearing members must also be members of LCH.

[5] July 2, 1999, letter to George F. Haase, Jr., NYCC President, from David P. Van Wagner, Associate Director of the Division of Trading and Markets.

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 00–C0004]

Lancaster Colony Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement Lancaster Colony Corporation, a corporation, containing a civil penalty of $150,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by February 8, 2000.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 00–C0004, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Ronald G. Yelenik, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0626, 1351.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: January 18, 2000.

Sadye E. Dunn,

Secretary.

[FR Doc. 00–1563 Filed 1–21–00;8:45am]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket NO. 00–C0004]

Lancaster Colony Corporation, a Corporation; Settlement Agreement and Order

1. This Settlement Agreement and Order, entered into between Lancaster Colony Corporation, a corporation (hereinafter, ''Lancaster Colony'' or ''Respondent''), and the staff of the Consumer Product Safety Commission (hereinafter, ''staff''), pursuant to the procedures set forth in 16 C.F.R. § 1118.20, is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

The Parties

2. The staff is the staff of the Consumer Product Safety Commission (hereinafter, ''Commission''), an independent federal regulatory agency of the United States government, established by Congress pursuant to section 4 of the Consumer Product Safety Act (hereinafter, ''CPSA''), as amended, 15 U.S.C. § 2053.

3. Respondent Lancaster Colony is a corporation organized and existing under the laws of the State of Ohio with its principal corporate offices located in Columbus, Ohio. Lancaster Colony has an operating division named Candle-lite located in Cincinnati, Ohio, which manufactures and sells candles.

Staff Allegations

4. Section 15(b) of the CPSA, 15 U.S.C. § 2064(b), requires a manufacturer of a consumer product who, *inter alia*, obtains information that reasonably supports the conclusion that the product contains a defect which could create a substantial product hazard or creates an unreasonable risk of serious injury or death, to immediately inform the Commission of the defect or risk.

5. Between August 1995 and February 1996, Lancaster Colony through its Candle-lite division, manufactured and sold nationwide, approximately three million Clearfire De-lite Candles (hereinafter the ''Candles'' or the ''product''). A candle is a ''consumer product and Lancaster Colony is a ''manufacturer'' of a ''consumer product,'' which is ''distributed in

commerce'' as those terms are defined in sections 3(a)(1), (4), (11) of the CPSA, 15 U.S.C. §§ 2052(a)(1), (4), (11).

6. The product is a candle made of a clear gel-like substance which is packaged in a textured glass jar.

7. The Candles are defective because they could flare up unexpectedly during use, causing the Candles' glass holders to overheat and break. If this occurs, consumers could be burned or injured by broken glass.

8. On or about November 20, 1995, Lancaster Colony first received a report of an incident involving Candle flare-up.

9. By December 31, 1995, Lancaster Colony was aware of approximately forty four incidents involving Candle flare-up, resulting in reports alleging five personal injuries and twenty one occurrences of property damage.

10. In January 1996, with the incidents continuing to mount, Respondent stopped manufacture of the Candles.

11. In February 1996, Respondent revised the formulation of its original Candle, in part, to address the flare-up problem, and introduced a new candle in its place.

12. On or about May 2, 1996, the date the staff conducted an establishment inspection of the firm, Respondent was aware of at least 142 incidents involving candle flare-ups, including reports of approximately 20 incidents involving personal injury and reports of more than 55 incidents involving property damage.

13. Although Lancaster Colony through its Candle-lite division, had obtained sufficient information to reasonably support the conclusion that these Candles contained a defect which could create a substantial product hazard, or created an unreasonable risk of serious injury or death, it failed to report such information to the Commission prior to the inspection, as required by section 15(b) of the CPSA. This is a violation of section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4).

14. Respondent's failure to report to the Commission, as required by section 15(b) of the CPSA, was committed ''knowingly,'' as that term is defined in Section 20(d) of the CPSA, 15 U.S.C. § 2069(d), and Lancaster Colony is subject to civil penalties under Section 20 of the CPSA.

Response of Lancaster Colony

15. Lancaster Colony denies the allegations of the staff that the Clearfire De-lite candles contain a defect which could create a substantial product hazard pursuant to section 15(a) of the CPSA, 15 U.S.C. § 2065(a); denies that it violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. § 2064(b), and further denies the other allegations of the CPSC staff as stated herein.

16. Lancaster Colony did not have reason to believe that these candles posed a substantial product hazard. Lancaster Colony believed the information available did not reasonably support the conclusion that the products were defective within the meaning of the CPSA or that they created an unreasonable risk of serious injury or death, and, therefore, no report was required under section 15(b) of the Act.

17. During the time period in which the CPSC alleges Lancaster Colony wrongfully failed to file a report, it conducted its own internal testing as well as independent testing at four different laboratories of 4,500 candles. Neither the in-house nor outside laboratories were able to recreate the scenario about which some consumers complained. These test results suggested to Lancaster Colony that no defect was present. Likewise, the extremely low complaint rate (0.00020) suggested to Lancaster Colony that any flare ups were due to consumer misuse and/or environmental contamination rather than an inherent product defect. Finally, based upon the nature of the complaints received by Lancaster Colony, the firm did not believe that the candles could create a substantial product hazard or create an unreasonable risk of serious injury or death. For these reasons, Lancaster Colony concluded, and outside counsel concurred, that it was not required to submit a report to the CPSC.

18. Nevertheless, Lancaster Colony cooperated fully with the Commission staff in designing and implementing a voluntary recall of the candles described in paragraphs 5 and 6 above.

19. By entering into this Settlement Agreement and Order, Lancaster Colony does not admit any liability or wrongdoing. This Settlement Agreement and Order is agreed to by Lancaster Colony solely for the purposes of avoiding the cost of litigation and does not constitute, and is not evidence of, an admission of liability or wrongdoing by Lancaster Colony.

Agreement of the Parties

20. The Commission has jurisdiction in this matter under the CPSA, U.S.C. §§ 2051–2084.

21. Lancaster Colony knowingly, voluntarily and completely waives any rights it may have (i) to an administrative or judicial hearing with respect to the Commission staff's allegations discussed in paragraphs 4 through 14 herein, and to the issuance of a complaint, (ii) to judicial review or other challenge or contest of the validity of the Commission's Order, (iii) to a determination by the Commission as to whether a violation of Section 15(b) of the CPSA, has occurred, (iv) to a statement of findings of fact and conclusions of law with, and (v) to any claims under the Equal Access to Justice Act.

22. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, the Commission shall place this Agreement and Order on the public record and shall publish it in the **Federal Register** in accordance with the procedure set forth in 16 C.F.R. § 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Agreement and Order shall be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 C.F.R. § 1118.20(f).

23. This Settlement Agreement and Order becomes effective only upon its final acceptance by the Commission and service upon Respondent. Compliance by Lancaster Colony with this Final Settlement Agreement and Order releases it from liability arising from any allegations of violation of section 15(b) of the CPSA regarding the specific candles described in paragraphs 5 and 6 above.

24. Upon final acceptance of this Settlement Agreement, the Commission may publicize the terms of the Settlement Agreement and Order.

25. Lancaster Colony agrees to pay to the Commission a civil penalty in the amount of one hundred fifty thousand dollars ($150,000), in settlement of this matter, payable within twenty (20) days after service of the Final Order of the Commission accepting this Settlement Agreement.

26. This Settlement Agreement and Order are entered into for settlement purposes only and shall not constitute an admission or determination arising from the allegations that the candles contain a defect which could create a substantial product hazard or create an unreasonable risk of serious injury or death.

27. The provisions of this Settlement Agreement and Order shall apply to Lancaster Colony and its successors and assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other business entity, or through any agency, device or instrumentality.

28. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings,

representations, or interpretations made outside of this Settlement Agreement and Order may not be used to vary or to contradict its terms.

Dated: December 10, 1999.

John L. Boylan,

Treasurer, Lancaster Colony Corporation.

The Consumer Product Safety Commission.

Alan H. Schoem,

Associate Executive Director, Office of Compliance.

Eric L. Stone,

Director, Legal Division, Office of Compliance.

Dated: December 17, 1999.

Ronald G. Yelenik,

Trial Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement between Respondent Lancaster Colony Corporation, a corporation, and the staff of the Consumer Product Safety Commission, and the Commission having jurisdiction over the subject matter and over Lancaster Colony Corporation, and it appearing the Settlement Agreement is in the public interest, it is

Ordered, that the Settlement Agreement be and hereby is accepted, and it is

Further Ordered, that within 20 days of service of the Final Order upon Respondent, Lancaster Colony Corporation shall pay to the order of the U.S. Treasury a civil penalty in the amount of one hundred fifty thousand dollars ($150,000).

Provisionally accepted and Provisional Order issued on the 18th day of January, 2000.

By order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 00–1564 Filed 1–21–00; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Global Positioning Systems will meet in closed session on January 12–13, January 20–21, and January 24–25, 2000, at 3601 Wilson Boulevard, Suite 600, Arlington, Virginia 22203.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will receive briefings and discuss interim findings and tentative recommendations resulting from ongoing activities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c) (1) (1994), and that accordingly these meetings will be closed to the public. However, due to critical mission requirements for a report by the end of January, the Task force is unable to provide timely notice of the above mentioned meetings.

Dated: January 14, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–1545 Filed 1–21–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations (CFRs), which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Thorgersen ElectroLuminescence Corporation, a company doing business in Woodbury, CT, an exclusive license in any right, title and interest the Air Force has in U.S. Patent No. 5,213,099. The inventor, Lloyd D. Tripp, was a government employee at the time of the invention. The invention is entitled ''Ear Canal Pulse/Oxygen Saturation Measuring Device'' and issued on May 25, 1993.

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within 60 days from the date of publication of this Notice. Information concerning the application may be obtained, on request, from the same addressee.

All communications concerning this Notice should be sent to Mr. Randy Heald, Associate General Counsel (Acquisition), SAF/GCQ, 1500 Wilson Blvd., Suite 304, Arlington, VA 22209–2310. Mr. Heald can be reached at 703–588–5091 or by fax at 703–588–8037.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 00–1601 Filed 1–21–00; 8:45 am]

BILLING CODE 5001–05–U

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, January 26, 2000. The hearing will be part of the Commission's regular business meeting. Both the conference and business meeting are open to the public and will be held in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

The conference among the Commissioners and staff will begin at 10:00 a.m. and will include a report on the agency's budget for 2001; a discussion of the Basin comprehensive planning process; an update on the U.S. Army Corps of Engineers proposal for undertaking projects jointly with the Commission; a status report on progress toward an agreement between the Army Corps and the Commission for storage at F.E. Walter Reservoir; a report on the status of a new basinwide flood coordination initiative; and a discussion of plans for a two-day Commission meeting in Reading, Pennsylvania in March.

In addition to the dockets listed below, which are scheduled for public hearing, the Commission will address the following at its 1:00 p.m. business meeting: minutes of the December 8, 1999 business meeting; announcements; report on Basin hydrologic conditions; reports by the Executive Director and General Counsel; and public dialogue. The Commission also will conduct public hearings and consider a resolution to adopt the FY 2001 Budget and the 2000 Water Resources Program. It will consider additional resolutions to: authorize the Executive Director to contract with Water Resources Management, Inc. for a flow needs study for the Delaware River and major tributaries; and control toxic pollutants from point sources discharging to the Delaware River Estuary.

The dockets scheduled for public hearing will be as follows:

1. *Philadelphia Suburban Water Company D–98–11 CP.* An application to withdraw up to 4.0 million gallons per day (mgd) from East Branch Brandywine Creek for public water supply when stream flow exceeds 25 percent of the average daily flow and is greater than 90 mgd for the Brandywine River at Chadds Ford. The applicant proposes to serve East Brandywine and West Brandywine Townships, and potentially, Wallace Township, all in Chester County, Pennsylvania. The intake will be situated on the east bank of the East Branch Brandywine Creek just south of Marshall Road in Wallace Township. On an annual average use basis, withdrawal is expected to average approximately 0.76 mgd. When available, the raw water will be conveyed for storage in a nearby abandoned quarry (known as Cornog Quarry) with an estimated storage capacity of approximately 100 million gallons. Withdrawals ranging from 0.5 mgd to 1.0 mgd will then be made from the quarry, treated by a proposed new filter plant, and distributed to the project service area.

2. *Upper Moreland-Hatboro Joint Sewer Authority D–98–48 CP.* A project to rerate the applicant's existing sewage treatment plant (STP) from an annual average 7.0 mgd flow to 7.173 mgd; the maximum monthly flow rate will be 9.08 mgd. The additional capacity is needed due to growth within the existing service area of the Borough of Hatboro and portions of Horsham, Upper Dublin and Upper Moreland Townships, Montgomery County, Pennsylvania, and a portion of Warminster Township, Bucks County, Pennsylvania. The STP will continue to provide advanced secondary treatment and ultraviolet disinfection prior to discharge via the existing outfall to Pennypack Creek near Terwood Road in Upper Moreland Township, Montgomery County, Pennsylvania.

3. *Reichhold, Inc. D–99–32.* An application for approval of a ground water withdrawal project to supply up to 5.4 million gallons (mg)/30 days of water to the applicant's chemical manufacturing facility from new Well No. 37 in the Cheswold Aquifer, and to limit the withdrawal from all wells to 17 mg/30 days. The project is located in Kent County, Delaware.

4. *Gilbertsville Golf Club, Inc. D–99–47.* An application for approval of a ground water withdrawal project to supply up to 8.1 mg/30 days of water for irrigation of the applicant's golf course from new Well No. PW–2 in the Brunswick Formation, and to limit the withdrawal from all wells to 12.0 mg/30 days. The project is located in New Hanover Township, Montgomery County in the Southeastern Pennsylvania Ground Water Protected Area.

5. *Liberty Electric Power, LLC D–99–61.* An application to construct a nominal 500 megawatt natural gas-fired electric power plant to be located on a 25.5 acre site between Route 291 and the Amtrak/Septa railroad tracks in Eddystone Borough, Delaware County, Pennsylvania. The power generated will primarily supply the Pennsylvania-Jersey-Maryland grid. The Philadelphia Suburban Water Company will supply up to 6 mgd of water to the facility; and the applicant projects up to 4.7 mgd will be consumed. Approximately 1.3 mgd of process and sanitary wastewater will be conveyed to the DELCORA sewerage system which discharges to the Delaware River in Water Quality Zone 4.

6. *Kendal Corporation D–99–68.* An application to upgrade and expand the applicant's existing 0.07 mgd secondary treatment STP to provide tertiary treatment of 0.125 mgd to four retirement communities in Kennett and Pennsbury Townships, Chester County, Pennsylvania. Effluent will continue to be applied to the applicant's existing nine-acre spray field and a proposed additional spray irrigation site located approximately one-quarter mile east of State Routes 1 and 52 in Kennett Township. However, during the months of November through April, effluent will be discharged to an unnamed tributary of Bennetts Run in the Brandywine Creek watershed.

7. *Philadelphia Suburban Water Company D–99–69 CP.* An application to transfer up to 9.5 mgd of potable water to the applicant's public water distribution system via an interconnection with the City of Philadelphia Water Department. The transfer will enable the applicant to provide an additional source of water to serve projected demand in its Southern Division service area. The proposed interconnection will be located at the Philadelphia-Delaware County border off the Interstate 95 and State Route 291 interchange near the Philadelphia International Airport.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Secretary, Pamela M. Bush, at (609) 883–9500 ext. 203 or the New Jersey Relay Service at 1–800–852–7899 (TTY) to discuss how the Commission may accommodate your needs.

Dated: January 11, 2000.

Pamela M. Bush,

Secretary.

[FR Doc. 00–1586 Filed 1–21–00; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Teleconference Meeting

SUMMARY: This notice announces an open teleconference meeting of the Secretary of Energy Advisory Board's Laboratory Operations Board. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), requires that agencies publish these notices in the **Federal Register** to allow for public participation. The purpose of the teleconference is to discuss the findings and recommendations of a draft report prepared by a Laboratory Operations Board (LOB) Working Group. The Working Group reviewed the Department of Energy's Laboratory Directed Research and Development (LDRD) Program, which funds discretionary research and development at the Department's multi-program laboratories. The review is intended to provide independent external advice regarding the value, quality, nature of oversight and continued need and appropriate level of support for laboratory directed research and development at the Department's laboratories.

Name: Secretary of Energy Advisory Board—Laboratory Operations Board.

Dates: Thursday, January 27, 2000, 10:30 A.M.–12:30 P.M., Eastern Standard Time.

Addresses: Participants may call the Office of the Secretary of Energy Advisory Board at (202) 586–7092 to reserve a teleconference line and receive a call-in number. Public participation is welcomed. However, the number of teleconference lines is limited. Lines are available on a first come basis.

FOR FURTHER INFORMATION CONTACT: Betsy Mullins, Executive Director, or Laurie Keaton, LOB Staff Director, Office of Secretary of Energy Advisory Board (AB–1), US Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–7162 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION: The purpose of the Laboratory Operations Board is to provide independent external advice to the Secretary of Energy Advisory Board regarding the strategic direction of the Department's laboratories, the coordination of budget and policy issues affecting laboratory operations, and the reduction of unnecessary and counterproductive management burdens on the laboratories. The Laboratory Operations Board's goal is to facilitate the productive and cost-effective utilization of the Department's laboratory system and the application of best business practices.

Note: Copies of the draft report may be obtained from the following Internet address: *http://www.hr.doe.gov/seab/* or by contacting the Office of the Secretary of Energy Advisory Board at (202) 586–7092.

Tentative Agenda

Thursday, January 27, 2000

10:30A.M.–10:45 A.M.
Opening Remarks—Co-Chairs: E. Moniz & J. McTague
10:45 A.M.–11:15 A.M.
Overview of the LDRD Working Group Findings and Recommendations—Dr. Paul Fleury, Working Group Chairman
11:15 A.M.–12:00 P.M.
Public Comment Period
12:00 P.M.–12:15 P.M.
LDRD Working Group Comment and Action—Dr. Paul Fluery, LDRD Working Group Chairman
12:15 P.M.–12:30 P.M.
LOB Review and Comment
12:30 P.M.
Adjourn

This tentative agenda is subject to change.

Public Participation: In keeping with procedures, members of the public are welcome to monitor the business of the Laboratory Operations Board and to submit written comments or comment during the scheduled public comment period. The teleconference meeting will be conducted in a fashion that will, in the Co-Chairs' judgment, facilitate the orderly conduct of business. During its open teleconference meeting, the Laboratory Operations Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Board will make every effort to hear the views of all interested parties. You may submit written comments to Betsy Mullins, Executive Director, Secretary of Energy Advisory Board, AB–1, US Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes: A copy of the minutes and a transcript of the meeting will be made available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 A.M. and 4:00 P.M., Monday through Friday except Federal holidays. Further information on the Laboratory Operations Board is available at the Secretary of Energy Advisory Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, D.C., on January 18, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–1626 Filed 1–21–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[National Fuel Gas Supply Corporation; Docket No. RP99–484–001]

Notice of Compliance Filing

January 18, 2000.

Take notice that on November 12, 1999, National Fuel Gas Supply Corporation (National Fuel) tendered for filing Amendment No. 3 to the transportation service agreement filed on August 26, 1999, in the above-referenced proceeding.

National Fuel states that the filing is being made in compliance with the Letter Order issued by the Commission on October 27, 1999. The order directed National Fuel to revise and refile its non-conforming service agreement for transportation service with ProGas U.S.A., Inc., to reflect the elimination of certain language found in the second footnote of Exhibit 1.

National Fuel states that in compliance with that directive, National Fuel submits Amendment No. 3 which replaces Exhibit 1 to the service agreement.

National Fuel states that copies of the filing are being mailed to all of National Fuel's customers, parties on the official service list compiled by the Secretary and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 25, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–1583 Filed 1–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Questar Pipeline Company; Docket No. CP00–68–000]

Notice of Application

January 18, 2000.

Take notice that on January 10, 2000, Questar Pipeline Company (Questar), 180 East 100 South, Salt Lake City, Utah 84111, filed in Docket No. CP00–68–000 an application pursuant to Section 7(c) of the Natural Gas act (NGA), for authorization to construct and operate pipeline and compression facilities in Utah, in order to increase the capacity of its system, all as more fully set forth in the application on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/htm* (call 202–208–2222 for assistance).

Specifically, Questar proposes to construct and operate a 24-inch diameter loop of an existing section of its Main Line (M.L.) No. 40 and the entirety of its M.L. No. 41. Questar states that the loop, to be known as M.L. No. 104, will extend approximately 75.6 miles from Price, Utah, to the Payson, Utah, City Gate and on to an interconnection with Kern River Gas Transmission company (Kern River) located near Elberta, Utah. It is explained that the loop will be located in Carbon, Emery, Sanpete and Utah Counties, Utah. In addition, Questar proposes to add 9,336 site-rated horsepower of compression at Questar's existing Oak Spring Compressor station, near Price, Utah.

Questar states that the reason for the proposed construction is to expand the capacity of its southern transmission

system in order to gain access to increasing reserves of coal-seam gas reserves in the Price area, and to satisfy increased transportation demand. It is asserted that M.L. Nos. 40 and 41 are currently operating near maximum capacity. It is further asserted that the proposed looping and compression will add approximately 272,000 Dt equivalent of incremental capacity to Questar's southern transmission system. In addition to transporting gas from the Price area, Questar explains that it has entered into an agreement with CIG Resources Company to transport volumes delivered to Questar from Colorado Interstate Gas Company's Uinta Basin Lateral at Natural Buttes in Uinta County, Utah.

Questar states that once the proposed project is placed in service, Questar will sell a 50 percent interest to CIG Gas Supply Company (Supply) and then lease back the 50 percent interest to give Questar control over the facilities. It is explained that the sale/leaseback arrangement will enhance both companies' ability to meet market needs most efficiently. Questar explains that it will retain the right to re-purchase Supply's 50 percent interest at net book value.

The cost of the proposed construction is estimated at $80,850,975, including pipeline looping and compression facilities. Questar requests rolled-in rate treatment for the costs associated with the project, stating that the project is in accordance with the Commission's recent policy statement issued in PL99–3–000.

Questar asserts that it conducted an open season between December 28, 1998, and February 23, 1999, to determine market demand and asserts that the result was that Questar has executed firm transportation service contracts with three customers (CIG Resources Company, Questar Gas Company, and Texaco Natural Gas, Inc.) for a total of 270,000 Dt equivalent of reserved daily capacity with contract terms ranging from 5 to 10 years.

Any questions regarding the application may be directed to Alan K. Allred, Manager, Regulatory Affairs and Gas Supply Services, Questar Regulated Services Company, 180 East 100 South, P.O. Box 43560, Salt Lake City, Utah 84145–0360, (801) 324–5768.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 8, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedures, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein and if the Commission, on its own review of the matter, finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Questar to appear, or be represented, at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–1581 Filed 1–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Texas Eastern Transmission Corporation; Docket No. CP00–67–000]

Notice of Request Under Blanket Authorization

January 18, 2000.

Take notice that on January 7, 2000, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP00–67–000 a request pursuant to Sections 167.205 and 157.208 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.208) for authorization to construct, own, operate, and maintain certain facilities (Vermillion Lateral) located in Vermilion County, Illinois and Vermillion County, Indiana, to render interruptible lateral transportation service to Duke Energy Vermillion, LLC (DEV) under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Texas Eastern proposes to construct, own, operate, and maintain: (i) a measurement facility which will consist of one 6-inch and one 10-inch ultrasonic meter run plus associated pipline, electronic gas measurement equipment and associated instrumentation (M&R Station); and (ii) the Vermillion Lateral, which will consist of approximately 14.03 miles of 16-inch diameter pipeline that will extend from a proposed interconnect with Midwestern Gas Transmission Company (Midwestern), to be located at milepost 2116 − 1+9.93 in Vermilion County, Illinois, to the M&R Station which will be located at the interconnection with the DEV Plant at milepost 14.03 in Vermillion county, Indiana.

Texas Eastern states that the estimated cost of the Vermillion Lateral facilities is approximately $13 million dollars and that DEV will reimburse Texas Eastern for 100% of the costs and expenses associated with the construction and installation.

Midwestern proposes to construct, own, and operate an interconnect to be located at the intersection of the Vermillion Lateral and Midwestern's 30-inch mainline pipeline (Line No. 2100) located in Vermilion County, Illinois at milepost 2116 − 1+9.93, which will be constructed under Midwestern's Part 157 blanket construction certificate.

After receipt of the authorization requested and installation of the facilities for which authorization is requested herein, Texas Eastern states that it will deliver up to 200 MMcfd of natural gas to DEV at the DEV Plant, pursuant to a service agreement entered into under Texas Eastern's open access interruptible Rate Schedule IT–1. Texas Eastern declares that the transportation service to be rendered will have no effect on their peak day or annual deliveries and submits that its proposal herein will be accomplished without detriment or disadvantage to Texas Eastern's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice

of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 00–1580 Filed 1–21–00 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Transcontinental Gas Pipe Line Corporation; Docket No. RP99–291–000 and RP99–291–001]

Notice of Technical Conference

January 18, 2000.

Take notice that in the above proceeding concerning Transcontinental Gas Pipe Line Corporation's new Part 284 liquefied natural gas (LNG) storage services, a technical conference will be held on Tuesday, February 15, 2000 at 10:00 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426.

All interested parties and Staff are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 00–1582 Filed 1–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Wells Rural Electric Company; Docket No. ER00–611–000 and EL00–19–000 (not consolidated)]

Notice of Issuance of Order

JANUARY 18, 2000. Wells Rural Electric Company (WREC) is a Nevada rural electric cooperative providing electrical service to approximately 5,300 customers in northeastern Nevada and Tooele County, Utah. On November 19, 1999, in Docket No. EL00–19–000, WREC filed a request for waiver of the requirements of Order Nos. 888 and 889. In its filing, WREC also requested certain waivers and authorizations. In particular, WREC requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by WREC. On January 12, 2000, the Commission issued an Order Granting Request For Waivers of Order Nos. 888 And 889, Addressing Requests For Other Waivers And Accepting Agreements For Filing (Order), in the above-docketed proceedings.

The Commission's January 12, 2000 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by WREC 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.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, WREC is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of WREC compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of WREC's issuances of securities or assumptions of liabilities . . .

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 11, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order 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. 00–1584 Filed 1–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–2667–002, et al.]

Ameren Operating Companies, et al.; Electric Rate and Corporate Regulation Filings

January 13, 2000.

Take notice that the following filings have been made with the Commission:

1. Ameren Operating Companies

[Docket No. ER99–2776–002]

Take notice that on December 17, 1999, Ameren Services Company (Ameren), on behalf of the Ameren Operating Companies, made a compliance filing at the direction of the Commission's order issued in the above-captioned proceeding on December 1, 1999.

Copies of the filing have been served on the Illinois Commerce Commission, the Missouri Public Service Commission and all parties to the proceeding.

Comment date: January 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Maine Public Service Company

[Docket No. ER00–1053–000]

Take notice that on January 11, 2000, Maine Public Service Company (MPS) submitted pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations, revisions to its Open Access Transmission Tariff (OATT) to implement retail open access in the state of Maine, to reflect that on March 1, 2000 the Northern Maine Independent System Administrator, Inc. (Northern Maine ISA) will begin operations, to modify its rate formula for the rates charged under the OATT, and to make various other revisions and corrections to its OATT.

MPS proposes that the revised OATT rates, terms and conditions become effective March 1, 2000.

Copies of this filing were served on the current customers under the OATT, participants in Maine Public Utilities Commission Docket No. 99–185, the Northern Maine ISA, and the state commission within whose jurisdiction MPS transmits electricity under the OATT.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Avista Corporation

[Docket No. ER00–1054–000]

Take notice that on January 11, 2000, Avista Corporation (AVA), tendered for

filing with the Federal Energy Regulatory Commission pursuant to Section 35.12 of the Commission's Regulations (18 CFR 35.12), an executed Service Agreement under AVA's FERC Electric Tariff First Revised Volume No. 9, with PP&L Montana, LLC.

AVA requests waiver of the prior notice requirement and requests that the Service Agreement be accepted for filing and made effective December 21, 1999.

The filing has been served upon the following: Ms. Michelle Palmer, PP&L Montana, LLC, 45 Basin Creek Road, Butte, MT 59701.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Avista Corporation

[Docket No. ER00–1055–000]

Take notice that on January 11, 2000, Avista Corporation (AVA), tendered for filing with the Federal Energy Regulatory Commission pursuant to Section 35.12 of the Commission's Regulations (18 CFR 35.12), an executed Service Agreement under AVA's FERC Electric Tariff First Revised Volume No. 10, with PP&L Montana, LLC.

AVA requests waiver of the prior notice requirement and requests that the Service Agreement be accepted for filing effective December 21, 1999.

The filing has been served upon the following: Ms. Michelle Palmer, PP&L Montana, LLC, 45 Basin Creek Road, Butte, MT 59701.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Avista Corporation

[Docket No. ER00–1056–000]

Take notice that on January 11, 2000, Avista Corporation (AVA), tendered for filing with the Federal Energy Regulatory Commission pursuant to Section 35.12 of the Commission's Regulations (18 CFR 35.12), an executed Mutual Netting/Settlement with British Columbia Power Exchange Corporation, (Powerex), effective January 1, 2000.

The filing has been served upon the following: Mr. David Wong, Credit Risk Manager, British Columbia Power Exchange Corporation, Suite 1400, 666 Burrard Street, Vancouver, BC, Canada V6C 2X8.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Atlantic City Electric Company; Delmarva Power & Light Company; Otter Tail Power Company

[Docket Nos. ER00–1057–000; ER00–1058–000; ER00–1064–000]

Take notice that on January 11, 2000, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending December 31, 1999.

Comment date: February 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. PJM Interconnection, L.L.C., Docket No. ER00–1059–000.

Take notice that on January 11, 2000, (PJM), tendered for filing three executed umbrella service agreements for network integration transmission service under state required retail access programs. The agreements are with ACN Energy, Inc., KeySpan Energy Services, Inc., and Worley & Obetz, Inc. d/b/a Advanced Energy.

Copies of this filing were served upon the parties to the service agreements and the state commissions within the PJM control area.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. AmerGen Energy Company, L.L.C., Docket No. ER00–1060–000.

Take notice on January 11, 2000, AmerGen Energy Company, L.L.C. tendered for filing a Service Agreement with Dynegy Power Marketing, Inc. under its FERC Electric Tariff Original Volume No. 1.

AmerGen is requesting an effective date of December 15, 1999 for the Service Agreement.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. MidAmerican Energy Company, Docket No. ER00–1061–000.

Take notice that on January 11, 2000, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, 2900 Ruan Center, Des Moines, Iowa 50309 tendered for filing proposed changes to its Open Access Transmission Tariff (OATT). The changes are for the purpose of updating the Index of Point-to-Point Transmission Service Customers and the Index of Network Integration Tranmission Service Customers.

MidAmerican proposes that the rate schedule changes become effective on January 13, 2000 and requests a waiver of the Commissions notice requirements.

The proposed rate schedule changes have been mailed to all Transmission Customers having service agreements under the OATT, the Iowa Utilities Board and the Illinois Commission, the South Dakota Public Service Commission.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power Corporation, Docket No. ER00–1062–000.

Take notice that on January 11, 2000, Florida Power Company (FPC) tendered for filing service agreements between TXU Energy Trading Company and FPC and Merchant Energy Group of the Americas, Inc. and FPC under FPC's Market-Based Wholesale Power Sales tariff (MR–1), FERC Electric Tariff, Original Volume Number 8. This tariff was accepted for filing by the Commission on June 26, 1997, in Docket No. ER97–2846–000.

The service agreement with Merchant Energy Group of the Americas, Inc. is proposed to be effective December 29, 1999 and the service agreement with TXU Energy Trading Company is proposed to be effective January 6, 2000.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Virginia Electric and Power Company, Docket No. ER00–1063–000.

Take notice that on January 11, 2000, Virginia Electric and Power Company (Virginia Power) tendered on filing an Assignment and Assumption Agreement entered into by and among Strategic Energy, Ltd. (Assignor), Strategic Energy, LLC (Assignee) and Virginia Electric and Power Company (Virginia Power). Under this assignment, the Assignor assigns to the Assignee and the Assignee assumes all of the Assignor's rights and obligations pertaining to its Service Agreements with Virginia Power dated October 7, 1998 and accepted by Letter Order of the Commission on December 29, 1999 under Docket No. ER99–494–00 and ER99–495–000.

Virginia Power requests an effective date of the assignment of December 31, 1999.

Copies of this filing were served upon Strategic Energy LLC, the Virginia state Corporation Commission and the North Carolina Utilities Commission.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Portland General Electric Company, Docket No. ER00–1065–000.

Take notice that on January 11, 2000, Portland General Electric Company (PGE) tendered for filing an Amendment No. 2 to the Power Sales Agreement between PGE and the Canby Utility Board (PGE Rate Schedule FERC No. 192). The Amendment changes the

termination date of the original agreement.

PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow Amendment No. 2 to PGE Rate Schedule FERC No. 192 to become effective January 12, 2000.

Copies of this filing were served upon the names listed in the filing letter.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. PP&L, Inc., Docket No. ER00–1066–000.

Take Notice that on January 11, 2000, PP&L, Inc. (PP&L) filed a Service Agreement dated January 5, 2000 with The Energy Authority (EA) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds EA as an eligible customer under the Tariff.

PP&L requests an effective date of January 5, 2000 for the Service Agreement.

PP&L states that copies of this filing have been supplied to EA and the Pennsylvania Public Utility Commission.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Louisville Gas and Electric Company and Kentucky Utilities Company, Docket No. ER00–1067–000.

Take notice that on January 11, 2000 Louisville Gas and Electric Company (LG&E) and Kentucky Utilities (KU) (hereinafter Companies) tendered for filing fully executed Netting Agreements between the Companies and Illinova Power Marketing, Inc.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Louisville Gas and Electric Company and Kentucky Utilities Company

[Docket No. ER00–1068–000]

Take notice that on January 11, 2000 Louisville Gas and Electric Company (LG&E) and Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed Firm Point-to-Point Transmission Service Agreement between the Companies and Cinergy Operating Companies under the Companies Open Access Transmission Tariff.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Louisville Gas and Electric Company and Kentucky Utilities Company

[Docket No. ER00–1069–000]

Take notice that on January 11, 2000 Louisville Gas and Electric Company (LG&E) and Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed Firm Point-to-Point Transmission Service Agreement between the Companies and LGE Dispatch and Trading under the Companies Open Access Transmission Tariff.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Louisville Gas and Electric Company and Kentucky Utilities Company

[Docket No. ER00–1070–000]

Take notice that on January 11, 2000 Louisville Gas and Electric Company (LG&E) and Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed Firm Point-to-Point Transmission Service Agreement between the Companies and LGE Dispatch and Trading under the Companies Open Access Transmission Tariff.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Louisville Gas and Electric Company and Kentucky Utilities Company

[Docket No. ER00–1071–000]

Take notice that on January 11, 2000 Louisville Gas and Electric Company (LG&E) and Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed Firm Point-to-Point Transmission Service Agreement between the Companies and LGE Dispatch and Trading under the Companies Open Access Transmission Tariff.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Louisville Gas and Electric Company and Kentucky Utilities Company

[Docket No. ER00–1072–000]

Take notice that on January 11, 2000 Louisville Gas and Electric Company (LG&E) and Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed Firm Point-to-Point Transmission Service Agreement between the Companies and LGE Dispatch and Trading under the Companies Open Access Transmission Tariff.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Louisville Gas and Electric Company and Kentucky Utilities Company

[Docket No. ER00–1073–000]

Take notice that on January 11, 2000 Louisville Gas and Electric Company (LG&E) and Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed Firm Point-to-Point Transmission Service Agreement between the Companies and LGE Dispatch and Trading under the Companies Open Access Transmission Tariff.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Louisville Gas and Electric Company and Kentucky Utilities Company

[Docket No. ER00–1074–000]

Take notice that on January 11, 2000 Louisville Gas and Electric Company (LG&E) and Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed Firm Point-to-Point Transmission Service Agreement between the Companies and LGE Dispatch and Trading under the Companies Open Access Transmission Tariff.

Comment date: January 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. Wisvest-Connecticut, LLC

[Docket No. ER00–1078–000]

Take notice that on January 12, 2000 Wisvest-Connecticut, LLC filed their quarterly report for the quarter ending December 31, 1999.

Comment date: February 2, 2000, 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. 00–1579 Filed 1–21–00 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94–1188–031, et al.]

LG&E Energy Marketing Inc., et al.; Electric Rate and Corporate Regulation Filings

January 14, 2000.

Take notice that the following filings have been made with the Commission:

1. LG&E Energy Marketing Inc.; Energy Atlantic, LLC; Dynergy Power Services, Inc.; DC Tie, Inc.; Rainbow Energy Marketing Corporation

[Docket Nos. ER94–1188–031; ER98–4381–005; ER94–1612–024; ER91–435–032; ER94–1061–023]

Take notice that on January 12, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

2. Enova Energy, Inc.; Aurora Power Resources; PS Energy Group, Inc.; Golden Valley Power Company; The Mack Services Group

[Docket Nos. ER96–2372–017; ER98–573–004; ER99–1876–003; ER98–4334–005; ER99–1750–004]

Take notice that on January 13, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

3. Northwest Natural Gas Company

[Docket No. ER97–683–006]

Take notice that on January 10, 2000, Northwest Natural Gas Company filed their quarterly report for the quarter ending December 31, 1999 for information only.

4. GPU Advanced Resources, Inc.; Fortistar Power Marketing LLC

[Docket Nos. ER97–3666–012; ER97–3666–013; ER98–3393–005]

Take notice that on January 13, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

5. Energy Atlantic, LLC

[Docket No. ER98–4381–005]

Take notice that on January 12, 2000, Energy Atlantic, LLC filed their quarterly report for the quarter ending December 31, 1999, for information only.

6. Energy West Resources

[Docket No. ER99–874–000]

Take notice that on January 12, 2000, Energy West Resources, Inc., tendered for filings its amended petition to the Commission for acceptance of EWR Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

EWR intends to engage in wholesale electric power and energy purchases and sales as a marketer. EWR is not in the business of generating or transmitting electric power. EWR is a wholly owned subsidiary of EWI which owns and operates natural gas and propane distribution facilities.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. NJR Energy Services Company; MAC Power Marketing, L.L.C.

[Docket Nos. ER99–2384–003; ER98–575–005]

Take notice that on January 11, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

8. MidAmerican Energy Company

[Docket No. ER00–1075–000]

Take notice that on January 12, 2000, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, 2900 Ruan Center, Des Moines, Iowa 50309 tendered for filing proposed changes to its Open Access Transmission Tariff (OATT). The changes are for the purpose of accommodating retail open access in Illinois where MidAmerican operates as a public utility providing electric delivery service.

MidAmerican proposes that the rate schedule change become effective on April 1, 2000.

The proposed rate schedule changes have been mailed to all Transmission Customers having service agreements under the OATT, the Iowa Utilities Board and the Illinois Commission, the South Dakota Public Service Commission.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. New York State Electric & Gas Corporation

[Docket No. ER00–1076–000]

Take notice that on January 12, 2000, New York State Electric & Gas Corporation (NYSEG) tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, a request for modification of its tax factor applicable to service rendered under Schedules 7 and 8 and Attachment H of NYSEG's OATT.

NYSEG requests waiver of the Commission's sixty day notice requirement and an effective date of February 1, 2000, for the new tax factor.

NYSEG has served copies of the filing upon each OATT customer on the attached service list and the PSC.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. FPL Energy Power Marketing Inc.

[Docket No. ER00–1077–000]

Take notice that on January 12, 2000, FPL Energy Power Marketing, Inc. (FPLEPM) tendered for filing Amendment No. 1 to the Transitional Power Sales Agreement, System Sale of Energy, Capacity and Related Services [Fossil] between FPLEPM and Central Maine Power Company.

FPLEPM requests an effective date of January 1, 2000.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. West Texas Utilities Company

[Docket No. ER00–1079–000]

Take notice that on January 12, 2000, West Texas Utilities Company (WTU) filed a new Facility Schedule to its Interconnection Agreement with Brazos Electric Power Cooperative, Inc. (Brazos) to establish a new point of interconnection between WTU and Brazos.

WTU seeks an effective date of January 13, 2000 and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing have been served on Brazos and the Public Utility Commission of Texas.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER00–1080–000]

Take notice that on January 12, 2000, the California Independent System Operator Corporation (ISO), tendered for

filing a Participating Generator Agreement between the ISO and San Joaquin Cogen Limited for acceptance by the Commission.

The ISO states that this filing has been served on San Joaquin Cogen Limited and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective January 6, 2000.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Platte-Clay Electric Cooperative, Inc.

[Docket No. ER00–1081–000]

Take notice that on January 12, 2000, Platte-Clay Electric Cooperative Inc. (Platte-Clay) submitted for filing an agreement for the Interchange of Electric Power and Energy Between Platt-Clay Electric Cooperative Inc. and the City of Cameron, Missouri and various Border Customer Agreements Between Platte-Clay Electric Cooperative Inc. and Missouri Public Service, a Division of Utilicorp United, Inc. pursuant to § 205 of the Federal Power Act (FPA), 16 U.S.C. § 824d, and section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations (18 CFR 35.12).

Platte-Clay's filing is available for public inspection at its offices in Kearney, Missouri.

Platte-Clay requests an effective date of January 18, 2000.

Comment date: February 1, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Avista Corporation

[Docket No. ER00–1082–000]

Take notice that on January 13, 2000, Avista Corporation (AVA) tendered for filing with the Federal Energy Regulatory Commission, pursuant to Section 35.12 of the Commission's Regulations (18 CFR 35.12), an executed Mutual Netting Agreement with the Public Service Company of Colorado.

AVA requests an effective date of January 1, 2000.

The filing has been served on the following: Mr. Cary Oswald, Credit Analysis Manager, Public Analysis Manager, Public Service Company of Colorado, 1099 18th Street, Suite 3000, Denver, CO 80202.

Comment date: February 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–1578 Filed 1–21–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6527–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; Information Collection Request for the Existing Concentration of Analytically Detectable Congeners of Polychlorinated Biphenyls, Dioxins, And Furans In Biosolids Generated By Publicly Owned Treatment Works (POTWs) Under the National Biosolids Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Information Collection Request for the existing concentration of analytically detectable congeners of Polychlorinated Biphenyls, Dioxins, Furans, in Biosolids generated by POTWs under the National Biosolids Program (40 CFR part 503), EPA ICR 1930.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before March 24, 2000.

ADDRESSES: Interested persons may obtain a copy of this ICR without charge by contacting Ash Sajjad, NPDES Branch, Water Division (WN–16J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number (312) 886–6112, E-mail address ''sajjad.ash@epa.gov''.

FOR FURTHER INFORMATION CONTACT: Ash Sajjad, telephone number (312) 886–6112, facsimile number (312) 886–7804, E-mail address ''sajjad.ash@epa.gov'.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are 25 of the 33 POTWs that generated analytically detectable concentration of polychlorinated biphenyls (PCBs) in their biosolids reported in the 1988 NSSS.

Title: Survey Of The Existing Concentration Of Analytically Detectable Congeners Of Polychlorinated Biphenyls, Dioxins, and Furans In Biosolids Generated By POTWs Under The National Biosolids Program (40 CFR part 503) (EPA ICR Number 1930.01).

Abstract: EPA plans to conduct a survey of biosolids generated by a randomly selected subgroup of up to twenty five POTWs from the thirty three POTWs which tested positive for PCBs and reported in the 1988 NSSS. Because the management of the biosolids program is the responsibility of the Office of Wastewater Management (OWM) in the Office of Water (OW), Environmental Protection Agency (EPA), and the Clean Water Act requires EPA to periodically review the regulations for the purpose of identifying additional toxic pollutants and promulgating regulations. The OWM designated Region 5, headquartered in Chicago, Illinois, to conduct this survey to assess the existing concentration of these pollutants in biosolids generated by POTWs. The specific purpose of this survey is to evaluate the need to develop regulations, policies, and guidance to control these pollutants in the environment. The USEPA will contract the sampling, chemical analysis of biosolids, and interpretation and reporting of analytical data to a contract laboratory selected through an open bidding process. The contract laboratory will be collecting representative grab samples of biosolids at suitable locations at the selected POTWs, and will measure the analytically detectable concentrations of the congeners of PCBs, dioxins, and furans using EPA Methods No. 1668 for PCBs, and Method No.1613 for dioxins and furans.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The information collection will involve an estimated 25 respondents at a cost of $1617 to those respondents. The total annual cost to both respondents and government including the laboratory contract is estimated at $38, 839. The annual number of responses are expected to be 25 or one response per respondent. The time required for a response ranges from 1 hour to 3 hours, with an average response time of 2 hours. An estimated 25 respondents are required to keep records at an average annual burden of 15 minutes per record keeper. The biosolids survey will entail 6.3 hours of recordkeeping, 5 hours for government as users of the data, for a total of 11.3 burden hours.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: January 12, 2000.

Jo Lynn Traub,

Director, Water Division, Region 5.

[FR Doc. 00–1556 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6528–2]

Science Advisory Board; Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that two committees of the Science Advisory Board will hold public teleconference meetings on the dates and times noted below. All times noted are Eastern Time. All meetings are open to the public, however, seating and teleconference lines are limited and available on a first-come basis.

1. Integrated Risk Project (IRP) Peer Review Subcommittee

The Integrated Risk Project (IRP) Peer Review Subcommittee of the Science Advisory Board will meet Tuesday February 15, 2000 from 3:00 to 5:00 pm. The meeting will be coordinated through a conference call connection located in Room 6013 of the Ariel Rios Building at the U.S. Environmental Protection Agency (EPA) located at 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The building entrance is adjacent to the Federal Triangle Metro Stop on 12th Street. For directions and further information concerning the meeting, please contact the individuals given below. The public is welcome to attend the meeting physically or through a telephonic link.

Purpose of the Meeting

At this meeting the Integrated Risk Project Subcommittee will review the report of the Integrated Risk Project: *Towards Integrated Environmental Decision-Making.*

2. Research Strategies Advisory Committee (RSAC)

The Research Strategies Advisory Committee (RSAC) of the Science Advisory Board (SAB) will meet Wednesday, February 16, 2000 from 12:00 am to 2:00 pm. The meeting will be coordinated through a conference call connection located in Room 6013 of the Ariel Rios Building at the U.S. Environmental Protection Agency (EPA) located at 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The building entrance is adjacent to the Federal Triangle Metro Stop on 12th Street. For directions and further information concerning the meeting, please contact the individuals given below. The public is welcome to attend the meeting physically or through a telephonic link.

Purpose of the Meeting

The purpose of this meeting is to plan for ''Phase 2 of the Review of EPA's Peer Review Program: Effectiveness Evaluation.''

Proposed Charge

The Subcommittee has tasked itself to develop specific guidance for the subsequent SAB evaluation of how peer reviews are conducted by the Agency Programs and Regions using specific case studies. The Committee will work to develop (a) an overall strategy for the review, (b) criteria for the selection of projects to review, and (c) options for how the review might be conducted, together with a recommended approach for consideration by the SAB's Executive Committee.

For Further Information Concerning the Meetings

Members of the public desiring additional information about either meeting should contact Dr. John R. Fowle III, Deputy Staff Director and Designated Federal Officer (DFO), Science Advisory Board (1400A), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4547; fax at (202) 501–0323; or via e-mail at fowle.jack@epa.gov or Ms. Wanda Fields, Management Assistant; telephone/voice mail at (202) 564–4539; fax at (202) 501–0256; or via email at fields.wanda@epa.gov. A copy of the draft agenda and copies of the background material will be available approximately two weeks prior to the meeting on the SAB website (www.epa.gov/sab) or from Ms. Wanda Fields at the fax or address noted above. Additional instructions about how to participate in either conference call can be obtained from Ms. Fields.

Making Oral Presentations During the Meetings

Members of the public who wish to make a brief oral presentation at either meeting must contact Dr. Fowle in writing (by email, by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Thursday, February 10, 2000 in order to be included on the Agenda. Public comments will be limited to three

minutes per speaker or organization. The request should identify the name of the individual making the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (*e.g.,* overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or of the presentation itself.

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website *(http://www.epa.gov/sab)* and in the Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256.

Dated: January 13, 2000.

Donald G. Barnes, PhD,

Staff Director, Science Advisory Board.

[FR Doc. 00–1560 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00639; FRL–6488–2]

State FIFRA Issues Research and Evaluation Group (SFIREG) Water Quality and Pesticide Disposal Working Committee; Notice of Public Meeting

ACTION: Notice of public meeting.

SUMMARY: The SFIREG Water Quality and Pesticide Disposal Working Committee will hold a 2-day meeting, beginning on February 7, 2000 and ending on February 8, 2000. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The State FIFRA Issues Research and Evaluation Group (SFIREG) will meet on Monday, February 7, 2000 from 8:30 a.m. to 4:00 p.m. and on Tuesday, February 8, 2000 from 8:30 a.m. to 12:00 noon. There will be a CLOSED SESSION (Open Only to EPA and State Lead Agencies) on Monday, February 7, 2000 from 4:00 p.m.–5:00 p.m.

ADDRESSES: The meeting will be held at The Doubletree Hotel, 300 Army Navy Drive, Arlington-Crystal City, VA 22202.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, SFIREG Executive Secretary, P. O. Box 1249, Hardwick, VT 05843–1249; (802) 472–6956; fax: (802) 472–6957; e-mail address: aapco@plainfield.bypass.com or Elaine Y. Lyon, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5306; fax number: (703) 308–1850; e-mail address: lyon.elaine@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, but all parties interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into the EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of the minutes, 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/. You may also obtain electronic copies of the minutes, and certain other related documents that might be available electronically, from the Association of American Pesticide Control Officials (AAPCO) Internet Home Page at http://aapco.ceris.purdue.edu/doc/index.html. To access this document, on the Home Page select ''SFIREG'' and then look up the entry for this document under the ''SFIREG Meetings.''

2. *In person.* The Agency has established an administrative record for this meeting under docket control number OPP–00639. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the State FIFRA Issues Research and Evaluation Group (SFIREG) Water Quality and Pesticide Disposal Working Committee, including any information claimed as Confidential Business Information (CBI). This administrative 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 administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. Purpose of Meeting

Tentative Agenda:

1. Working committee issues and updates.
2. Update on pesticide field data plan.
3. Update on Total Maximum Daily Load & National Pollution Discharge Elimination System Draft Straw Proposal.
4. Office of Research and Developments grant to study ''The Impact of Lawn Care Practices on Aquatic Ecosystems in Suburban Watersheds.''
5. Update on Pesticides in Ground Water and Surface Water Data bases.
6. Working committee discussion on survey on aquatic pesticides and National Pollution Discharge Elimination System permitting.
7. Florida State University grant to develop Indicators.
8. Updates from the Office of Pesticide Programs and the Office of Enforcement and Compliance Assurance.
9. Other topics as appropriate.

List of Subjects

Environmental protection,

Dated: January 14, 2000.

Jay Ellenberger,

Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 00–1547 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–909; FRL–6399–6]

Notice of Filing Pesticide Petitions to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–909, must be received on or before February 23, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in

person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–909 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number/e-mail address	Address	Petition number(s)
Shaja R. Brothers	Rm. 284, CM 2, 703–308–3194, e-mail: brothers.shaja®epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA	PP 9E6025
James A. Tompkins (PM 25).	Rm. 239, CM 2, 703–305–5697, e-mail: tompkins.james®epamail.epa.gov.	Do.	PP 5F4505; PP 6F4791

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be 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 codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have 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/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–909. 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 Highway, 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.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–909 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: ''*opp-docket@epa.gov* ,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–909. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 7, 2000,

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

I. Acetochlor Registration Partnership

PP 5F4505 and 6F4791

EPA has received pesticide petitions (PP 5F4505 and 6F4791) from Acetochlor Registration Partnership, c/o Zeneca Ag Products, 1800 Concord Pike, Wilmington DE 19850 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of acetochlor (2-chloro-2′-methyl-6′-ethyl-*N*-ethoxymethylacetanilide and it metabolites containing the ethyl methyl aniline (EMA) and the hydroxy methyl aniline (HEMA) moiety, to be expressed as acetochlor, EMA and HEMA and expressed as acetochlor equivalents in or on the raw agricultural commodity field, corn, forage at 3.0 part per million (ppm) (5F4505); corn, sweet, grain (K+CHWHR) at 0.05 ppm; corn, sweet, fodder at 1.0 ppm; and corn, sweet, forage at 1.4 ppm. (6F4791). PP 5F4505 also proposes to divide 40 CFR 180.470 into two sections: (a) Specific tolerances (containing the tolerances for field corn and sweet corn) and (b) Indirect or inadvertent tolerances (containing the tolerances for the rotational crops sorghum, soybean, wheat, and nonanimal grass feeds). PP 6F4791 also proposes that tolerances be established for the indirect or inadvertent residues of acetochlor in or on the the raw agricultural commodities when present therein as a result of the application of acetochlor to growing crops and other nonfood crops as follows: nongrass animal feeds, forage at 0.6 ppm and nongrass animal feeds, hay at 1.0 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of acetochlor has been studied in corn and soybeans. The major metabolic pathways are: (i) Uptake of soil metabolites and subsequent metabolism, (ii) uptake of acetochlor followed by oxidative metabolism and conjugation, and (iii) uptake of acetochlor, conjugation with glutathione and subsequent catabolism. Acetochlor is completely metabolized in plants to produce a number of polar metabolites. EPA has determined that the residues of concern are those which contain the EMA and HEMA.

2. *Analytical method*. An adequate enforcement method for residues of acetochlor in crops has been approved. Acetochlor and its metabolites are hydrolyzed to either EMA or to HEMA which are determined by GC-MSD and expressed as acetochlor.

3. *Magnitude of residues*. Field residue trials in field corn with acetochlor were conducted in 32 plots in 8 states. The maximum combined residues (acetochlor and metabolites) were 2.52 ppm in corn forage, 0.217 ppm in corn fodder and <0.04 ppm in corn grain.

Fourteen field residue trials in sweet corn with acetochlor were conducted in 12 states. The maximum combined residues (acetochlor and metabolites) were 1.35 ppm in corn forage, 0.97 ppm in corn fodder and <0.05 ppm in grain.

Seventeen rotational crop residue trials were conducted in 17 states representing the top corn, alfalfa and clover producing regions in the U.S. The maximum combined residue (acetochlor and metabolites) in alfalfa forage was 0.540 ppm and the maximum alfalfa hay residue was 1.870 ppm. The maximum clover forage residue was 0.567 ppm, the maximum clover residue was 1.244 ppm.

B. Toxicological Profile

1. *Acute toxicity*. Acute toxicology data place technical acetochlor in toxicity category III for eye irritation, toxicity category III for acute oral, acute dermal, and acute inhalation. Technical acetochlor is in category IV for primary skin irritation and it is a skin sensitizer.

2. *Genotoxicty*. In mutagenicity testing, submitted by Monsanto, acetochlor was weakly positive in the Chinese hamster ovary/hypoxanthine-guanine phosphoribosyltransferase (CHO/HGPRT) gene mutation assay with and without activation in the mouse lymphoma assay. Acetochlor was negative in a DNA damage repair assay in rat hepatocytes, a *Salmonella* assay, and two (2) *in vivo* chromosomal aberration studies.

In mutagenicity tests conducted by ZENECA, acetochlor induced a reproducible, positive, mutagenic response in strain TA 1538 of *Salmonella typhimurium* with metabolic activation at 100 milligrams /plate (mg/p) (however, this was less than the 2X background mutation, but was significant at p less than 0.05). Significant increases in number of revertant colonies were not induced in strains TA 1535, TA 1537, TA98, and TA100. The effect in strain TA1538 although reproducible in the first study was not observed in a more extensive follow up study. Acetochlor was not

clastogenic in a mouse micronucleus test at doses tested (898 and 1,436 milligrams/kilograms (mg/kg) in males; 1,075 and 1,719 mg/kg in females). Acetochlor was clastogenic in cultured human lymphocytes both in the presence and absence of S9 mix at 100 mg/milliliters (ml), and in the absence of S9 mix at 50 mg/ml. It has subsequently been shown that the chloroacetyl substituent on acetochlor is the clastogenic moeity, however two structurally related chemicals containing this moiety have been shown to be non-carcinogens as defined by the US NTP.

Acetochlor induced a weak DNA repair (measured by UDS) in rat hepatocytes derived from animals exposed *in vivo* at 2,000 mg/kg. At this dose there is significant hepatotoxicity (depletion of glutathione, severe liver necrosis and substantial release of hepatic enzymes). Acetochlor was negative in the unscheduled DNA synthesis (UDS) assay at a maximum tolerated dose (MTD) of 1,000 mg/kg. In a structural chromosome aberration study, acetochlor at doses 1,000 and 2,000 mg/kg resulted in reduced pregnancy incidence, decreased implants per pregnancy incidence, increased preimplantion loss, and decreased time implant per pregnancy at weeks 2, 3 and 4 of this study. Early and late intrauterine deaths were not affected in this study. The Agency concluded there was positive evidence of mutagenicity at the mid- and high-dose levels in this study. The Acetochlor Registration Partnership has submitted new data which show that there were no mutagenic effects in this study. Acetochlor was negative in a DNA damage (comet) assay conducted using nasal tissue derived from rats treated with a supra-MTD of 1,750 ppm of acetochlor in the diet for either 7 days or 18 weeks.

3. *Reproductive and developmental toxicity*. In a developmental study submitted by Monsanto, with rats fed dosages of 0, 50, 200, and 400 mg/kg/day, acetochlor did not induce developmental toxicity in rats up to 400 mg/kg/day, the highest dose tested (HDT). The maternal no observed adverse effect level (NOAEL) was 200 mg/kg/day based on matting and/or staining of the anogenital region, a decrease in mean maternal weight gain during the treatment period, and in adjusted mean weight gain on gestation day 20 at 400 mg/kg/day (HDT).

In a developmental study submitted by ZENECA , with rats fed dosages of 0, 40, 150, and 600 mg/kg/day, the developmental NOAEL was 150 mg/kg/day based on increased resorptions, post-implantation loss, and decrease in mean fetal weight at 600 mg/kg/day (HDT). The maternal toxicity NOAEL for this study was 150 mg/kg/day based on animals sacrificed moribund, clinical observations, and decreased body weight gain at 600 mg/kg/day (HDT).

In a developmental study submitted by Monsanto, with rabbits fed dosages of 0, 15, 50, and 190 mg/kg/day, acetochlor did not induce developmental toxicity in rabbits up to 190 mg/kg/day (HDT). The maternal toxicity NOAEL was 50 mg/kg/day based on loss of body weight during dosing at 190 mg/kg/day (HDT).

In a developmental study submitted by ZENECA, with rabbits fed dosages of 0, 30, 100, and 300 mg/kg/day, acetochlor did not induce either maternal or developmental toxicity up to 300 mg/kg/day (HDT).

In a 2–generation reproduction study submitted by Monsanto, with rats fed dosages of 0, 30.4, 74.1, and 324.5 mg/kg/day (males) or 0, 44.9, 130.1, and 441.5 mg/kg/day (females), the reproductive NOAEL was 30.4 mg/kg/day for males and 44.9 mg/kg/day for females, based on decreased body weight gain of F2b pups at 74.1 mg/kg/day for males and 130.1 mg/kg/day for females. A NOAEL for systemic effects was not established.

In a 2–generation reproduction study submitted by ZENECA, with rats fed dosages of 0, 1.6, 21, and 160 mg/kg/day, the reproductive NOAEL was 21 mg/kg/day based on significant reductions in pup weight at lactational day 21 and total body weight gain during lactation at 160 mg/kg/day (HDT). The parental NOAEL was 21 mg/kg/day based on reductions in body weight, accompanied by slight reductions in food consumption and significant increases in relative organ weights at 160 mg/kg/day (HDT).

Conclusion. Acetochlor is not considered to be a material that causes developmental or reproductive toxicity. The lowest NOAEL for fetotoxicity was 21 mg/kg/day in a 2–generation reproduction study and the lowest NOAEL for fetotoxicity in a developmental study was 150 mg/kg/day.

4. *Subchronic toxicity*. A 3–month feeding study submitted by Monsanto with rats fed dosages of 0, 40, 100, and 300 mg/kg/day resulted in a NOAEL of 40 mg/kg/day based on loss of body weight and decreased food consumption at 100 mg/kg/day.

A 3–week dermal study submitted by Monsanto with rabbits fed dosages of 0, 100, 400, and 1,200 mg/kg/day resulted in a NOAEL for systemic effects of 400 mg/kg/day based on mortality and decreased body weight at 1,200 mg/kg/day, (HDT). The lowest effect level (LEL) for dermal irritation was 100 mg/kg lowest dose tested (LDT). A NOAEL for dermal irritation was not established.

A 3–week dermal study submitted by ZENECA with rats fed dosages of 0.1, 1.0, 10, or 100 mg/kg/day resulted in minimal to mild skin irritation after 21 days. Signs of systemic toxicity were not apparent at any level. Higher doses were not possible because of severe dermal toxicity at higher doses.

5. *Chronic toxicity*. In a 1–year feeding study submitted by Monsanto, with dogs fed dosages of 0, 4, 12, and 40 mg/kg/day, the NOAEL was 12 mg/kg/day based on decreased body weight gains in males, decreased terminal body weight in females, testicular atrophy with accompanying decreases in absolute and relative testicular weight, increase in relative liver weights in male and females, and clinical chemistry changes at 40 mg/kg/day (HDT).

In a 1–year feeding study submitted by ZENECA, with dogs fed dosages of 0, 2, 10, and 50 mg/kg/day, the NOAEL was 2 mg/kg/day based on increased salivation, ornithine carbamyl transferase, and triglyceride values accompanied by decreased blood glucose levels and liver glycogen levels at 10 mg/kg/day. Interstitial nephritis, tubular degeneration of the testes and hypospermia were reported.

In a chronic feeding/carcinogenicity study submitted by Monsanto, in which rats were fed dose levels of 0, 22, 69, and 250 mg/kg/day, a NOAEL for chronic effects was not established.

In a repeat chronic feeding/carcinogenicity study submitted by Monsanto, in which rats were fed dose levels of 0, 2, 10, and 50 mg/kg/day, the NOAEL for chronic effects was 10 mg/kg/day.

In a chronic feeding/carcinogenicity study submitted by ZENECA, in which rats were fed dose levels of 0, 0.8, 7.9, and 79.6 mg/kg/day, the NOAEL for chronic effects was 7.9 mg/kg/day.

Conclusion. The lowest NOAEL for chronic effects in dogs was 2 mg/kg/day and the lowest NOAEL for chronic effects in rats was 7.9 mg/kg/day. EPA has established the Reference Dose (RfD) for acetochlor at 0.02 mg/kg/day based on the 2.0 mg/kg/day NOAEL in the ZENECA dog study and the application of a 100–fold safety factor.

In a chronic feeding/carcinogenicity study submitted by Monsanto with mice fed dosages of 0, 75, 225, and 750 mg/kg/day (high dose determined to be 973 mg/kg/day by the ARP) carcinogenic effects noted included increased incidence of liver carcinomas in high-

dose males, total lung tumors in females at all dose levels, carcinomas of lungs in females fed 75 and 750 (973) mg/kg/day, uterine histiocytic sarcomas in females at all dose levels, and total benign ovarian tumors in mid-dose females. Other dose-related changes included: (1) Increased mortality and decreased mean body weights in both high-dose males and females, (2) decreased red blood cell count, hematocrit, and hemoglobin in high-dose females at terminal sacrifice, (3) increased white blood count in high-dose males at terminal sacrifice, (4) increased platelet count in mid-and high-dose females at terminal sacrifice, (5) increased mean liver weight and liver-to-body-weight ratios at study termination in all dose groups of males and in high-dose females; increased absolute and relative kidney weights in all dose groups of males at termination; increased absolute and relative adrenal weights in all groups of males and in high-dose females at study termination; and (6) increased interstitial nephritis in high-dose males and females.

In a chronic feeding/carcinogenicity study submitted by ZENECA with mice fed dosages 0, 1.1, 11, and 116 mg/kg/day in males and 0, 1.4, 13, and 135 mg/kg/day in females, carcinogenic effects noted included an increase in pulmonary adenoma in both male and females at the high dose. Pulmonary tumors were confirmed as adenomas or carcinomas of the lung parenchyma and were all of the alveolar type. The NOAEL for systemic toxicity in females was 13 mg/kg/day based on a significant increase in anterior polar vacuoles in the lens of the eye at 135 mg/kg/day.

In a chronic feeding/carcinogenicity study submitted by Monsanto, with rats fed dosages of 0, 22, 69, and 250 mg/kg/day (males) or 0, 30, 93, and 343 mg/kg/day (females), carcinogenic effects noted at 250 (highest dose determined to be 297 mg/kg/day) mg/kg/day in males and 343 mg/kg/day in females included hepatocellular carcinoma in both sexes and thyroid follicular cell adenoma in males. Nasal papillary adenomas were noted in male rats at 69 mg/kg/day and above and in females at 93 mg/kg/day. A NOAEL for chronic effects was not established.

In a repeat chronic feeding/carcinogenicity study submitted by Monsanto, in rats fed dosages of 0, 2, 10, and 50 mg/kg/day oncogenic effects noted at 50 mg/kg/day (HDT) included neoplastic nodules of the liver, follicular adenoma/cystadenoma of the thyroids and papillary edema of the mucosa of the nose/turbinates in high dose animals. The NOAEL for chronic effects was 10 mg/kg/day based on decreased body weights and body weight gain in both sexes, high cholesterol levels in males, increased absolute and relative kidney and liver weight in males, and increased testicular weights at 50 mg/kg/day (HDT).

In a 2–year chronic feeding/carcinogenicity study submitted by ZENECA, with rats fed dosages of 0, 0.8, 7.9, and 79.6 mg/kg/day, carcinogenic effects noted at 79.6 mg/kg/day (HDT) included a significant increase in nasal epithelial adenomas and thyroid follicular cell adenomas in both sexes at 79.6 mg/kg/day. Also, at that dose nasal carcinoma was present in two males and one female rat at this dose. Rare tumors in the form of benign chondroma of the femur and basal cell tumor of the stomach were also observed at 79.6 mg/kg/day. The systemic NOEL was 7.9 mg/kg/day based on decreased body weight gain, decreased food efficiency, increased organ to body weight ratios, increased plasma GGT and cholesterol at 79.6 mg/kg/day (HDT).

Conclusions. Three oncogenicity studies have been conducted with acetochlor in rats and two have been conducted in mice. In rats, increased incidences of tumors in nasal, thyroid and liver tissues were found only at dose levels equal to or exceeding the MTD. Liver tumors were found in only one rat study and at the highest dose tested (297mg/kg/day), a dose which greatly exceeded the MTD. The nasal tumors, found only at and above the MTD, are the only biologically relevant and reproducible oncogenic effect in rats.

In mice, increased incidences of tumors in liver, lung, and uterine tissues were observed. The liver tumors were observed only in one study, at the HDT (973mg/kg/day) a dose which greatly exceeded the MTD as evidenced by increased mortality of approximately 90%. The lung tumors and uterine histiocytic sarcomas were observed in all treated female groups in one study, but there was no dose-response relationship which makes the relationship to treatment and relevance equivocal. Lung tumors occurred only in high dose animals in the second mouse study and their incidence rate was within the historical control range for the laboratory. The rat and mouse liver tumors and the mouse lung and histiocytic sarcomas have been subjected to an independent pathology peer review.

Overall, the only clear oncogenic responses in rats or mice are found only at high dose levels at or above the MTD. This suggests that such tumors are not produced by genotoxic mechanisms, but by other threshold-dependent mechanisms. The weight of the evidence of all the genotoxicity studies conducted with acetochlor also supports the conclusion that tumor formation is not driven by genotoxic mechanisms. An overview of the genotoxicity studies with acetochlor has been reported by Ashby, et al. in Human and Experimental Toxicology, 15, 702, 1996 (EPA MRID NO. 44069503).

Mechanistic studies with alachlor, a structural analog of acetochlor which produces the same nasal and thyroid tumors in the rat, provide additional evidence that rodent tumors incident to acetanilide dosing are produced by indirect threshold mechanisms that are unique to the rat and not relevant to humans under realistic exposure levels. The Acetochlor Registration Partnership (ARP) has conducted and submitted a number of studies on the mechanism of tumor formation with acetochlor. The ARP believes these studies establish the basis for the use of a Margin of Exposure (MOE) for the cancer risk assessment for acetochlor.

6. *Animal metabolism*. The metabolism of acetochlor has been studied in goats, laying hens and rats. EPA has concluded that the nature of the residue in ruminants and poultry are adequately understood and the residue of concern is the same as that in corn.

7. *Metabolite toxicology*. EPA has determined that the residues of concern are those which contain the EMA and HEMA.

8. *Endocrine disruption*. Acetochlor is not a member of a class of chemicals associated with direct adverse effects on the endocrine system. The subchronic, chronic, developmental and reproductive studies with acetochlor satisfy the present data requirements, and they have measured many toxic endpoints which are sensitive to endocrine-modulation activity. Acetochlor has not produced effects in these toxicity studies that can be related to direct interference with female or male endocrine systems.

C. Aggregate Exposure

1. *Dietary exposure*. The nature of the residue in plants and animals is understood. Acetochlor metabolizes extensively to yield a number of polar metabolites. Tolerances have been established at 40 CFR 180.470 for raw agricultural commodities of field corn and indirect or inadvertent residues in or on sorghum, soybean and wheat. The tolerances are combined acetochlor, and metabolites that contain the EMA and HEMA moieties expressed as acetochlor. No tolerances have been established for livestock commodities because there is

no reasonable expectation of finite residues based on the results of exaggerated rate feeding studies.

i. *Food —a. Acute*. An acute dietary analysis was performed based on the EPA selected acute NOAEL of 150 mg/kg/day for developmental toxicity. The results of this analysis produced MOEs of greater than 70,000 for all 23 subgroups of the U.S. population. The most highly exposed subgroup, non-nursing infants, has a MOE of 77,000. EPA generally considers MOEs of greater than 100 to provide adequate acute dietary safety. Therefore, this evaluation demonstrates that acetochlor does not represent an acute dietary concern.

b. Chronic. The theoretical maximum residue contribution (TMRC) for the general U.S. population from all established uses combined with the proposed tolerance on corn forage is 1.11×10^{-4} mg/kg/day. For non-nursing infants less than 1 year old, the most highly exposed subgroup, the TMRC is 3.24×10^{-4} mg/kg/day. The TMRC is calculated assuming that all of the corn crop is treated with acetochlor, that all crop commodities bear tolerance-level residues, and that all rotation crops are grown in soil treated with acetochlor and thus all rotation crop commodities have tolerance level residues. A refined dietary exposure estimate, based on 30% of corn acres treated, actual maximum residues found in crop commodities, and reduction of residues in some processed commodities was calculated for the same population groups. The refined and more accurate exposure estimate, called the Anticipated Residue Contribution (ARC), is 1.0×10^{-5} for the U.S. general population and 2.7×10^{-5} for non-nursing infants. The TMRC represents only 0.55% of the RfD for the general population. The ARC represents only 0.05% of the RfD.

ii. *Drinking water*. Acetochlor is not registered for direct application to bodies of water. Seasonal run-off from treated fields can be transported to surface water. Since March 1995, the ARP has been monitoring drinking water from 175 community water systems (CWSs) which take their water supplies from surface water sources. The 175 CWSs take water from watersheds of all sizes in major acetochlor use areas but primarily from small watersheds located in areas of high-intensity corn production. Water samples taken every 2 weeks from mid March through early September from each CWS are analyzed for acetochlor. The results to date show that acetochlor was non-detected in about 80% of all individual samples of drinking water, with peak concentrations occurring mainly in May and June, the peak use season for acetochlor. Only about 10% of the participating CWSs had time-weighted annualized mean concentrations (AMC) above 0.1 parts per billion (ppb). There were no CWSs that had AMCs exceeding 2 ppb, the annual AMC limit set for acetochlor in the EPA-ARP registration agreement.

Although acetochlor is not expected to leach through most agricultural soils, there is a potential for limited ground water contamination in areas of highly permeable soils. To address this possibility, acetochlor products are labeled to prohibit use in fields where the depth to ground water is less than 30 feet and where the soils are ''sands'' with less than 3% organic matter; ''loamy sands'' with less than 2% organic matter; or ''sandy loams'' with less than 1% organic matter. However, shallow ground water contamination can also result from misuse, improper well construction and the movement of surface water into direct conduits to ground water. The ARP has been conducting a ground water monitoring (GWM) program consisting of 175 wells immediately adjacent to acetochlor treated fields since 1995. The wells are located in a variety of soil types to cover the range from light permeable soils to heavy less vulnerable soils, reflecting the soils on which corn is grown in the seven major corn-producing states. The ARP GWM wells are agricultural monitoring wells and do not adequately represent the drinking water wells across the entire country. Therefore, sporadic detections at very low levels cannot be extrapolated to provide accurate estimates of acetochlor in drinking water derived from ground water. A series of eight Prospective Ground Water (PGW) studies are being conducted by the ARP to monitor the movement of acetochlor to ground water under intensively instrumented fields, across a range of soil textures. Two studies initiated during 1995 are nearing completion and neither show any indication of acetochlor movement. Four studies commenced during 1996 and continue to show no acetochlor ground water contamination. Traces of acetochlor were detected at one of these sites at one sampling interval, soon after application. The residues were extremely low (0.06 ppb) and had dissipated by the next sampling interval.

The conditions of the registration of acetochlor include cancellation triggers based on detection scenarios in the Surface Water Monitoring Program, the Ground Water Monitoring Program and the Prospective Ground Water Program that will preclude any significant, widespread contamination of drinking water.

For the purpose of chronic risk assessment, a level of 0.1 ppb seems to represent a reasonable, upper-bound level for acetochlor in drinking water. Based on 0.1 ppb in the water and an assumed water consumption of 2 liters per day for an adult weighing 70 kg, the upper bound exposures would be 2.9×10^{-6} mg/kg/day.

For the purpose of assessing short term risk, a level of 2 ppb, the probable MCL, represents a reasonably conservative, upper bound level for acetochlor in drinking water. Based on 2 ppb in the water and an assumed water consumption of 2 liters per day for an adult weighing 70 kg and 1 liter per day for a child weighing 10 kg, the short-term exposure for the adult would be 5.7×10^{-5} mg/kg/day and for the child, 2.0×10^{-4} mg/kg/day.

2. *Non-dietary exposure*. Acetochlor is not registered for any use which would result in non-occupational, non-dietary exposure for the general population. Acetochlor is registered for use on corn, a commercial crop which is grown in fields remote from public-use areas. Acetochlor products are Restricted Use, for use only by Certified Applicators which means the general public cannot buy or use acetochlor.

D. Cumulative Effects

Toxicological testing of the chloroacetamide herbicide family in animals with high doses has produced a number of observed effects. Certain effects in some tissues are observed in two, three, or four members of the family, but there is no single effect that represents conclusive evidence of a common mechanism of toxicity existing throughout the chloroacetamide family.

EPA has not established procedures for determining when pesticides share a common toxic mechanism, or provided a definition of ''concurrent exposure.'' At this time there is no established procedure for risk assessment of pesticides which may have a common mechanism by may differ in potency and exposure. Following an EPA proposal to the FIFRA Scientific Advisory Panel meeting on March 20, 1997 (Docket No. OPP–00466) that nasal tumors in alachlor, acetochlor, butachlor, and perhaps metolachlor may be formed by a common toxic mechanism, Monsanto Company has derived an equation to calculate a MOE for the combined, concurrent exposure to multiple chloroacetamide herbicides that may share a common mechanism for nasal tumors. The mechanism is thought to be metabolic production of

an electrophilic 3,5-dialkyl-benzoquinone-4-imine (DABQI) or similar compounds at sufficient levels to cause cytotoxicity, proliferation of nasal cells and neoplasms in nasal tissues. The equation, as presented in ''Summary Information and Assessment as Required for the Reregistration of Alachlor by the Food Quality Protection Act of 1996'' [MRID 44252200] is:

$$MOE=1\div([ala]\div[ala]_{10}) + ([Chlor1]\div[Chlor1]) + ([Chlor2]\div[Chlor2]_{10}) + ([Chlor3]\div[Chlor3]_{10}) + Etc$$

In which, [ChlorX] represents the Aggregate Exposure to each individual chloroacetamide herbicide which shares the common mechanism with alachlor (ala), and $[ChlorX]_{10}\leq$ represents the toxicological dose of that same herbicide which produced a measurable (10%) increase in tumors in tested animals (i.e., the ED_{10}). This equation gives the cumulative MOE relative to the ED_{10} and is valid assuming approximately constant relative potencies among the chloroacetamides at exposures below the ED_{10}. Since the ED_{10} will almost always exceed the NOAEL, this MOE will be smaller than the NOAEL-based MOE.

The ARP adopts this equation for the purpose of the cumulative risk assessment for chloroacetamides and to show that acetochlor uses meet the FQPA standard of reasonable certainty of no harm even if a common mechanism of toxicity is presumed to exist for several chloroacetamides.

E. Safety Determination

1. *U.S. population* —i. *U.S. general population -acetochlor alone*. The upper bound Aggregate Exposure estimate for short-term exposures to acetochlor is 6.7 x 10^{-5} mg/kg/day. The Toxicity Endpoint Reference Committee has established 150 mg/kg/day as the acute dietary endpoint for risk assessment. Comparing the aggregate exposure to this endpoint indicates that short-term exposures have a margin of safety of 2,238,805.

The Aggregate Exposure estimate for chronic exposures to acetochlor is 1.29 x 10^{-5} mg/kg/day. This exposure utilizes only 0.065% of the RfD of 0.02 mg/kg/day. EPA generally has no concern about exposures below 100% of the RfD for the U.S population.

For cancer risk assessment, the ARP proposes that acetochlor be assessed by the MOE method that has been approved for cancer risk assessment of alachlor, a close structural analog which produces the same nasal and thyroid tumors in the rat. The appropriate cancer reference endpoint for acetochlor is the lowest NOAEL for tumors which is 26 mg/kg/day, the NOAEL for nasal tumors in the rat. Comparison of the aggregate exposure estimate of 1.29 x 10^{-5} mg/kg/day to the 26 mg/kg/day cancer endpoint gives a MOE (relative to this minimum NOAEL) of 2,015,504. The margins of safety for short-term exposure, chronic exposure and carcinogenicity are all adequate and support the conclusion that there is a reasonable certainty of no harm resulting from the established and proposed uses of acetochlor.

ii. *U.S. general population—acetamides common nasal mechanism*. The Aggregate Exposure (chronic) estimate for acetochlor is given above as 1.29 x 10^{-5} mg/kg/day. Using Aggregate Exposure estimates and ED_{10} derived by Monsanto for alachlor, butachlor and metolachlor, and this refined Aggregate Exposure estimate for acetochlor, the Common Mechanism MOE for all four pesticides was calculated.

Because some of these active ingredients have more than one chronic rat study, MOE ED_{10} was calculated using the lowest or worst case ED_{10}'s. (The lowest ED_{10}'s were 8.5 mg/kg/day for alachlor, 40.7 mg/kg/day for acetochlor and 85.1 mg/kg/day for butachlor. For metolachlor there were insufficient data to estimate an ED_{10} and a worst-case value of 150 mg/kg/day was used. The aggregate exposure estimates used for alachlor, butachlor, and metolachlor were 1.7 x 10^{-5}, 5.2 x 10^{-7}, and 2.1 x 10^{-4} mg/kg/day, respectively.) The Combined Mechanism MOE relative to the ED_{10} was 268596. This MOE is sufficiently large to demonstrate that there is a reasonable certainty of no harm from cumulative exposure to these chloroacetamides even if they are considered to share a common toxic mechanism.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of acetochlor, EPA considers data from developmental studies in the rat and the rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure to female test animals. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals data on systemic toxicity and the survival, growth and development of the offspring.

Based on the current toxicological data requirements, the acetochlor data base is complete and sufficient for assessing prenatal and postnatal effects on children. There are two developmental studies with acetochlor in both the rat and the rabbit and there are two reproduction studies in the rat. In the four developmental studies and two reproduction studies with acetochlor, the fetal NOAEL's were either equal to or higher than the maternal (systemic) NOAEL's, indicating that there is no increased sensitivity for offspring. The NOAEL of 2 mg/kg/day in the dog study which was used to establish the RfD is lower than the lowest developmental NOAEL by a factor of 75, and lower than the lowest reproductive NOAEL by a factor of 10, suggesting that the RfD is appropriate for assessing aggregate risk to infants and children. The results of the acetochlor testing establishes that there is reasonable certainty of no harm to infants and children from the proposed uses of acetochlor.

The upper bound Aggregate Exposure for infants or children is 2.27 x 10^{-4} mg/kg/day, representing the combination of dietary exposure for non-nursing infants less than 1 year old (the most highly exposed subgroup) with potential short-term exposure to drinking water containing 2.0 ppb acetochlor. This potential short-term exposure provides a margin of safety of 660,793 when compared to the toxicological reference point of 150 mg/kg/day for acute dietary exposures. Chronic exposure at this level would utilize only 1.1% of the RfD. EPA generally has no concern about chronic exposures that utilize less than 100% of the RfD. Cancer risk assessment for children is considered to be included in the adult assessment because of the long induction period for carcinogenic effects. The cumulative risk assessment for chloroacetamides is based on the proposed common mechanism for induction of nasal tumors, a process requiring a long dosing period. Therefore, the data presented support the conclusion that there is a reasonable certainty of no harm to infants or children will result from the established and proposed uses for acetochlor.

F. International Tolerances

There are no Codex Alimentarius Commission (CODEX) Maximum Residue Levels established for residues of acetochlor on agricultural commodities.

II. Interregional Research Project Number 4

9E6025

EPA has received a pesticide petition (9E6025) from the Interregional Project Number 4 (IR-4), New Jersey

Agricultural Experiment Station, Rutgers University, New Brunswick, New Jersey 08903 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of pyridate, 0-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl carbonothioate and its metabolite 6-chloro-3-phenyl-pyridazine-4-ol (known as SAN 1367), and conjugates of SAN 1367 in or on the raw agricultural commodities peppermint tops and spearmint tops at 0.20 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition. This summary was prepared by Novartis Crop Protection, Inc., Greensboro, NC, 27419.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of pyridate in plants is well understood based on studies with broccoli, corn, and peanut. Pyridate is rapidly broken down by hydrolysis to its major degraded, SAN 1367. The SAN 1367 metabolite is further conjugated to glucoside and degraded.

2. *Analytical method*. The proposed analytical method is ''Method of Analysis of Determination of Residues of Pyridate and its Metabolites CL 9673 and Conjugated CL 9673 in Plant Materials.''

B. Toxicological Profile

1. *Acute toxicity*. Results of a rat acute oral study showed a lethal dose $(LD)_{50}$ of 4,690 mg/body weight (bwt)/day (5,993 mg/kg in males and 3,544 mg/kg in females).

In a rat acute dermal study, the LD_{50} was shown to be > 2,000 mg/kg. A rat acute inhalation study yielded a LD_{50} > 4.37 mg/milliliter (ml).

Results of a primary eye irritation study in the rabbit indicated that pyridate is a mild irritant.

A primary dermal irritation study showed pyridate to be a moderate skin irritant, whereas, a dermal sensitization study indicated it is a sensitizer.

2. *Genotoxicity*. Pyridate was tested in the Ames test, mouse micronucleus assay, chromosome aberration assay with Chinese hamster ovary cells (CHO), the REC assay, and rat hepatocyte unscheduled DNA synthesis assay. Results were negative for mutagenicity and chromosome aberrations.

3. *Reproductive and developmental toxicity*. A developmental toxicity study in the rat dosed at 0, 55, 165, 400, or 495 mg/kg/day showed a maternal no observed adverse effect level (NOAEL) of 165 mg/kg/day, and a developmental NOAEL > 495 mg/kg/day.

A developmental toxicity study in the rabbit with doses of 0, 150, 300, or 600 mg/kg/day showed a maternal NOAEL of 300 mg/kg/day and a developmental NOAEL > 600 mg/kg/day.

Results of a multi-generational reproduction study with rats dosed at 0, 2.2, 10.8, or 67.5 mg/kg/day showed a NOAEL of 10.8 mg/kg/day for maternal and developmental toxicity.

4. *Subchronic toxicity*. Results of a 21–day dermal study showed a NOAEL > 1,000 mg/kg. A 90–day feeding study in rats dosed at 0, 62.5, 177, and 500 mg/kg/day showed a NOAEL of 62.5 mg/kg/day. No neuropathological effects were found.

A 90–day feeding study in dogs with doses of 0, 20, 60, or 200 mg/kg/day showed a NOAEL of 20 mg/kg/day. Slight degenerative myelopathy in the peripheral nerves was observed at the highest dose level, which is much higher than the NOAEL and the expected exposure from field use.

5. *Chronic toxicity*. A 1–year feeding study in dogs was conducted with doses of 0, 5, 20 or 60 mg/kg/day for 34 weeks. After week 34, the doses were increased to 30, 100, or 150 mg/kg/day because no toxic effects were evident at the lower doses. The final results showed a systemic NOAEL of 20 mg/kg/day.

A lifespan (121 week) chronic/carcinogenicity study in rats treated with analytical levels of 0, 2.2, 10.8, or 67.5 mg/kg/day (equivalent to 0, 48, 240, or 1,500 ppm) showed a systemic NOAEL of 10.8 mg/kg/day (240 ppm) based on body weight depression. No carcinogenic potential was observed.

In an 18–month carcinogenicity study, mice were fed doses of 0, 400, 800, 1,600 or 7,000 ppm of pyridate. In males, dose levels were approximately 0, 47.7; 97.1; 169.5, and 882.6 mg/kg bwt/day; in females, dose levels were approximately 0, 54.5, 114.6, 204.3, and 1,044.6 mg/kg bwt/day with a NOAEL at 800 ppm (97.1 mg/kg in males and 114.6 mg/kg in females). Results showed no evidence of carcinogenicity.

Carcinogenicity. Existing data demonstrate that there is no evidence of carcinogenicity in rats at 1,500 ppm (67.5 mg/kg/day) or mice at 7,000 ppm (883 mg/kg bwt/day in males, and 1,044.6 mg/kg bwt/day in females). These data have been obtained at dosing in excess of any dietary exposure.

6. *Animal metabolism*. Pyridate has been tested in rats, dogs, cattle, goats, and hens. In every study, pyridate was hydrolyzed to SAN 1367 and rapidly excreted, primarily through the urine as SAN 1367 or its glucoside or glucuronide conjugates. Pyridate and its metabolites are not persistent and do not accumulate in animal systems.

C. Aggregate Exposure

1. *Dietary exposure*. Pyridate is registered for use in corn, peanut, and cabbage. The pending petition add the use in/on peppermint tops and spearmint tops. The potential dietary exposure of the population to residues of pyridate or its metabolites is calculated based on Theoretical Maximum Residue Contribution (TMRC) for all crops with pyridate use. The TMRC is a worst case estimate of dietary exposure since it assumes that 100% of all crops for which tolerances are established are treated with pyridate, and that pesticide residues are present at the tolerance levels. Novartis maintains that this method of calculation result in an overestimation of the exposure and is considered conservative. Dietary exposure is not expected in meat, milk, poultry, or eggs, based on cow and hen feeding studies, animal metabolism studies, and the fact the residue studies indicate that residues are not present in crops fed to animals above the limit of detection.

i. *Chronic effects*. The chronic population adjusted dose (cPAD) has been established based on the chronic toxicity data base. The cPAD = 0.11 mg/kg bwt/day based on the NOAEL of 10.8 from the lifespan rat carcinogenicity study due to body weight depression in males, and assuming a safety factor of 100.

ii. *Acute effects*. Acute dietary analysis compared the daily dietary exposure to the lowest NOAEL for subchronic studies. EPA's current policy for Tier I analysis uses the conservation assumption that all residues are at a high end estimate or maximum, typically taken as the tolerance value. Acute dietary assessment for pyridate was generated by comparing the ratio of exposure and the NOAEL from the 90–day feeding study in dogs of 20 mg/kg bwt/day to determine a margin of exposure (MOE). The exposure estimate includes all current and pending tolerances from Sandoz Agro, Inc. and IR-4. A MOE of 100 or more is considered acceptable. For all subgroups evaluated, the MOE is greater than 140,000.

2. *Drinking water*. Drinking water is not expected to be a means of exposure to pyridate. Environmental studies indicate that pyridate binds to the soil and is rapidly hydrolyzed into its

metabolites. The metabolites are then photolyzed and further degraded and finally mineralized to CO_2. Leaching studies and lysimeter studies indicate that under typical agricultural conditions, neither pyridate nor its metabolites were detected below 30 centimeters. Ground water monitoring studies conducted in Europe have not confirmed any detection of pyridate or metabolites. Therefore, significant movement of pyridate is not likely and is not a considerable factor in assessing human health risk.

3. *Non-dietary exposure.* There are no registered uses for pyridate on residential or recreational turf. Therefore, non-dietary exposure of pyridate is not likely and not a factor in assessing human health risk.

D. Cumulative Effects

Pyridate belongs to the pyridazine group of herbicidal compounds and has a unique mode of action in plants. Sandoz does not have data to indicate a common mechanism of toxicity to other compounds in humans. Therefore cumulative effects from common mechanisms of action are unlikely.

E. Safety Determination

1. *U.S. population.* The cPAD is calculated to be 0.11 mg/kg bwt/day. The estimates of exposure are based on conservative assumptions that all crops with a tolerance for pyridate are treated and that all residues found are at the maximum or tolerance level. The dietary exposure to the U.S. population for the current uses plus the corn grain, peanut butter, and cabbage uses is estimated at most to be 6.0×10^{-5} mg/kg/bwt/day, which is 0.1% of the cPAD. Therefore, Novartis concludes that there is reasonable certainty of no harm from aggregate exposure of residues of pyridate or its metabolites including all dietary and other non-occupational exposures.

2. *Infants and children.* Pyridate is not a reproductive or developmental toxicant. Therefore no specific effects on infants and children are expected. Based on the weight of evidence of the toxicity studies, an additional safety factor is not warranted.

Using the same assumptions as above, the exposure to infants and children is presented as a percent of cPAD. The dietary exposure for the current uses plus the corn grain, peanut butter, and cabbage uses for non-nursing infants is estimated as 1.25×10^{-4} mg/kg/bwt/day, which is 0.1% of the cPAD. For children age 1–6, the estimated exposure is 1.43×10^{-4} mg/kg/day, 0.1% of the cPAD. Therefore, Sandoz concludes that there is reasonable certainty of no harm from aggregate exposure of residues of pyridate or its metabolites including all dietary and other non-occupational exposures.

F. International Tolerances

No international tolerances have been established for pyridate on peppermint tops and spearmint tops by CODEX Alimentarius Commission.

[FR Doc. 00–1553 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–914; FRL–6486–8]

Notice of Filing Pesticide Petitions to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–914, must be received on or before February 23, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–914 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mary Waller, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9354; e-mail address: waller.mary@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be 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 codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have 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/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–914. 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 Highway, 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.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–914 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: ''*opp-docket@epa.gov* ,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–914. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 7, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

AgrEvo USA Company

PP 6F4693; 4F4380

EPA has received pesticide petitions (PP 6F4693, PP 4F4380) from AgrEvo USA Company, 2711 Centerville Road, Wilmington, DE 19808 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of flutolanil in or on the raw agricultural commodities potatoes at 0.20 parts per million (ppm), and potato waste (wet) at 0.40 ppm, rice at 2.0 ppm, rice straw at 12.0 ppm, and in or on the processed food commodities rice hulls at 7.0 ppm and rice bran at 3.0 ppm. EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on the petitions.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of flutolanil in plants is adequately understood for the purposes of this petition. Plant metabolism studies have been conducted in rice, cucumber, and peanuts. The metabolic profile for flutolanil was similar in all three crops. The major route of degradation was 4′-O-dealkylation to desisopropylflutolanil, followed by conjugation. Other metabolites may occur at very low levels due to hydroxylation and oxidation of the side chain, hydroxylation of the aniline ring, and methylation of the hydroxyl groups. These minor metabolites were also subject to conjugation. The residues of concern are the parent, flutolanil, and desisopropylflutolanil.

2. *Analytical method.* The analytical method designated AU-95R-04 has been independently validated and is adequate for enforcement purposes. A multi-residue method for flutolanil has been previously submitted to the EPA. The method is for use only by

experienced chemists who have demonstrated knowledge of the principles of trace organic analysis and have proven skills and abilities to run a complex residue analytical method, obtaining accurate results at the part per billion level. Users of this method are expected to perform additional method validation prior to using the method for either monitoring or enforcement. The method can detect gross misuse.

3. *Magnitude of residues*. Fourteen residue trials were conducted to determine the residues of flutolanil in potatoes after use as a seed piece protectant. Potato seed pieces were treated with flutolanil, planted, and the harvested potatoes analyzed for residues of flutolanil. In these studies, flutolanil-derived residues ranged from non-detectable (< 0.05 ppm) to 0.11 ppm in potato tubers.

A processing study was also conducted to support the use of flutolanil as a potato seed piece protectant. Concentration of residues was observed into wet peel (1.7x). No concentration was observed in potato granules, chips, or flakes.

B. Toxicological Profile

1. *Acute toxicity*. A battery of acute studies was conducted indicating an acute oral lethal dose^{50} (LD^{50}) of > 10,000 milligrams/kilograms (mg/kg) for rats and mice; an acute rat dermal LD^{50} of > 2,000 mg/kg; an acute rat inhalation LC^{50} of > 5.98 mg/L; no dermal irritation; slight eye irritation; and no evidence of dermal sensitization.

2. *Genotoxicity*. Flutolanil has been tested in a battery of *in vitro* and *in vivo* assays. No evidence of genotoxicity was noted in gene mutation assays with *Salmonella*, *E. coli* or mouse lymphoma cells; a mouse micronucleus assay, or in an *in vitro* unscheduled DNA synthesis assay. A weakly positive response was noted in an *in vitro* cytogenetics assay in Chinese hamster lung cells but no evidence of clastogenicity was noted in an *in vitro* cytogenetics assay in human lymphocytes. The overall weight of evidence indicates that flutolanil is not genotoxic.

3. *Reproductive and developmental toxicity*. A 3–generation rat reproduction study was conducted at dietary concentrations of 0, 1,000 and 10,000 ppm. The no observed adverse effect level (NOAEL) for this study is considered to be 1,000 ppm (equivalent to 63 mg/kg/day), based on reduced pup weights late in lactation at 10,000 ppm. Because the Agency considered this study supplementary, a 2–generation rat reproduction study was subsequently conducted at dietary concentrations of 200, 2,000 and 20,000 ppm (equivalent to 1,936 mg/kg/day). The Agency, however, has concluded that the NOAEL of the original study (63 mg/kg/day) should continue to be used for risk assessment.

4. *Subchronic toxicity.* A 90–day rat feeding study was conducted at dose levels of 500, 4,000 and 20,000 ppm. The NOAEL in this study was considered to be 500 ppm (equivalent to 37 mg/kg/day for males and 44 mg/kg/day for females) based on increased liver weights at 4,000 ppm and slightly decreased body weights at 20,000 ppm.

5. *Chronic toxicity*. In a 2–year chronic toxicity/oncogenicity study, flutolanil was administered to rats at dietary levels of 0, 40, 200, 2,000 and 10,000 ppm. The NOAEL was considered to be 2,000 ppm (86.9 mg/kg/day for males and 103.1 mg/kg/day for females) based on reduced body weight gain in males and increased liver weights in females at 10,000 ppm. No evidence of carcinogenicity was observed.

6. *Animal metabolism*. Studies in rats, ruminants and poultry suggest that flutolanil is not well-absorbed following oral administration. Once absorbed, however, it is rapidly metabolized, primarily to desisopropylflutolanil and its conjugates, and rapidly excreted via urine and feces.

7. *Endocrine effects*. No special studies have been conducted to investigate the potential of flutolanil to induce estrogenic or other endocrine effects. However, no evidence of such effects has been observed in the subchronic, chronic or reproductive studies previously discussed. Thus, the potential for flutolanil to cause endocrine effects is considered to be minimal.

8. *Toxicity endpoint selection*. Flutolanil is of low acute toxicity via all routes of administration and did not induce significant maternal or developmental toxicity in either rats or rabbits, even at the limit dose of 1,000 mg/kg/day. Furthermore, no evidence of toxicity was noted following repeated dosing at 1,000 mg/kg/day in a 21–day dermal toxicity study.

Thus, acute dietary, occupational and residential risk assessments are not considered necessary. The Agency has concluded that the chronic Referene Dose (RfD) for flutolanil should be 0.63 mg/kg/day, based on the NOAEL of 63 mg/kg/day from the first rat multigeneration reproduction study and a 100–fold Uncertainty Factor. The Agency has also determined that the carcinogenicity classification for flutolanil should be ''Group E--Evidence of Non-Carcinogenicity for Humans.''

C. Aggregate Exposure

1. *Dietary exposure*. Flutolanil is registered for use on rice, peanuts, and turf and ornamentals. Registration for use on potatoes as a seed piece treatment has been proposed. Potential sources of non-occupational exposure would consist of any potential residues in food and drinking water, and from uses of flutolanil on residential turf or ornamentals. As previously indicated, in the absence of any acute toxicity concerns, only chronic exposures have been evaluated.

i. *Food*. Time-limited tolerances have been previously established for flutolanil in/on rice commodities, and tolerances with no time limitations are established for peanut commodities, meat, milk, and eggs. Tolerances have been proposed for flutolanil on potatoes. Potential dietary exposures to flutolanil from these food commodities were assessed using the Exposure® 1 software system (TAS, Inc.) and food consumption data from the 1977–1978 USDA Continuing Surveys of Food Consumption by Individuals (CSFII). For the purposes of this assessment, it was assumed that 100% of all of the above commodities contained residues of flutolanil at the existing or proposed tolerance levels.

ii. *Drinking water*. The potential for flutolanil to leach into ground water has been assessed in two terrestrial field dissipation studies, a long-term terrestrial field dissipation study, and an aquatic field dissipation study. Under field conditions, the half-life of flutolanil varied from 101 to 123 days in the long-term field soil dissipation study, which was consistent with the other field studies, and was approximately 180 days in the aquatic environment. Flutolanil strongly adsorbs to soil following application and did not exhibit mobility under either terrestrial or aquatic conditions. The water solubility of flutolanil is quite low (equivalent to 5.0 ppm). Based on these environmental fate data and the conditions of use, the potential for movement of flutolanil into ground water is very low, and as such the potential contribution of any such residues to the total dietary intake of flutolanil will be negligible. No Maximum Contaminant Level or Health Advisory Level for residues of flutolanil in drinking water has been established.

2. *Non-dietary exposure*. As a professional use turf and ornamental fungicide, flutolanil is used primarily (> 95%) on golf courses for control of brown patch disease (*Rhizoctonia solani*). Very limited use of flutolanil may occur on commercial ornamental

turf by professional lawn care applicators or on sod farms. The product is rarely, if ever, used on homeowner turf due to the fact that the diseases it controls (Brown patch, Fairy ring, and snow molds) occur in high-fertility, high-maintenance turf (e.g., golf courses), not in homeowner lawns. Thus, non-dietary exposure to flutolanil would be minimal. Furthermore, no dermal toxicity endpoints of concern have been identified for flutolanil. Thus, an assessment of non-dietary exposure and risk is not considered to be necessary.

D. Cumulative Effects

Flutolanil has demonstrated only minimal toxicity in animal studies. The mechanism of this toxicity is unknown. Furthermore, there are no available data to indicate that flutolanil has a common mechanism of toxicity with other substances. Thus, only the potential risks from flutolanil are being considered in this document.

E. Safety Determination

1. *U.S. population*. Based on the existing and proposed tolerances in potatoes, rice, peanuts and, secondary commodities, the Theoretical Maximum Residue Contribution (TMRC) of the current action is estimated to be 0.001353 mg/kg/day for the U.S. population in general. This exposure would utilize less than 1% of the RfD. There is generally no concern for exposures below 100% of the RfD since the RfD represents the exposure level at or below which daily exposure over a lifetime will not pose any appreciable risks to human health. Therefore, there is a reasonable certainty that no harm will result in the U.S. population in general from aggregate exposure to flutolanil.

2. *Infants and children*. Data from reproductive and developmental toxicity studies are generally used to assess the potential for increased sensitivity of infants and children. No evidence of developmental toxicity was noted in rats or rabbits, even at the limit dose of 1,000 mg/kg/day. Reduced pup weights in the absence of parental toxicity were noted at the high-dose level (10,000 ppm) in a 3–generation rat reproduction study. However, no such effects were noted in a subsequent reproduction study, even at a higher dose level (20,000 ppm). Furthermore, the reduced weight gain in the first study began late in the lactation period, at a time when the pups were likely ingesting significant quantities of diet. Feed intake is much higher in young animals than in adults and the apparent increase in sensitivity may simply reflect the higher test material intake in these pups on a mg/kg basis compared to the adults. Thus, AgrEvo believes that the overall weight of evidence does not indicate any special concern for infants and children, and that no additional safety factor is necessary.

Based on the existing and proposed tolerances in rice, potatoes, peanuts, and secondary commodities, the TMRC from the current petition is estimated to be 0.006498 mg/kg/day for the most highly exposed subpopulation, non-nursing infants (less than 1 year old). This exposure would utilize approximately 1% of the RfD. Therefore, there is a reasonable certainty that no harm will result to infants or children from aggregate exposure to flutolanil.

F. International Tolerances

No Codex Alimentarius Commission (CODEX) tolerances have been established for flutolanil.

[FR Doc. 00–1551 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–911; FRL–6485–5]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–911, must be received on or before February 23, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–911 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Judy Loranger, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–8056; e-mail address: loranger.judy@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be 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 codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have 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/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–911. 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 (CM 2), 1921 Jefferson Davis Highway, 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.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–911 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, CM 2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3.*Electronically.* You may submit your comments electronically by e-mail to: *''opp-docket@epa.gov,''* or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–911. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 10, 2000.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summaries of Petitions

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Bird Shield Repellent Corporation has submitted the following summary of information, data, and arguments in support of their pesticide petitions. These summaries were prepared by Bird Shield Repellent Corporation and EPA has not fully evaluated the merits of the pesticide petition. The summaries may have been edited by EPA if the terminology used was unclear, the summaries contained extraneous material, or the summaries unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

I. Bird Shield Repellent Corporation

9F5055

EPA has received a pesticide petition 9F5055 from Bird Shield Repellent Corporation, P.O. Box 785, Pullman, WA 99163, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the biochemical pesticide methyl anthranilate in or on sunflower.

A. Product Name and Proposed Use Practices

The commercial name for the end use product containing methyl anthranilate (MA) is Bird Shield Repellent, EPA Reg. No. 66550–1. The product was approved for use as a bird repellent on cherries, blueberries and grapes on October 3, 1995. The active ingredient, methyl anthranilate, is a natural constituent of concord and heavy red grapes. It is listed by the U.S. Food and Drug Administration (FDA) as a flavoring compound under 21 CFR 182.60 and is classified as a Generally Recognized as Safe (GRAS) compound by the Expert panel of the Flavoring and Extract Manufacturer's Association (FEMA No. 2682). An exemption from the requirement of a tolerance for the active ingredient, methyl anthranilate for cherries, blueberries and grapes under 40 CFR 180.1143 became effective on April 26, 1995, as published in the **Federal Register** (60 FR 20432) (FRL–4941–8).

The mode of action is physical whereby the repellent irritates the bird's taste buds, olfactory sensors and skin. For this petition, methyl anthranilate is

sprayed in a water solution at a rate of 0.2862 pounds (lbs) per acre to sunflowers twice at 7-day intervals until harvest. Applications to the crop can be applied up to 2 days before harvest.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* Methyl anthranilate is a common component of concord and other red grapes as well as neroli, ylang-ylang, bergamot, jasmine and other essential oils. It is synthetically obtained by esterifying anthranilic acid with methanol in the presence of hydrochloric acid. In its crystalline form it is slightly soluble in water and freely soluble in alcohol or ether. Methyl anthranilate is commonly used as a perfume for ointments and cosmetics, and a flavoring agent in confectionary products, drugs and beverages. Methyl anthranilate readily volatilizes under ultraviolet (uv) light and elevated temperatures.

2. *Magnitude of residue at the time of harvest and method used to determine the residue.* Residue studies, using gas chromatography and mass spectrometry, show no residues at the time of harvest. No residues of methyl anthranilate are expected to occur at the time of harvest and thus the purpose for proposing an exemption from the requirement of a tolerance.

3. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* The analytical method for detecting and measuring the levels of the residue is described above.

C. Mammalian Toxicological Profile

Methyl anthranilate is approved by the FDA for food use as an artificial flavoring and fragrance agent. Bird Shield Repellent Corporation has reviewed the acute toxicological studies associated with these approvals and conducted additional studies for verification. Summaries of these studies are presented below:

1. *Mammalian.* Methyl anthranilate exhibits little or no mammalian toxicity. Methyl anthranilate metabolizes in the intestine when consumed. The lethal $dose_{50}$ (LD_{50}) values for methyl anthranilate were estimated to be greater than 5,000 milligrams/kilograms (mg/kg) in an acute oral toxicity study in rats (Toxicity category IV) and greater than 2,000 mg/kg in an acute dermal toxicity study in rats (Toxicity category III). The LC_{50} value in an acute inhalation study in rats was determined to be greater 2.24 mg/liters (L) (Toxicity category IV). Methyl anthranilate was found to cause moderate irritation in a rabbit skin irritation assay and corneal effects that cleared in 8 to 21 days in a rabbit eye irritation assay.

2. *Avian.* Methyl anthranilate exhibits little or no avian toxicity. Methyl anthranilate's irritating properties to avian species preclude ingestion. In an acute oral avian toxicity study, methyl anthranilate was found to be practically non-toxic to bobwhite quail. In a dietary study, methyl anthranilate was determined to be practically non-toxic to mallard ducks. Based on these studies, Bird Shield Repellent Corporation concludes that methyl anthranilate poses no unique or additional risk to avian species.

D. Aggregate Exposure

1. *Dietary exposure* —i. *Food.* The active ingredient in Bird Shield Repellent Concentrate, methyl anthranilate, is applied at a rate of 0.2862 lbs per acre. Because of the low use rates, no active ingredient residues are detectable using available methods on treated crops even immediately after application. Because of it's volatility, and degradation when exposed to ultraviolet light and elevated temperatures, no residues are expected at harvest. Dietary exposure to methyl anthranilate, via consumption of the treated food or feed, is expected to be low to negligible.

ii. *Drinking water.* The active ingredient is unlikely to be found in drinking water given the very low application rate and rapid degradation in soil.

2. *Non-dietary exposure.* Bird Shield Repellent Corporation believes that the potential for non-dietary exposure to the general population, including infants and children, is unlikely as the proposed use is primarily to the external, non-edible portions of the crop. This mode of application would not be expected to pose any quantifiable risks due to lack of residues of toxicological concern. Increased non-dietary exposure of methyl anthranilate is not considered likely because of the low use rates and the lack of persistence of the active ingredient.

E. Cumulative Exposure

Consideration of a common mode of toxicity is not appropriate given there is no indication of mammalian toxicity of methyl anthranilate and no information that indicates that the toxic effects would be cumulative with any other compounds. Moreover, methyl anthranilate does not exhibit a toxic mode of action in its target species.

F. Safety Determination

1. *U.S. population.* Methyl anthranilate's lack of toxicity has been demonstrated by the results of acute toxicity testing in mammals in which the chemical caused no adverse effects when dosed orally and via inhalation at the limit dose for each study. Thus the aggregate exposure to methyl anthranilate over a lifetime should pose negligible risks to human health.

2. *Infants and children.* Based on the lack of toxicity and low exposure there is reasonable certainty of no harm to infants, children or adults from aggregate exposure to the chemical's residues. Exempting methyl anthranilate from the requirement of a tolerance should pose no significant risk to human health or the environment.

G. Effects on the Immune and Endocrine Systems

Bird Shield Repellent Corporation has no information to suggest that methyl anthranilate will adversely affect the immune or endocrine systems.

H. Existing Tolerances

An exemption from the requirement of a tolerance for the active ingredient, methyl anthranilate for cherries, blueberries and grapes under 40 CFR 180.1143 became effective in the **Federal Register** of April 26, 1995 (60 FR 20432).

I. International Tolerances

Bird Shield Repellent Corporation is not aware of any tolerance, exemption from tolerance or maximum residue levels (MRLs) issued for methyl anthranilate outside the United States.

II. Bird Shield Repellent Corporation

9F5056

EPA has received a pesticide petition 9F5056 from Bird Shield Repellent Corporation, P.O. Box 785, Pullman, WA 99163, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the biochemical pesticide methyl anthranilate in or on corn.

A. Product Name and Proposed Use Practices

The commercial name for the end use product containing methyl anthranilate is Bird Shield Repellent, EPA Reg. No. 66550–1. The product was approved for use as a bird repellent on cherries, blueberries and grapes on October 3, 1995. The active ingredient, methyl anthranilate, is a natural constituent of concord and heavy red grapes. It is listed by the FDA as a flavoring compound under 21 CFR 182.60 and is classified as a GRAS compound by the Expert panel of FEMA No. 2682. An

exemption from the requirement of a tolerance for the active ingredient, methyl anthranilate for cherries, blueberries and grapes under 40 CFR 180.1143 became effective on April 26, 1995 as published in the **Federal Register** (60 FR 20432) (FRL–4941–8).

The mode of action is physical whereby the repellent irritates the bird's taste buds, olfactory sensors and skin. For this petition, methyl anthranilate is sprayed in a water solution at a rate of 0.2862 pounds (lbs.) per acre to corn twice and may be reapplied at 5 to 10 day intervals until harvest. Applications to the crop can be applied up to 2 days before harvest.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* Methyl anthranilate is a common component of concord and other red grapes as well as neroli, ylang-ylang, bergamot, jasmine and other essential oils. It is synthetically obtained by esterifying anthranilic acid with methanol in the presence of hydrochloric acid. In its crystalline form it is slightly soluble in water and freely soluble in alcohol or ether. Methyl anthranilate is commonly used as a perfume for ointments and cosmetics, and a flavoring agent in confectionary products, drugs and beverages. Methyl anthranilate readily volatilizes under ultraviolet (uv) light and elevated temperatures.

2. *Magnitude of residue at the time of harvest and method used to determine the residue.* Residue studies, using gas chromatograph and mass spectrometry, show no residues at the time of harvest. No residues of methyl anthranilate are expected to occur at the time of harvest and thus the purpose for proposing an exemption from the requirement of a tolerance.

3. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* The analytical method for detecting and measuring the levels of the residue is described above.

C. Mammalian Toxicological Profile

Methyl anthranilate is approved by the FDA for food use as an artificial flavoring and fragrance agent. Bird Shield Repellent Corporation has reviewed the acute toxicological studies associated with these approvals and conducted additional studies for verification. Summaries of these studies are presented below:

1. *Mammalian.* Methyl anthranilate exhibits little or no mammalian toxicity. Methyl anthranilate metabolizes in the intestine when consumed. The LD_{50} values for methyl anthranilate were estimated to be greater than 5,000 mg/kg in an acute oral toxicity study in rats (Toxicity category IV) and greater than 2,000 mg/kg in an acute dermal toxicity study in rats (Toxicity category III). The LC_{50} value in an acute inhalation study in rats was determined to be greater 2.24 mg/L (Toxicity category IV). Methyl anthranilate was found to cause moderate irritation in a rabbit skin irritation assay and corneal effects that cleared in 8 to 21 days in a rabbit eye irritation assay.

2. *Avian.* Methyl anthranilate exhibits little or no avian toxicity. Methyl anthranilate's irritating properties to avian species preclude ingestion. In an acute oral avian toxicity study, methyl anthranilate was found to be practically non-toxic to bobwhite quail. In a dietary study, methyl anthranilate was determined to be practically non-toxic to mallard ducks. Based on these studies, Bird Shield Repellent Corporation concludes that methyl anthranilate poses no unique or additional risk to avian species.

D. Aggregate Exposure

1. *Dietary exposure* —i. *Food.* The active ingredient in Bird Shield Repellent Concentrate, methyl anthranilate, is applied at a rate of 0.2862 lbs per acre. Because of the low use rates, no active ingredient residues are detectable using available methods on treated crops even immediately after application. Because of its volatility, and degradation when exposed to ultraviolet light and elevated temperatures, no residues are expected at harvest. Dietary exposure to methyl anthranilate, via consumption of the treated food or feed, is expected to be low to negligible.

ii. *Drinking water.* The active ingredient is unlikely to be found in drinking water given the very low application rate and rapid degradation in soil.

2. *Non-dietary exposure.* Bird Shield Repellent Corporation believes that the potential for non-dietary exposure to the general population, including infants and children, is unlikely as the proposed use is primarily to the external, non-edible portions of the crop. This mode of application would not be expected to pose any quantifiable risks due to lack of residues of toxicological concern. Increased non-dietary exposure of methyl anthranilate is not considered likely because of the low use rates and the lack of persistence of the active ingredient.

E. Cumulative Exposure

Consideration of a common mode of toxicity is not appropriate given there is no indication of mammalian toxicity of methyl anthranilate and no information that indicates that the toxic effects would be cumulative with any other compounds. Moreover, methyl anthranilate does not exhibit a toxic mode of action in its target species.

F. Safety Determination

1. *U.S. population.* Methyl anthranilate's lack of toxicity has been demonstrated by the results of acute toxicity testing in mammals in which the chemical caused no adverse effects when dosed orally and via inhalation at the limit dose for each study. Thus the aggregate exposure to methyl anthranilate over a lifetime should pose negligible risks to human health.

2. *Infants and children.* Based on the lack of toxicity and low exposure there is reasonable certainty of no harm to infants, children or adults from aggregate exposure to the chemical's residues. Exempting methyl anthranilate from the requirement of a tolerance should pose no significant risk to human health or the environment.

G. Effects on the Immune and Endocrine Systems

Bird Shield Repellent Corporation has no information to suggest that methyl anthranilate will adversely affect the immune or endocrine systems.

H. Existing Tolerances

An exemption from the requirement of a tolerance for the active ingredient, methyl anthranilate for cherries, blueberries and grapes under 40 CFR 180.1143 became effective on April 26, 1995 (60 FR 20432).

I. International Tolerances

Bird Shield Repellent Corporation is not aware of any tolerance, exemption from tolerance or MRL's issued for methyl anthranilate outside the United States.

[FR Doc. 00–1550 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–910; FRL–6484–9]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of

regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–910, must be received on or before February 23, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–910 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Susanne Cerrelli, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308–8077; e-mail address: Cerrelli.susanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be 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	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have 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/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–910. 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 (CM 2), 1921 Jefferson Davis Highway, 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.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–910 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, CM 2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: *''opp-docket@epa.gov,''* or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–910. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your

response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 5, 2000.

Janet L. Andersen,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

Prophyta Biologischer Pflanzenschutz GmbH

Pesticide Petition 9F6038

EPA has received a pesticide petition (PP) 9F6038 from Prophyta Biologischer Pflanzenschutz GmbH, Inselstrabe 12, D–23999 Malchow/Poel, Germany, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the microbial pesticide *Coniothyrium minitans* strain CON/M/91–08.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Prophyta Biologischer Pflanzenschutz GmbH has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by Prophyta Biologischer Pflanzenschutz GmbH and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product Name and Proposed Use Practices

Coniothyrium minitans strain CON/M/91–08 is proposed for use to control *Sclerotinia* species in the soil of any agricultural crop. The end-use product, CONTANS®WG, is applied as a spray to the soil, which is followed with mechanical incorporation (i.e., rotating) into the first one to two inches of the top soil layer. The product is applied as a preplant treatment, 3 to 4 months prior to planting the crop, or as a postharvest treatment to plant residues.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues. Coniothyrium minitans* strain CON/M/91–08 is the active ingredient in the proposed end-use product CONTANS® WG. CONTANS® WG is currently registered for use in Germany and Switzerland. An application for inclusion of the active ingredient (*Coniothyrium minitans* strain CON/M/91–08) in Annex I of Council Directive 91/414/EEC on the marketing of plant-protection products was sanctioned in 1998 and was published in the European Union Gazette.

Coniothyrium minitans was first described after isolation from *sclerotia* of *Sclerotinia sclerotiorum* in California in 1947 and has been investigated as a pesticide over the last 20 years. The occurrence of *Coniothyrium minitans* in the soil has been reported from many countries all over the world.

Coniothyrium minitans strain CON/M/91–08 is a naturally occurring soil fungus that primarily attacks and infects *sclerotia*. When the host organism (*sclerotia*) is present, *Coniothyrium minitans* starts to develop a vegetative organism and infects the host. The *Coniothyrium minitans* population decreases when the number of vital *sclerotia* drops. The vegetative organism disappears and the fungus rests in a spore stage. The spores of *Coniothyrium minitans* can survive ungerminated in disintegrated *sclerotia* for at least 1 year, and the fungus can be recovered from soil in *sclerotia* for up to 18 months following application. However, at soil temperatures above 25 °C, isolation of *Coniothyrium minitans* from *sclerotia* is not possible after 6 months.

2. *Magnitude of residue at the time of harvest and method used to determine the residue.* An analytical method for detecting and measuring the levels of residues is not applicable. *Coniothyrium minitans* strain CON/M/91–08 is applied to the soil and immediately mixed into the top soil layer prior to planting the crop, or after harvest. It is not applied to growing crops directly. Residues of *Coniothyrium minitans* strain CON/M/91–08 are not expected on agricultural commodities.

3. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* An analytical method for detecting and measuring the levels of residues is not applicable. *Coniothyrium minitans* strain CON/M/91–08 is applied to the soil and immediately mixed into the top soil layer prior to planting the crop, or after harvest. It is not applied to growing crops directly. Residues of *Coniothyrium minitans* strain CON/M/91–08 are not expected on agricultural commodities.

C. Mammalian Toxicological Profile

CONTANS® WG, the end-use product which contains 5.3% active ingredient, was evaluated for acute toxicity through oral, dermal, inhalation and eye routes of exposure. The results of the studies indicated Toxicity Category III or IV, which pose no significant human health risks.

The acute oral toxicity of *Coniothyrium minitans* strain CON/M/91–08 in rats is greater than 2,500 milligrams per kilograms (mg/kg) (Toxicity Category III), the highest dose tested. The acute dermal toxicity of *Coniothyrium minitans* strain CON/M/91–08 in rats is greater than 2,500 mg/kg (Toxicity Category III), the highest dose tested. The acute intraperitoneal toxicity of *Coniothyrium minitans* strain CON/M/91–08 to rats is greater than 2,000 mg/kg, the highest does tested. The acute inhalation of *Coniothyrium minitans* strain CON/M/91–08 in rats is greater than 12.74 milligrams per liter (mg/L) of air (Toxicity Category IV). Eye irritation in rabbits was not observed at a dose of 0.1 milliliter (ml) (Toxicity Category IV). Skin irritation in rabbits was not observed at a dose of 0.5 ml (Toxicity Category IV). No dermal sensitization was observed in guinea pigs (Toxicity Category IV). Since its discovery in 1947, no incidents of hypersensitivity have been reported by researchers, manufacturers, or users.

A waiver is being requested for acute oral toxicity/pathogenicity, acute dermal toxicity/pathogenicity and acute pulmonary toxicity/pathogenicity data requirements, based on the fact that the active ingredient is not able to grow at temperatures above 32 °C, and thus would not be pathogenic or infective to humans. A growth temperature study has been submitted to support the waiver request. Additionally, acute toxicity studies have determined the end-use product containing the organism is not toxic, irritating or

sensitizing to test animals. Finally, the organism has never been reported as a pathogen of humans, or as causing any type of adverse effect to humans, in published literature or through commercial use.

D. Aggregate Exposure

1. *Dietary exposure* —i. *Food*. Dietary exposure from use of *Coniothyrium minitans* strain CON/M/91–08, as proposed, is minimal. *Coniothyrium minitans* strain CON/M/91–08 is applied to the soil and immediately mixed into the top soil layer prior to planting the crop, or after harvest. It is not applied to growing crops directly. Residues of *Coniothyrium minitans* strain CON/M/91–08 are not expected on agricultural commodities.

ii. *Drinking water*. Exposure to humans from residues of *Coniothyrium minitans* strain CON/M/91–08 in consumed drinking water would be unlikely. In a study to investigate the leaching behavior of *Coniothyrium minitans* strain CON/M/91–08, it was determined that there is no motility of the organism in the soil. Thus, it would not be possible for the organism to leach into drinking water. Also, due to the specific requirements for growth of *Coniothyrium minitans* strain CON/M/91–08, it is not likely that the organism could survive or persist in water.

2. *Non-dietary exposure*. The potential for non-dietary exposure to the general population, including infants and children, is unlikely as the proposed use sites are commercial, agricultural and horticultural settings. However, non-dietary exposures would not be expected to pose any quantifiable risk due to a lack of residues of toxicological concern.

Personal protective equipment (PPE) mitigates the potential for exposure to applicators and handlers of the proposed products, when used in commercial, agricultural and horticultural settings.

E. Cumulative Exposure

It is not expected that, when used as proposed, *Coniothyrium minitans* strain CON/M/91–08 would result in residues that would remain in human food items.

F. Safety Determination

1. *U.S. population. Coniothyrium minitans* strain CON/M/91–08 does not grow at temperatures above 32 °C, and thus would not be pathogenic or infective to humans. There have been no reports of toxins or secondary metabolites associated with the organism, and acute toxicity studies have shown that *Coniothyrium minitans* strain CON/M/91–08 is nontoxic, nonirritating and nonsensitizing when applied to test animals.

Coniothyrium minitans strain CON/M/91–08 is applied to soil and immediately mixed into the top soil layer prior to planting the crop, or after harvest. It is not applied to growing crops directly. Residues of *Coniothyrium minitans* strain CON/M/91–08 are not expected on agricultural commodities, and therefore, exposure to the general U.S. population, from the proposed uses, is not anticipated.

2. *Infants and children*. As mentioned above, residues of *Coniothyrium minitans* strain CON/M/91–08 are not expected on agricultural commodities. There is a reasonable certainty of no harm for infants and children from exposure to *Coniothyrium minitans* strain CON/M/91–08 from the proposed uses.

G. Effects on the Immune and Endocrine Systems

Coniothyrium minitans strain CON/M/91–08 is a naturally occurring, nonpathogenic soil organism. To date there is no evidence to suggest that *Coniothyrium minitans* strain CON/M/91–08 functions in a manner similar to any known hormone, or that it acts as an endocrine disrupter.

H. Existing Tolerances

There are no existing tolerances for this ingredient.

I. International Tolerances

A Codex Alimentarium Commission Maximum Residue Level (MRL) is not required for *Coniothyrium minitans* strain CON/M/91–08.

[FR Doc. 00–1552 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181072; FRL–6485–7]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted or denied emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. These exemptions or denials were issued during the period between January 1, 1999, through December 15, 1999, to control unforseen pest outbreaks. The actions detailed in this document do not represent every FIFRA section 18 emergency exemption decision issued by EPA during the above time period.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption or denial for the name of a contact person. The following information applies to all contact persons: Team Leader, Emergency Response Team, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (703) 308–9366.

SUPPLEMENTARY INFORMATION: EPA has granted or denied emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. EPA has also listed denied emergency exemption requests in this notice.

I. General Information

A. Does This Action Apply to Me?

You may be potentially affected by this action if you petition EPA for authorization under section 18 of FIFRA to use pesticide products which are otherwise unavailable for a given use. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
State and Territorial government agencies charged with pesticide authority	9241	State agencies that petition EPA for section 18 pesticide use authorization

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed in the table in this unit could also be regulated. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in

determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions. 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 or Copies of This Document or Other 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–181072. 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. Background

Under FIFRA section 18, EPA can authorize the use of a pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A ''specific exemption'' authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.

2. ''Quarantine'' and ''public health'' exemptions are a particular form of specific exemption issued for quarantine or public health purposes. These are rarely requested.

3. A ''crisis exemption'' is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in ''a reasonable certainty of no harm'' to human health, including exposure of residues of the pesticide to infants and children.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the ''reasonable certainty of no harm standard'' of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document: EPA identifies the State or Federal agency granted the exemption or denial, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, number of acres (if applicable), and the duration of the exemption. EPA also gives the **Federal Register** citation for the time-limited tolerance, if any.

III. Emergency Exemptions and Denials

A. U.S. States and Territories

Alabama

Department of Agriculture and Industries

Crisis: On August 24, 1999, for the use of tebufenozide on pasture land to control fall army worms. This program ended on October 31, 1999. Contact: Barbara Madden

On August 26, 1999, for the use of spinosad on soybeans to control caterpillars. This program ended on September 10, 1999. Contact: Andrew Ertman

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; April 9, 1999, to December 31, 1999. Contact: Barbara Madden

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm; June 14, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of emamectin benzoate on cotton to control beet armyworm and tobacco budworm; August 3, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of tebufenozide in pasture land to control fall army worms; September 17, 1999, to October 31, 1999. Contact: Barbara Madden

Arizona

Department of Agriculture

Denial: On October 21, 1999 EPA denied the use of fipronil on cotton to control Lygus bugs. This request was denied because the claim of resistance was not fully substantiated. Contact: Andrew Ertman.

Specific: EPA authorized the use of tebuconazole on garlic to control garlic rust; May 19, 1999, to December 31, 1999. Contact: Steve Schaible

EPA authorized the use of metolachlor on spinach to control weeds; September 16, 1999, to May 15, 2000. Contact: Andrew Ertman

EPA authorized the use of coumaphos in beehives to control varroa mite and small hive beetle October 27, 1999, to October 21, 2000. Contact: Barbara Madden

Arkansas

State Plant Board

Crisis: On June 8, 1999, for the use of sodium chlorate on wheat as a harvest aid. This program ended on June 22, 1999. Contact: Libby Pemberton

On August 9, 1999, for the use of maleic hydrazide on rice to control red rice. This program ended on August 24, 1999. Contact: Steve Schaible

Denial: On February 16, 1999 EPA denied the use of bispyribac-sodium on rice to control Bermuda grass. This request was denied because at this time the Agency is not able to reach a ''reasonable certainty of no harm'' finding regarding health effects which may result if this use were to occur. Additionally, EPA is unable at this time to conclude that there will not be unacceptable adverse effects to the environment, including non-target organisms, endangered species, and ground water resources. Bispyribac-sodium is an unregistered chemical for which EPA has minimal data previously reviewed. Contact: David Deegan.

On May 6, 1999 EPA denied the use of fenoxaprop-ethyl on rice to control Bermuda grass. This request was denied because this formulation of the pesticide included a new and unregistered inert ingredient, for which the Agency does not have adequate amounts of previously reviewed data with which it is able to reach a ''reasonable certainty of no harm'' finding regarding health effects which may result if this use were to occur. Contact: David Deegan.

Specific: EPA authorized the use of carbofuran flowable formulation on cotton to control aphids; April 30, 1999,

to September 30, 1999. Contact: David Deegan

EPA authorized the use of coumaphos in beehives to control varroa mite and small hive beetle June 3, 1999, to June 3, 2000. Contact: Barbara Madden

EPA authorized the use of emamectin benzoate on cotton to control beet armyworm June 4, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm June 14, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of emamectin benzoate on cotton to control tobacco budworm June 18, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of tebufenozide on cotton to control beet armyworm June 18, 1999, to September 30, 1999. Contact: Andrea Beard

California

Environmental Protection Agency, Department of Pesticide Regulation

Crisis: On July 19, 1999, for the use of spinosad on blackeyed beans to control leafminers. This program ended on October 1, 1999. Contact: Andrew Ertman

On November 1, 1999, for the use of paraquat on artichokes to control various weeds and grasses. This program ended on November 1, 2000. Contact: Libby Pemberton

Specific: EPA authorized the use of tebuconazole on barley to control barley stripe rust; April 9, 1999, to August 15, 1999. Contact: Steve Schaible

EPA authorized the use of carfentrazone-ethyl on rice to control California arrowhead and Ricefield bulrush; April 22, 1999, to August 15, 1999. Contact: Steve Schaible

EPA authorized the use of carbofuran flowable formulation on cotton to control aphids; April 30, 1999, to October 15, 1999. Contact: David Deegan

EPA authorized the use of tebuconazole on pistachios to control Alternaria late blight and Botryosphaeria panicle and shoot blight; May 4, 1999, to September 15, 1999. Contact: Steve Schaible

EPA authorized the use of hexythiazox on cotton to control various spider mites; May 6, 1999, to August 1, 1999. Contact: David Deegan

EPA authorized the use of propamocarb hydrochloride on tomatoes to control late blight; May 20, 1999, to May 19, 2000. Contact: Libby Pemberton

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; May 25, 1999, to May 25, 2000. Contact: Libby Pemberton

EPA authorized the use of avermectin on basil to control leafminer; June 15, 1999, to September 30, 1999. Contact: Barbara Madden

EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetles; July 23, 1999, to July 20, 2000. Contact: Barbara Madden

EPA authorized the use of imidacloprid on turnip greens and garden beets to control aphids; August 30, 1999, to August 6, 2000. Contact: Andrew Ertman

EPA authorized the use of avermectin on celeriac to control two spotted spider mite; September 10, 1999, to September 10, 2000. Contact: Dan Rosenblatt

EPA authorized the use of carboxin on onion seed to control onion smut; September 30, 1999, to May 31, 2000. Contact: Steve Schaible

EPA authorized the use of cyromazine on onion seed to control onion maggots; October 5, 1999, to May 31, 2000. Contact: Steve Schaible

EPA authorized the use of paraquat on artichokes to control various weeds and grasses; November 3, 1999, to November 3, 2000. Contact: Libby Pemberton

EPA authorized the use of tebuconazole on garlic to control garlic rust; November 4, 1999, to July 3, 2000. Contact: Steve Schaible

EPA authorized the use of spinosad on agricultural commodities to control exotic fruit flies in quarantine certification programs throughout the State; November 8, 1999, to November 8, 2002. Contact: Dan Rosenblatt

EPA authorized the use of imidacloprid on strawberries to control whiteflies; December 24, 1999, to December 23, 2000. Contact: Andrea Beard

Colorado

Department of Agriculture

Specific: EPA authorized the use of lambda-cyhalothrin on barley to control the Russian wheat aphid; May 13, 1999, to June 15, 1999. Contact: Andrew Ertman

EPA authorized the use of imazamox on dry beans to control various nightshade species and velvetleaf; June 1, 1999, to July 15, 1999. Contact: Barbara Madden

EPA authorized the use of propiconazole on dry beans to control rust; July 1, 1999, to August 31, 1999. Contact: Steve Schaible

EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetles; July 23, 1999, to July 20, 2000. Contact: Barbara Madden

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 21, 1999, to September 17, 2000. Contact: Andrew Ertman

Connecticut

Department of Environmental Protection

Specific: EPA authorized the use of propiconazole on blueberries to control mummy berry disease; March 15, 1999, to June 30, 1999. Contact: Steve Schaible

EPA authorized the use of coumaphos in beehives to control varroa mite and small hive beetle September 2, 1999, to August 31, 2000. Contact: Barbara Madden

Delaware

Department of Agriculture

Specific: EPA authorized the use of chlorpropham on spinach to control chickweed; March 1, 1999, to March 5, 2000. Contact: David Deegan

EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; March 24, 1999, to March 24, 2000. Contact: Barbara Madden

EPA authorized the use of myclobutanil on cucurbit vegetables to control powdery mildew; July 16, 1999, to September 30, 1999. Contact: David Deegan

Florida

Department of Agriculture and Consumer Services

Crisis: On January 15, 1999, for the use of tebufenozide on lychee to control Lychee webworm. This program is expected to end on March 1, 2000. Contact: Barbara Madden

On March 2, 1999, for the use of tebufenozide on longan to control Lychee webworm. This program is expected to end on March 1, 2000. Contact: Barbara Madden

On May 19, 1999, for the use of naled in bait stations to control Oriental fruit fly. This program is expected to end on September 9, 2000. Contact: Dan Rosenblatt

Quarantine: EPA authorized the use of naled in bait stations to control the Oriental fruit fly; September 9, 1999, to September 9, 2002. Contact: Dan Rosenblatt

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; January 1, 1999, to January 1, 2000. Contact: Barbara Madden

EPA authorized the use of tebufenozide on lychee to control Lychee webworm; March 4, 1999, to March 1, 2000. Contact: Barbara Madden

EPA authorized the use of tebufenozide on longan to control Lychee webworm; March 4, 1999, to March 4, 2000. Contact: Barbara Madden

EPA authorized the use of myclobutanil on strawberries to control powdery mildew; March 18, 1999, to December 31, 1999. Contact: Steve Schaible

EPA authorized the use of Switch 62.5 WG containing the active ingredients fludioxonil and cyprodinil on strawberries to control gray mold; April 8, 1999, to May 15, 1999. Contact: Steve Schaible

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm; June 14, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of imidacloprid on citrus to control the citrus leafminer and brown citrus aphid; July 1, 1999, to June 30, 2000. Contact: Andrew Ertman

EPA authorized the use of imidacloprid on legume vegetables Crop Group 6 to control silverleaf whitefly; September 27, 1999, to September 27, 2000. Contact: Andrea Beard

Georgia

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; January 1, 1999, to January 1, 2000. Contact: Barbara Madden

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm; June 14, 1999, to September 30, 1999. Contact: Andrea Beard

Hawaii

Department of Agriculture

Specific: EPA authorized the use of myclobutanil on watermelon to control powdery mildew; May 8, 1999, to May 7, 2000. Contact: David Deegan

Idaho

Department of Agriculture

Crisis: On March 15, 1999, for the seed treatment use of fosetyl-Al on peas to control downy mildew. This program ended on June 1, 1999. Contact: Steve Schaible

On June 23, 1999, for the use of cymoxanil on hops to control downy mildew. This program ended on September 10, 1999. Contact: Libby Pemberton

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; February 1, 1999, to February 1, 2000. Contact: Barbara Madden

EPA authorized the seed treatment use of fosetyl-Al on peas to control downy mildew; March 29, 1999, to June 1, 1999. Contact: Steve Schaible

EPA authorized the use of tebuconazole on barley to control barley stripe rust; April 23, 1999, to August 15, 1999. Contact: Steve Schaible

EPA authorized the use of myclobutanil on hops to control powdery mildew; April 27, 1999, to September 22, 1999. Contact: David Deegan

EPA authorized the use of tebuconazole on hops to control powdery mildew; April 27, 1999, to September 22, 1999. Contact: David Deegan

EPA authorized the use of imazamox on dry beans to control various nightshade species and velvetleaf; May 1, 1999, to July 1, 1999. Contact: Barbara Madden

EPA authorized the use of pyridate on mint to control redroot pigweed and kochia; May 1, 1999, to December 31, 1999. Contact: Barbara Madden

EPA authorized the use of paraquat dichloride on green peas grown for seed and dry peas to control weeds; May 25, 1999, to November 30, 1999. Contact: Libby Pemberton

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; June 10, 1999, to June 10, 2000. Contact: Libby Pemberton

EPA authorized the use of trifloxystrobin on hops to control powdery mildew; June 28, 1999, to September 22, 1999. Contact: Dave Deegan

EPA authorized the use of cyhexatin on hops to control Two-spotted spider mites; July 1, 1999, to September 20, 1999. Contact: David Deegan

EPA authorized the use of difenoconazole on sweet corn seed to control damping-off and die-back diseases; September 3, 1999, to September 3, 2000. Contact: Andrea Beard

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 8, 1999, to August 31, 2000. Contact: Andrew Ertman

EPA authorized the use of flufenacet on wheat to control Italian ryegrass or annual ryegrass; October 4, 1999, to June 30, 2000. Contact: Barbara Madden

Illinois

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; April 20, 1999, to April 20, 2000. Contact: Barbara Madden

EPA authorized the use of fomesafen on snap beans to control weeds; June 25, 1999, to August 31, 1999. Contact: Andrea Beard

EPA authorized the use of tebufenozide on apples to control the tufted apple bud moth; July 15, 1999, to August 31, 1999. Contact: Andrew Ertman

Indiana

Office of Indiana State Chemist

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; April 5, 1999, to April 5, 2000. Contact: Barbara Madden

EPA authorized the use of pyridate on mint to control redroot pigweed; May 1, 1999, to December 31, 1999. Contact: Barbara Madden

Iowa

Department of Agriculture and Land Stewardship

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; March 9, 1999, to March 8, 2000. Contact: Barbara Madden

Kansas

Department of Agriculture

Crisis: On June 11, 1999, for the use of metsulfuron-methyl on sorghum to control weeds. This program ended on August 15, 1999. Contact: Andrew Ertman

On August 18, 1999, for the use of bifenthrin on sorghum grown for seed to control Banks grass mite. This program ended on September 2, 1999. Contact: Andrea Beard

Denial: On May 5, 1999 EPA denied the use of propazine on sorghum to control broadleaf weeds. This request was denied because aggregate risk from the triazine herbicides exceeds the level the Agency considers to represent ''a reasonable certainty of no harm.'' Contact: Steve Schaible.

Specific: EPA authorized the use of propiconazole on dry beans to control rust; June 1, 1999, to August 15, 1999. Contact: Steve Schaible

EPA authorized the use of metsulfuron-methyl on sorghum to control weeds; June 11, 1999, to August 15, 1999. Contact: Andrew Ertman

EPA authorized the use of propiconazole on grain sorghum to control sorghum ergot; July 31, 1999, to September 30, 1999. Contact: Steve Schaible

Kentucky

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; October 28, 1999, to October 28, 2000. Contact: Barbara Madden

Louisiana

Department of Agriculture and Forestry

Crisis: On May 4, 1999, for the use of tebufenozide on rice to control fall armyworm. This program ended on September 1, 1999. Contact: Barbara Madden

On June 4, 1999, for the use of tebufenozide on sweet potatoes to control the beet armyworm. This program ended on October 31, 1999. Contact: Andrew Ertman

On June 23, 1999, for the use of tebufenozide on pasture land to control fall army worms. This program ended on October 15, 1999. Contact: Barbara Madden

On July 14, 1999, for the use of azoxystrobin on soybeans to control

aerial blight. This program ended on August 30, 1999. Contact: Jacqueline Gwaltney

On July 17, 1999, for the use of tebufenozide on soybeans to control fall armyworms. This program ended on August 2, 1999. Contact: Andrew Ertman

Denial: On August 23, 1999 EPA denied the use of clomazone on sugarcane to control Bermudagrass. This request was denied because EPA's review concluded that the situation was not an emergency. Weed control has become somewhat more problematic as total acreage in cultivation has increased, however this does not constitute an ''urgent and non-routine'' situation. Contact: David Deegan.

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; March 5, 1999, to March 5, 2000. Contact: Barbara Madden

EPA authorized the use of carbofuran flowable formulation on cotton to control aphids; March 15, 1999, to September 30, 1999. Contact: David Deegan

EPA authorized the use of maleic hydrazide on rice to control red rice; June 1, 1999, to September 30, 1999. Contact: Steve Schaible

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm; June 14, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of emamectin benzoate on cotton to control beet armyworm; June 18, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of tebufenozide on cotton to control beet armyworm; June 18, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of azoxystrobin on soybean to control aerial blight; July 1, 1999, to August 30, 1999. Contact: Jacqueline Gwaltney

EPA authorized the use of tebufenozide on sweet potatoes to control the beet armyworm; July 16, 1999, to October 31, 1999. Contact: Andrew Ertman

EPA authorized the use of emamectin benzoate on cotton to control tobacco budworm; August 3, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of tebufenozide on pasture land to control fall army worms; September 17, 1999, to October 15, 1999. Contact: Barbara Madden

Maine

Department of Agriculture, Food, and Rural Resources

Specific: EPA authorized the use of oxyfluorfen on strawberries to control field pansy and wood sorrel; October 15, 1998 to October 15, 1999. Contact: Barbara Madden

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; May 25, 1999, to May 25, 2000. Contact: Libby Pemberton

EPA authorized the use of propiconazole on blueberries to control mummy berry disease; April 15, 1999, to June 15, 1999. Contact: Steve Schaible

EPA authorized the use of coumaphos in beehives to control varroa mite and small hive beetle August 11, 1999, to August 5, 2000. Contact: Barbara Madden

Maryland

Department of Agriculture

Crisis: On July 7, 1999, for the use of fenpropathrin on soybean to control two-spotted spider mites. This program ended on September 30, 1999. Contact: Jacqueline Gwaltney

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; February 18, 1999, to February 17, 2000. Contact: Barbara Madden

EPA authorized the use of chlorpropham on spinach to control chickweed; March 1, 1999, to March 5, 2000. Contact: David Deegan

EPA authorized the use of propamocarb hydrochloride on tomatoes to control late blight; June 3, 1999, to June 3, 2000. Contact: Libby Pemberton

EPA authorized the use of metolachlor on spinach to control weeds; July 9, 1999, to April 30, 2000. Contact: Andrew Ertman

EPA authorized the use of fenpropathrin in soybeans to control two-spotted spider mite; July 15, 1999, to September 30, 1999. Contact: Jacqueline Gwaltney

EPA authorized the use of myclobutanil on cucurbit vegetables to control powdery mildew; July 16, 1999, to September 30, 1999. Contact: David Deegan

Massachusetts

Department of Food and Agriculture

Specific: EPA authorized the use of propiconazole on blueberries to control mummy berry disease; April 22, 1999, to June 15, 1999. Contact: Steve Schaible

EPA authorized the use of pyridaben on cranberry to control Southern red mites; May 13, 1999, to August 31, 1999. Contact: David Deegan

EPA authorized the use of spinosad on cranberries to control sparganothis fruitworm; May 24, 1999, to August 15, 1999. Contact: Andrew Ertman

EPA authorized the use of coumaphos in beehives to control varroa mite and small hive beetle June 3, 1999, to June 3, 2000. Contact: Barbara Madden

Michigan

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; April 9, 1999, to September 30, 1999. Contact: Barbara Madden

EPA authorized the use of tebuconazole on wheat to control Fusarium head blight; May 6, 1999, to June 30, 1999. Contact: Steve Schaible

EPA authorized the use of myclobutanil on asparagus to control asparagus rust; May 13, 1999, to November 1, 1999. Contact: David Deegan

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; June 18, 1999, to June 18, 2000. Contact: Libby Pemberton

EPA authorized the use of fomesafen on snap beans to control redroot pigweed and puncturevine; June 25, 1999, to August 30, 1999. Contact: Andrea Beard

EPA authorized the use of myclobutanil on cucurbit vegetables to control powdery mildew; July 16, 1999, to November 1, 1999. Contact: David Deegan

EPA authorized the use of triazamate on sugar beets to control root aphids; July 30, 1999, to September 15, 1999. Contact: Steve Schaible

Minnesota

Department of Agriculture

Crisis: On July 7, 1999, for the use of glufosinate-ammonium on sweet corn to control weeds. This program ended on July 15, 1999. Contact: Barbara Madden

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites; January 1, 1999, to January 1, 2000. Contact: Barbara Madden

EPA authorized the use of imazamox on imidazolinone tolerant canola to control wild mustard; March 8, 1999, to July 15, 1999. Contact: Barbara Madden

EPA authorized the use of ethalfluralin on canola to control kochia; March 30, 1999, to December 31, 1999. Contact: David Deegan

EPA authorized the use of tetraconazole on sugarbeets to control cercospora leaf spot; April 7, 1999, to September 30, 1999. Contact: David Deegan

EPA authorized the use of tebuconazole on barley and wheat to control Fusarium head blight; April 9, 1999, to August 25, 1999. Contact: Steve Schaible

EPA authorized the use of imazamox on dry beans to control various nightshade species and velvetleaf; May 1, 1999, to June 30, 1999. Contact: Barbara Madden

EPA authorized the use of propamocarb hydrochloride on potatoes

to control late blight; June 10, 1999, to June 10, 2000. Contact: Libby Pemberton

EPA authorized the use of propiconazole on dry beans to control rust; June 20, 1999, to August 31, 1999. Contact: Steve Schaible

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 9, 1999, to August 31, 2000. Contact: Andrew Ertman

Mississippi

Department of Agriculture and Commerce

Crisis: On August 12, 1999, for the use of spinosad on soybeans to control caterpillars. This program ended on August 27, 1999. Contact: Andrew Ertman

Denial: On July 2, 1999 EPA denied the use of fipronil on cotton to control the tarnished plant bug. This request was denied because effective registered pesticides are available and significant economic losses are not expected even under high pest pressure. Contact: Andrew Ertman.

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; January 25, 1999, to January 25, 2000. Contact: Barbara Madden

EPA authorized the use of carbofuran flowable formulation on cotton to control aphids; March 15, 1999, to September 15, 1999. Contact: David Deegan

EPA authorized the use of emamectin benzoate on cotton to control beet armyworm and tobacco budworm; June 4, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm; June 14, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of tebufenozide in cotton to control beet armyworm; June 18, 1999, to September 30, 1999. Contact: Andrea Beard

Missouri

Department of Agriculture

Specific: EPA authorized the use of carbofuran flowable formulation on cotton to control aphids; July 9, 1999, to September 30, 1999. Contact: David Deegan

EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; September 29, 1999, to September 29, 2000. Contact: Barbara Madden

Montana

Department of Agriculture

Crisis: On May 4, 1999, for the use of azoxystrobin on sugar beets to control rhizoctonia crown and root rot. This program ended on July 1, 1999. Contact: Jacqueline Gwaltney

On August 19, 1999, for the use of lambda-cyhalothrin on canola to control lygus bugs. This program ended on September 2, 1999. Contact: Andrew Ertman

Denial: On May 25, 1999 EPA denied the use of dimethenamid on sugar beets to control hairy nightshade and redroot pigweed. This request was denied based on the determination that situation is routine, not urgent, and nor are growers likely to suffer from significant economic losses if the request is denied. Contact: Barbara Madden.

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites; February 18, 1999, to February 18, 2000. Contact: Barbara Madden

EPA authorized the use of ethalfluralin on canola to control kochia; March 30, 1999, to December 31, 1999. Contact: David Deegan

EPA authorized the use of imazamox on dry beans to control various nightshade species and velvetleaf; May 1, 1999, to June 30, 1999. Contact: Barbara Madden

EPA authorized the use of pyridate on mint to control redroot pigweed and kochia; May 1, 1999, to December 31, 1999. Contact: Barbara Madden

EPA authorized the use of azoxystrobin on sugar beets to control rhizoctonia crown and root rot; May 1, 1999, to July 1, 1999. Contact: Jacqueline Gwaltney

EPA authorized the use of lambda-cyhalothrin on canola to control flea beetles; May 18, 1999, to June 30, 1999. Contact: Andrew Ertman

EPA authorized the use of paraquat dichloride on dry peas to control weeds; May 25, 1999, to November 30, 1999. Contact: Libby Pemberton

EPA authorized the use of triazamate on sugar beets to control root aphids; July 30, 1999, to September 15, 1999. Contact: Steve Schaible

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 10, 1999, to August 31, 2000. Contact: Andrew Ertman

Nebraska

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; March 12, 1999, to March 12, 2000. Contact: Barbara Madden

EPA authorized the use of propiconazole on dry beans to control rust; June 15, 1999, to August 1, 1999. Contact: Steve Schaible

EPA authorized the use of triazamate on sugar beets to control root aphids; July 30, 1999, to August 31, 1999. Contact: Steve Schaible

EPA authorized the use of imazapic-ammonium on pastureland/rangeland including land in the Conservation Reserve Program to control leafy spurge; August 30, 1999, to August 30, 2000. Contact: Libby Pemberton

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 10, 1999, to August 31, 2000. Contact: Andrew Ertman

Nevada

Department of Agriculture

Specific: EPA authorized the use of tebuconazole on garlic to control garlic rust; May 19, 1999, to June 15, 1999. Contact: Steve Schaible

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 21, 1999, to September 17, 2000. Contact: Andrew Ertman

New Hampshire

Department of Agriculture

Specific: EPA authorized the use of propiconazole on blueberries to control mummy berry disease; April 1, 1999, to August 1, 1999. Contact: Steve Schaible

New Jersey

Department of Environmental Protection

Crisis: On April 8, 1999, for the use of propiconazole on blueberries to control mummy berry disease. This program ended on June 30, 1999. Contact: Steve Schaible

Specific: EPA authorized the use of chlorpropham on spinach to control chickweed; March 1, 1999, to March 5, 2000. Contact: David Deegan

EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; March 10, 1999, to March 9, 2000. Contact: Barbara Madden

EPA authorized the use of propiconazole on blueberries to control mummy berry; April 22, 1999, to June 30, 1999. Contact: Steve Schaible

EPA authorized the use of imidacloprid on blueberries to control blueberry aphids; May 14, 1999, to August 15, 1999. Contact: Andrew Ertman

EPA authorized the use of imidacloprid on blueberries to control the oriental beetle; May 14, 1999, to August 15, 1999. Contact: Andrew Ertman

EPA authorized the use of imidacloprid on cranberries to control the cranberry rootworm; May 14, 1999, to September 1, 1999. Contact: Andrew Ertman

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; May 25, 1999, to May 25, 2000. Contact: Libby Pemberton

EPA authorized the use of propamocarb hydrochloride on tomatoes to control late blight; June 3, 1999, to June 3, 2000. Contact: Libby Pemberton

New Mexico

Department of Agriculture

Specific: EPA authorized the use of propiconazole on grain sorghum to control sorghum ergot; June 1, 1999, to September 30, 1999. Contact: Steve Schaible

EPA authorized the use of tebufenozide on cotton to control beet armyworm; June 18, 1999, to September 30, 1999. Contact: Andrea Beard

New York

Department of Environmental Conservation

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; March 9, 1999, to March 8, 2000. Contact: Barbara Madden

EPA authorized the use of desmedipham on garden beets to control broadleaf weeds; April 27, 1999, to July 31, 1999. Contact: Steve Schaible

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; May 25, 1999, to May 25, 2000. Contact: Libby Pemberton

EPA authorized the use of myclobutanil on cucurbit vegetables to control powdery mildew; July 16, 1999, to September 30, 1999. Contact: David Deegan

North Carolina

Department of Agriculture

Crisis: On September 20, 1999, for the use of cyfluthrin and permethrin on livestock carcasses to control blowflies. Severe flooding from Hurricane Floyd gave rise to this public health crisis. This program ended on October 20, 1999. Contact: Steve Schaible

Denial: On July 2, 1999 EPA denied the use of clopyralid on apples to control clover. This request was denied based on the determination that the request does not meet the criteria of an emergency in accordance with 40 CFR section 166.3d. Contact: Barbara Madden.

On August 18, 1999 EPA denied the use of fluazinam on peanuts to control Sclerotinia blight. This request was denied because at this time the Agency's is not able to reach a ''reasonable certainty of no harm'' finding regarding health effects which may result if this use were to occur. Additionally, EPA is unable at this time to conclude that there will not be unacceptable adverse effects to the environment, including non-target organisms, endangered species, and ground water resources. Fluazinam is an unregistered chemical for which EPA has minimal data previously reviewed. Contact: Barbara Madden.

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; February 19, 1999, to February 19, 2000. Contact: Barbara Madden

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm; June 14, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of myclobutanil on cucurbit vegetables to control powdery mildew; July 16, 1999, to September 30, 1999. Contact: David Deegan

North Dakota

Department of Agriculture

Denial: On September 27, 1999, EPA denied the use of ethalfluralin on crambe to control kochia. This request was denied based on the determination that the described situation is routine and chronic, and does not therefore meet the established criteria under which EPA grants emergency exemptions. Contact: David Deegan

Crisis: On June 25, 1999, for the use of clopyralid on flax and crambe to control canada thistle and perennial sowthistle. This program ended on July 31, 1999. Contact: Libby Pemberton

On June 18, 1999, for the use of sethoxydim on buckwheat to control volunteer grains and foxtail. This program ended on July 18, 1999. Contact: Libby Pemberton

On July 8, 1999, for the use of paraquat on dry peas to control weeds. This program ended on September 15, 1999. Contact: Libby Pemberton

On August 6, 1999, for the use of lambda-cyhalothrin on flax to control grasshoppers. This program ended on August 20, 1999. Contact: Andrew Ertman

Specific: EPA authorized the use of imazamox on imidazolinone tolerant canola to control wild mustard; March 8, 1999, to July 15, 1999. Contact: Barbara Madden

EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; March 10, 1999, to March 9, 2000. Contact: Barbara Madden

EPA authorized the use of ethalfluralin on canola to control kochia; March 30, 1999, to December 31, 1999. Contact: David Deegan

EPA authorized the use of tetraconazole on sugarbeets to control cercospora leaf spot; April 7, 1999, to September 30, 1999. Contact: David Deegan

EPA authorized the use of tebuconazole on barley and wheat to control Fusarium head blight; April 9, 1999, to August 25, 1999. Contact: Steve Schaible

EPA authorized the use of imazamox on dry beans to control various nightshade species and velvetleaf; May 1, 1999, to June 30, 1999. Contact: Barbara Madden

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; May 25, 1999, to May 25, 2000. Contact: Libby Pemberton

EPA authorized the use of propiconazole on dry beans to control rust; June 20, 1999, to August 31, 1999. Contact: Steve Schaible

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 10, 1999, to August 31, 2000. Contact: Andrew Ertman

Ohio

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; April 26, 1999, to February 26, 2000. Contact: Barbara Madden

EPA authorized the use of myclobutanil on caneberries to control orange rust; May 28, 1999, to October 31, 1999. Contact: Dave Deegan

EPA authorized the use of oxyfluorfen on strawberries to control broadleaf weeds; June 20, 1999, to December 15, 1999. Contact: Barbara Madden

EPA authorized the use of myclobutanil on cucurbit vegetables to control powdery mildew; July 16, 1999, to September 30, 1999. Contact: David Deegan

Oklahoma

Department of Agriculture

Crisis: On June 28, 1999, for the use of metsulfuron-methyl on sorghum to control weeds. This program ended on September 15, 1999. Contact: Andrew Ertman

On September 3, 1999, for the use of bifenthrin on peanuts to control Banks grass mites. This program ended on October 30, 1999. Contact: Andrea Beard

Denial: On August 18, 1999 EPA denied the use of fluazinam on peanuts to control Sclerotinia blight. This request was denied because at this time the Agency's is not able to reach a ''reasonable certainty of no harm'' finding regarding health effects which may result if this use were to occur. Additionally, EPA is unable at this time to conclude that there will not be unacceptable adverse effects to the environment, including non-target organisms, endangered species, and ground water resources. Fluazinam is an unregistered chemical for which EPA has minimal data previously reviewed. Contact: Barbara Madden.

Specific: EPA authorized the use of carbofuran flowable formulation on cotton to control aphids; March 15, 1999, to October 15, 1999. Contact: David Deegan

EPA authorized the use of emamectin benzoate on cotton to control beet armyworm June 4, 1999, to October 31, 1999. Contact: Andrea Beard

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm; June 14, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of propiconazole on grain sorghum to control sorghum ergot; June 15, 1999, to September 30, 1999. Contact: Steve Schaible

EPA authorized the use of tebufenozide on cotton to control beet armyworm; June 18, 1999, to October 31, 1999. Contact: Andrea Beard

EPA authorized the use of metsulfuron-methyl on sorghum to control weeds; June 28, 1999, to September 15, 1999. Contact: Andrew Ertman

EPA authorized the use of dicloran on peanuts to control Sclerotinia blight; July 15, 1999, to October 15, 1999. Contact: Barbara Madden

EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetles; July 23, 1999, to July 20, 2000. Contact: Barbara Madden

EPA authorized the use of tebufenozide on peanuts to control beet armyworm; July 30, 1999, to October 15, 1999. Contact: Barbara Madden

Oregon

Department of Agriculture

Crisis: On March 26, 1999 for the use of tebuconazole Folicur 3.6 F Foliar Fungicide on hops to control powdery mildew. The state had requested a specific exemption for the use prior to the crisis declaration; the requested expiration date in the specific exemption was September 1, 1999. Contact: David Deegan

On April 29, 1999 for the use of Switch 62.5 WG containing the active ingredients fludioxonil and cyprodinil on caneberries to control gray mold. The state had requested a specific exemption for the use prior to the crisis declaration; the requested expiration date in the specific exemption was Septemeber 10, 1999. Contact: Steve Schaible

On May 12, 1999 for the use of Switch 62.5 WG containing the active ingredients fludioxonil and cyprodinil on strawberries to control gray mold. The state had requested a specific exemption for the use prior to the crisis declaration; the requested expiration date in the specific exemption was July 7, 1999. Contact: Steve Schaible

On July 1, 1999, for the use of cymoxanil on hops to control downy mildew. This program ended on September 10, 1999. Contact: Libby Pemberton

Denial: On September 20, 1999 EPA denied the uses of prohexadione calcium on apples and pears to control fire blight. These requests were denied because at this time the Agency's is not able to reach a ''reasonable certainty of no harm'' finding regarding health effects which may result if this use were to occur. Additionally, EPA is unable at this time to conclude that there will not be unacceptable adverse effects to the environment. Prohexadione Calcium is an unregistered chemical for which EPA has minimal data previously reviewed. Contact: Andrea Beard.

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites; February 1, 1999, to February 1, 2000. Contact: Barbara Madden

EPA authorized the use of ethoprop on baby hops and idle hops to control garden symphylans; March 24, 1999, to May 31, 1999. Contact: Steve Schaible

EPA authorized the use of tebuconazole on barley to control barley stripe rust; April 23, 1999, to August 15, 1999. Contact: Steve Schaible

EPA authorized the use of myclobutanil on hops to control powdery mildew; April 27, 1999, to September 22, 1999. Contact: David Deegan

EPA authorized the use of tebuconazole on hops to control powdery mildew; April 27, 1999, to September 22, 1999. Contact: David Deegan

EPA authorized the use of pyridate on mint to control redroot pigweed and kochia; May 1, 1999, to December 31, 1999. Contact: Barbara Madden

EPA authorized the use of propiconazole on raspberries to control yellow rust; May 18, 1999, to November 1, 1999. Contact: Steve Schaible

EPA authorized the use of paraquat dichloride on green peas grown for seed and dry peas to control weeds; May 25, 1999, to November 30, 1999. Contact: Libby Pemberton

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; May 25, 1999, to May 25, 2000. Contact: Libby Pemberton

EPA authorized the use of triazamate on true fir Christmas trees to control root aphids; May 27, 1999, to October 31, 1999. Contact: Steve Schaible

EPA authorized the use of trifloxystrobin on hops to control powdery mildew; June 28, 1999, to September 22, 1999. Contact: Dave Deegan

EPA authorized the use of fludioxonil on stone fruit to control brown rot, gray mold and Rhizopus rot; July 14, 1999, to September 30, 1999. Contact: Andrew Ertman

EPA authorized the use of propyzamide on grasses grown for seed to control grassy weeds; July 15, 1999, to January 20, 2000. Contact: Andrew Ertman

EPA authorized the use of Switch 62.5 WG containing the active ingredients fludioxonil and cyprodinil on caneberries to control gray mold; July 22, 1999, to September 10, 1999. Contact: Steve Schaible

EPA authorized the use of ethoprop on baby mint to control garden symphylans; August 17, 1999, to September 15, 1999. Contact: Steve Schaible

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 8, 1999, to August 31, 2000. Contact: Andrew Ertman

EPA authorized the use of flufenacet on wheat to control Italian ryegrass or annual ryegrass; October 4, 1999 through to June 30, 2000. Contact: Barbara Madden

Pennsylvania

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; January 1, 1999, to January 1, 2000. Contact: Barbara Madden

EPA authorized the use of myclobutanil on cucurbit vegetables to control powdery mildew; July 16, 1999, to September 30, 1999. Contact: David Deegan

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 3, 1999, to August 31, 2000. Contact: Andrew Ertman

EPA authorized the use of oxyfluorfen on strawberries to control field pansy, wood sorrel and groundsel; October 15, 1999, to December 15, 1999. Contact: Barbara Madden

Rhode Island

Department of Environmental Management

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; May 13, 1999, to May 13, 2000. Contact: Barbara Madden

South Carolina

Clemson University

Crisis: On April 8, 1999, for the use of the product Switch, containing the active ingredients fludioxonil and cyprodinil on strawberries to control gray mold. This program ended on June 15, 1999. Contact: Steve Schaible

On May 18, 1999, for the use of fludioxonil on stone fruit to control brown rot. This program ended on September 1, 1999. Contact: Andrew Ertman

Specific: EPA authorized the use of coumaphos in beehives to control varroa

mites and small hive beetle; January 1, 1999, to January 1, 2000. Contact: Barbara Madden

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm; June 14, 1999, to September 30, 1999. Contact: Andrea Beard

South Dakota

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; March 23, 1999, to March 23, 2000. Contact: Barbara Madden

EPA authorized the use of pendimethalin on mint to control kochia and redroot pigweed; March 31, 1999, to November 1, 1999. Contact: Steve Schaible

EPA authorized the use of tebuconazole on barley and wheat to control Fusarium head blight; June 5, 1999, to August 25, 1999. Contact: Steve Schaible

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; October 18, 1999, to June 30, 2000. Contact: Andrew Ertman

EPA authorized the use of imazapic-ammonium on pastureland and rangeland to control leafy spurge; October 25, 1999, to October 25, 2000. Contact: Libby Pemberton

Tennessee

Department of Agriculture

Crisis: On May 28, 1999, for the use of sulfentrazone on cowpeas and lima beans to control hophornbeam copperleaf. This program ended on September 30, 1999. Contact: Barbara Madden

Denial: On April 19, 1999 EPA denied the use of acifluorfen on lima beans, Southern peas, and cowpeas to control hophornbeam copperleaf. This request was denied because at this time, EPA is unable to make the safety finding required under the Food Quality Protection Act FQPA of 1996. Therefore, tolerances necessary under the Federal Food Drug and Cosmetic Act FFDCA, section 40816 can not be extended. Contact: Barbara Madden.

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; February 12, 1999, to February 11, 2000. Contact: Barbara Madden

EPA authorized the use of sulfentrazone on cowpeas and lima beans to control hophornbeam copperleaf; June 1, 1999, to September 30, 1999. Contact: Barbara Madden

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm; June 14, 1999, to September 30, 1999. Contact: Andrea Beard

Texas

Department of Agriculture

Crisis: On June 28, 1999, for the use of metsulfuron-methyl on sorghum to control weeds. This program ended on July 12, 1999. Contact: Andrew Ertman

On September 8, 1999 for the use of fenbuconazole on grapefruit to control greasy spot. This program ended on October 1, 1999. Contact: Dan Rosenblatt

Denial: On March 9, 1999 EPA denied the use of diclosulam on peanuts to control weeds. This request was denied because adequate alternatives are available to control the weeds specified in this request. Contact: Barbara Madden.

On March 12, 1999 EPA denied the use of propazine on sorghum to control broadleaf weeds. This request was denied because aggregate risk from the triazine herbicides exceeds the level the Agency considers to represent a reasonable certainty of no harm. Contact: Steve Schaible

Specific: EPA authorized the use of tebuconazole on wheat to control leaf rust; March 12, 1999, to June 30, 1999. Contact: Steve Schaible

EPA authorized the use of carbofuran flowable formulation on cotton to control aphids; March 15, 1999, to September 30, 1999. Contact: David Deegan

EPA authorized the use of propiconazole on grain sorghum to control sorghum ergot; May 19, 1999, to December 31, 1999. Contact: Steve Schaible

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; May 25, 1999, to May 25, 2000. Contact: Libby Pemberton

EPA authorized the use of tebufenozide on cotton to control beet armyworm; June 10, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of emamectin benzoate on cotton to control beet armyworm; June 10, 1999, to October 1, 1999. Contact: Andrea Beard

EPA authorized the use of chlorfenapyr on cotton to control beet armyworm; June 14, 1999, to September 30, 1999. Contact: Andrea Beard

EPA authorized the use of coumaphos in beehives to control varroa mite and small hive beetle June 28, 1999, to June 28, 2000. Contact: Barbara Madden

EPA authorized the use of dicloran on peanuts to control Sclerotinia blight; July 1, 1999, to October 31, 1999. Contact: Barbara Madden

EPA authorized the use of metolachlor on spinach to control weeds; July 1, 1999, to July 1, 2000. Contact: Andrew Ertman

EPA authorized the use of myclobutanil on cucurbit vegetables to control powdery mildew; July 16, 1999, to April 15, 2000. Contact: David Deegan

EPA authorized the use of bifenthrin on sorghum grown for seed to control Banks grass mite; August 24, 1999, to August 23, 2000. Contact: Andrea Beard

EPA authorized the use of fenbuconazole on grapefruit to control greasy spot; October 1, 1999, to October 1, 2000. Contact: Dan Rosenblatt

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; October 14, 1999, to September 29, 2000. Contact: Andrew Ertman

EPA authorized the use of norflurazon on bermudagrass to control annual grassy weeds; November 9, 1999, to November 9, 2000. Contact: Libby Pemberton

Utah

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control varroa mite; June 9, 1999, to June 8, 2000. Contact: Barbara Madden

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 30, 1999, to September 21, 2000. Contact: Andrew Ertman

Virginia

Department of Agriculture and Consumer Services

Denial: On August 18, 1999 EPA denied the use of fluazinam on peanuts to control Sclerotinia blight. This request was denied because at this time the Agency's is not able to reach a ''reasonable certainty of no harm'' finding regarding health effects which may result if this use were to occur. Additionally, EPA is unable at this time to conclude that there will not be unacceptable adverse effects to the environment, including non-target organisms, endangered species, and ground water resources. Fluazinam is an unregistered chemical for which EPA has minimal data previously reviewed. Contact: Barbara Madden.

On September 17, 1999, EPA denied the use of Acibenzolar on tomatoes to control bacterial diseases. This request was denied because at this time the Agency's is not able to reach a ''reasonable certainty of no harm'' finding regarding health effects which may result if this use were to occur. Additionally, EPA is unable at this time to conclude that there will not be unacceptable adverse effects to the environment. Acibenzolar is an unregistered chemical for which EPA has minimal data previously reviewed. Contact: Andrea Beard.

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; June 14,

1999, to June 10, 2000. Contact: Barbara Madden

EPA authorized the use of myclobutanil on cucurbit vegetables to control powdery mildew; July 16, 1999, to October 31, 1999. Contact: David Deegan

EPA authorized the use of chlorpropham on spinach to control chickweed; December 1, 1999, to April 30, 2000. Contact: David Deegan

Washington

Department of Agriculture

Crisis: On February 26, 1999, for the use of flufenacet on wheat to control Italian ryegrass or annual ryegrass . This program ended on May 31, 1999. Contact: Barbara Madden

On April 28, 1999, for the use of Switch 62.5 WG containing the active ingredients fludioxonil and cyprodinil on caneberries to control gray mold. The state had requested a specific exemption for the use prior to the crisis declaration; the requested expiration date in the specific exemption was September 10, 1999. Contact: Steve Schaible

On May 11, 1999, for the use of Switch 62.5 WG containing the active ingredients fludioxonil and cyprodinil on strawberries to control gray mold. The state had requested a specific exemption for the use prior to the crisis declaration; the requested expiration date in the specific exemption was July 22, 1999. Contact: Steve Schaible

On July 2, 1999, for the use of imazamox on dry bean to control nightshade and velvetleaf. This program ended on/is expected to end on August 15 , 1999. Contact: Barbara Madden

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites and small hive beetle; February 1, 1999, to February 1, 2000. Contact: Barbara Madden

EPA authorized the seed treatment use of fosetyl-Al on peas to control downy mildew; March 1, 1999, to April 30, 1999. Contact: Steve Schaible

EPA authorized the use of propiconazole on blueberries to control mummy berry disease; March 15, 1999, to June 10, 1999. Contact: Steve Schaible

EPA authorized the use of propiconazole on cranberries to control cottonball disease; April 19, 1999, to July 31, 1999. Contact: Steve Schaible

EPA authorized the use of tebuconazole on barley to control barley stripe rust; April 23, 1999, to August 15, 1999. Contact: Steve Schaible

EPA authorized the use of myclobutanil on hops to control powdery mildew; April 27, 1999, to September 22, 1999. Contact: David Deegan

EPA authorized the use of tebuconazole on hops to control powdery mildew; April 27, 1999, to September 22, 1999. Contact: David Deegan

EPA authorized the use of pyridate on mint to control redroot pigweed and kochia; May 1, 1999, to December 31, 1999. Contact: Barbara Madden

EPA authorized the use of propiconazole on raspberries to control yellow rust; May 18, 1999, to July 1, 1999. Contact: Steve Schaible

EPA authorized the use of paraquat dichloride on green peas grown for seed and dry peas to control weeds; May 25, 1999, to May 30, 1999. Contact: Libby Pemberton

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; May 25, 1999, to May 25, 2000. Contact: Libby Pemberton

EPA authorized the use of triazamate on true fir Christmas trees to control root aphids; May 27, 1999, to October 31, 1999. Contact: Steve Schaible

EPA authorized the use of pirimicarb on vegetable seed crops to control aphids; June 18, 1999, to September 15, 1999. Contact: Steve Schaible

EPA authorized the use of trifloxystrobin on hops to control powdery mildew; June 24, 1999, to September 22, 1999. Contact: Dave Deegan

EPA authorized the use of cyhexatin on hops to control Two-spotted spider mites; July 1, 1999, to September 20, 1999. Contact: David Deegan

EPA authorized the use of imazamox on dry beans to control nightshade and velvetleaf; July 2, 1999, to August 15, 1999. Contact: Barbara Madden

EPA authorized the use of Switch 62.5 WG containing the active ingredients fludioxonil and cyprodinil on caneberries to control gray mold; July 22, 1999, to September 10, 1999. Contact: Steve Schaible

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 8, 1999, to August 31, 2000. Contact: Andrew Ertman

EPA authorized the use of flufenacet on wheat to control Italian ryegrass or annual ryegrass; October 4, 1999, to June 30, 2000. Contact: Barbara Madden

EPA authorized the use of oxyfluorfen on strawberries to control broadleaf weeds; December 15, 1999, to August 15, 2000. Contact: Barbara Madden

West Virginia

Department of Agriculture

Specific: EPA authorized the use of coumaphos in beehives to control varroa mite and small hive beetle; May 20, 1999, to May 18, 2000. Contact: Barbara Madden

Wisconsin

Department of Agriculture, Trade, and Consumer Protection

Denial: On May 4, 1999 EPA denied the use of dimethenamid on dry bulb, onions to control annual grasses and broadleaf weeds. This request was denied because the situation is routine, not urgent, and nor are growers likely to suffer from significant economic losses if the request is denied. The availability of a new pesticide to control a chronic pest problem does not constitute a non-routine condition. Historically, use of hand labor has compensated for inadequate weed control by registered herbicides. Contact: Barbara Madden

Specific: EPA authorized the use of coumaphos in beehives to control varroa mites; January 1, 1999, to January 1, 2000. Contact: Barbara Madden

EPA authorized the use of propiconazole on cranberries to control cottonball disease; April 15, 1999, to July 31, 1999. Contact: Steve Schaible

EPA authorized the use of pyridate on mint to control redroot pigweed; May 1, 1999, to December 31, 1999. Contact: Barbara Madden

EPA authorized the use of glufosinate-ammonium on sweet corn to control weeds; May 24, 1999, to July 15, 1999. Contact: Barbara Madden

EPA authorized the use of propamocarb hydrochloride on potatoes to control late blight; May 25, 1999, to May 25, 2000. Contact: Libby Pemberton

EPA authorized the use of chlorine dioxide on stored potatoes to control late blight; September 9, 1999, to August 31, 2000. Contact: Andrew Ertman

Wyoming

Department of Agriculture

Denial: On May 24, 1999 EPA denied the use of fipronil on rangeland, non-crop land, and CRP land to control grasshoppers. This request was denied because the situation is routine, not urgent; it was determined that the use of registered alternatives in a RAATs strategy would adequately control rangeland grasshoppers. EPA also has concerns regarding potential ecological risk to non-target organisms from fipronil and its photodegradates. Contact: Steve Schaible

Specific: EPA authorized the use of imazamox on dry beans in Wyoming to control various nightshade species and velvetleaf; June 1, 1999, to July 15, 1999. Contact: Barbara Madden

EPA authorized the use of coumaphos in beehives to control varroa mite and small hive beetle; September 17, 1999, to September 15, 2000. Contact: Barbara Madden

B. Federal Departments and Agencies

Agriculture Department

Animal and Plant Health Inspection Service

Quarantine: EPA authorized the use of sodium carbonate 4.0% solution on surfaces potentially exposed to certain animal diseases, including semen containers, aircraft, and structural surfaces at animal import centers, plant inspection stations and ports to control certain animal diseases; April 15, 1999, to April 15, 2002. Contact: David Deegan

EPA authorized the use of sodium carbonate 4.0% solution plus sodium silicate 0.1% solution on aircraft surfaces potentially exposed to certain animal diseases, in or on semen containers to control certain animal diseases; April 15, 1999, to April 15, 2002. Contact: David Deegan

EPA authorized the use of sodium hypochlorite in a solution not to exceed 12.5% on surfaces potentially exposed to certain animal diseases, and to plant parts or plant materials to control certain animal diseases; April 15, 1999, to April 15, 2002. Contact: David Deegan

EPA authorized the use of sodium hydroxide in a 2.0% solution on exposed surfaces, animal product containers, hay and straw to control certain animal diseases; April 15, 1999, to April 15, 2002. Contact: David Deegan

Defense Department

Quarantine: EPA authorized the use of paraformaldehyde on biological containment areas, biological safety cabinets and equipment, and high efficiency particulate air filters in the ventilation system to control the release of infectious microorganisms from containment areas; July 6, 1999, to July 6, 2002. Contact: Libby Pemberton

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 11, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 00–1546 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6528–1]

Notice of Proposed Administrative Cost Recovery Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Proposal of CERCLA section 122(h)(1) administrative cost recovery settlement for the Uniroyal Hill Street Site.

SUMMARY: The United States Environmental Protection Agency (''U.S. EPA'') proposes to address the potential liability of Uniroyal, Inc., Uniroyal Holding, Inc., CDU Holding, Inc., and the CDU Holding, Inc. Liquidating Trust (the ''Settling Parties'') by execution of a Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'') section 122(h)(1) Administrative Order on Consent prepared pursuant to 42 U.S.C. 9622(h)(1) (the ''Agreement''). The Agreement provides the Settling Parties certain covenants not to sue under CERCLA, 42 U.S.C. 9601 *et seq.*, as amended, and section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973, as amended, with respect to the Uniroyal Hill Street Site (the ''Site''), located in Mishawaka, Indiana. The key terms and conditions of the Agreement may be briefly summarized as follows: (1) The Settling Parties agree to pay $50,000 to the Hazardous Substances Superfund in satisfaction of U.S. EPA's allowed claim; (2) the Settling Parites agree to pay $50,000 to the City of Mishawaka, in satisfaction of their claim; (3) the Settling Parties agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Site or the Agreement; (4) subject to the reservations specified in the Agreement, U.S. EPA affords the Settling Parties a covenant not to sue for recovery of response costs pursuant to section 107 of CERCLA, 42 U.S.C. 9607(a), liability for injunctive relief or administrative order enforcement pursuant to section 106 of CERCLA, 42 U.S.C. 9606, liability for injunctive relief pursuant to section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973, and provides contribution protection as provided by CERCLA sections 113(f)(2) and 122(h)(4), 42 U.S.C. 9613(f)(2) and 9622 (h)(4), conditioned upon satisfaction of obligations under the Agreement. The Site is not on the NPL. The Agreement was signed by the Regional Administrator, U.S. EPA, Region 5, on December 23, 1999.

DATES: Written comments on the proposed Agreement must be received by U.S. EPA on or before February 23, 2000. In accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d), commenters may request an opportunity for a public hearing in the affected area.

ADDRESSES: The proposed Agreement and the U.S. EPA's response to any comments received will be available for public inspection at U.S. EPA Records Center Room 714, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the proposed Agreement may be obtained from U.S. EPA Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois 60604. Comments should reference the Uniroyal Hill Street Site, Mishawaka, Indiana, and U.S. EPA Docket No. V–W–99–C–575 and should be addressed to Ms. Hedi Bogda-Cleveland, U.S. EPA Office of Regional Counsel, 77 West Jackson Boulevard (C–14J), Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Ms. Hedi Bogda-Cleveland, U.S. EPA Office of Regional Counsel, 77 West Jackson Boulevard (C–14J), Chicago, Illinois 60604, at (312) 886–5825.

Dated: December 23, 1999.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 00–1554 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51940; FRL–6486–5]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from December 6, 1999 to December 31, 1999, consists of the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

ADDRESSES: Comments may be submitted by mail, electronically, or in

person. Please follow the detailed instructions for each method as provided in Unit I. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51940 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Joe Carra, Deputy Director, Office of Pollution Prevention and Toxics (7401), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone numbers: (202) 554–1404 and TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed 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 copies of this document and certain other available documents from the EPA Internet Home Page at *http://www.epa.gov/*. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–51940. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51940 and the specific PMN number in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in this unit. Do 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. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51940 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from December 6, 1999 to December 31, 1999, consists of the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 81 Premanufacture Notices Received From: 12/06/99 to 12/31/99

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–0309	12/06/99	03/05/00	Eastman Chemical Company	(S) Plastic additive	(G) Substituted phtyalocyanine dye
P–00–0310	12/06/99	03/05/00	CBI	(G) For use as an exterior coating for aluminum ''easy open ends'' for the beer and beverage can market	(G) Acrylic polyester resin
P–00–0311	12/06/99	03/05/00	The Dow Chemical Company	(S) Chemical intermediate for use on site	(G) Alkylphenol, potassium salt
P–00–0312	12/06/99	03/05/00	The Dow Chemical Company	(G) Fuel additive and chemical intermediate	(G) Alkaryl polyoxyalkylene derivatives
P–00–0313	12/06/99	03/05/00	The Dow Chemical Company	(G) Fuel additive and chemical intermediate	(G) Alkaryl polyoxyalkylene derivative
P–00–0314	12/06/99	03/05/00	CBI	(G) Copying material	(G) Triphenylamine derivative
P–00–0315	12/07/99	03/06/00	CBI	(G) Electronics thermosetting adhesive	(G) Amino novolac
P–00–0316	12/07/99	03/06/00	CBI	(S) Antioxidant and /or stabilizer for coating	(G) Propanoic acid, 3-(alkylthio)-, thiobis (alkylphenylene ester
P–00–0317	12/08/99	03/07/00	Dow Corning Corporation	(S) Silicone textile treatment	(G) Amino-functional siloxane
P–00–0318	12/07/99	03/06/00	Ciba Specialty Chemicals Corporation	(G) Textive dye	(G) Cuprate(6-), [2-[[[[3-[[4-fluoro-6-[[2-[[4-fluoro-6-[[4- [(sulfonated alkyl) azo]phenyl] amino] -1,3,5-triazin-2-yl]amino]-1-methylethyl]amino] -1,3,5-triazin-2-yl]amino]-2-(hydroxy-.kappa.0)-5-sulfophenyl]azo-.kappa.n2] phenylmethyl]azo-.kappa.n1]-4-sulfobenzoate (8-)]-, potassium sodium*
P–00–0319	12/07/99	03/06/00	CBI	(G) Wax	(G) Benzenedicarboxylic acid, alkyl alkylaminocarbonyloxyethyl ester
P–00–0320	12/07/99	03/06/00	CBI	(G) Component of coating with open use	(G) Blocked isocyanate
P–00–0321	12/07/99	03/06/00	CBI	(G) Additive for manufacture of articles	(G) Polyamide amine epichlorohydrin resin
P–00–0322	12/07/99	03/06/00	CBI	(G) Additive for manufacture of articles	(G) Polyamide amine epichlorohydrin resin
P–00–0323	12/07/99	03/06/00	CBI	(G) Additive for manufacture of articles	(G) Polyamide amine epichlorohydrin resin
P–00–0324	12/07/99	03/06/00	CBI	(G) Additive for manufacture of articles	(G) Polyamide amine epichlorohydrin resin
P–00–0325	12/07/99	03/06/00	CBI	(G) Chemical process intermediate	(G) Polyamide amine
P–00–0326	12/09/99	03/08/00	CBI	(G) Additive for plastics and plastic surfaces; additive for surface coatings	(G) Aliphatic urethane
P–00–0327	12/09/99	03/08/00	CBI	(G) Inhibitor	(G) Amine salt
P–00–0328	12/10/99	03/09/00	CBI	(G) Intermediate for exterior coating for aluminum beer and beverage can ends	(G) Maleic anhydride polyester
P–00–0329	12/13/99	03/12/00	CBI	(G) Open non-dispersive (resin)	(G) Aliphatic polyisocyanate
P–00–0330	12/13/99	03/12/00	CBI	(S) Chemical intermediate	(S) Oxirane, [[[(1r,2s,5r)-5-methyl-2-(1-methylethyl) cyclohexyl] oxy]methyl]-*
P–00–0331	12/13/99	03/12/00	CBI	(S) Thickener for water-based binders in non-woven systems	(G) Vinylpyrrolidone vinylester copolymer
P–00–0332	12/13/99	03/12/00	CBI	(S) Adhesion promotor for coatings	(G) Olefinic adhesion promotor
P–00–0333	12/14/99	03/13/00	CBI	(G) Additive	(G) Salt of an acrylate copolymer
P–00–0334	12/14/99	03/13/00	CBI	(G) Additive	(G) Salt of an acrylate terpolymer

I. 81 Premanufacture Notices Received From: 12/06/99 to 12/31/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–0335	12/13/99	03/12/00	Dainippon Ink and Chemicals, Inc.	(S) Uv curable resin for uv inks	(G) Polyurethane resin
P–00–0336	12/13/99	03/12/00	Cytec Industries Inc.	(G) Flocculant in oil/water separation, soil erosion stabilizer in irrigation farming, flocculant in municiple, mining and industrial waste water.	(G) Liquid anionic polymer
P–00–0337	12/13/99	03/12/00	Cytec Industries Inc.	(G) Flocculant in oil/water separation, soil erosion stabilizer in irrigation farming, flocculant in municiple, mining and industrial waste water.	(G) Liquid anionic polymer
P–00–0338	12/14/99	03/13/00	International Specialty Products	(S) Intermediate for photographic dyes	(S) 1-(2,5-dimethoxy-phenyl)-propan-2-one*
P–00–0339	12/14/99	03/13/00	International Specialty Products	(S) Intermediate in production of photographic dyes	(S) 1-(2,5-dimethoxy-phenyl)-propanol*
P–00–0340	12/15/99	03/14/00	Condea Vista Company	(S) Formulation of paraffin inhibitors for processing crude oil	(S) 2-propenoic acid, 2-methyl-, 2-hydroxyethyl ester, polymer with ethene, ethenyl acetate and 2-ethylhexyl 2-propenoate*
P–00–0341	12/15/99	03/14/00	CBI	(S) An intermediate that will be isolated and used in the manufacture of an industrial coating that cures under exposure of ultra violet light	(G) Urethane acrylate
P–00–0342	12/15/99	03/14/00	CBI	(G) Open, non-dispersive use	(G) Blocked isocyanate polymer
P–00–0343	12/15/99	03/14/00	Novartis Crop Protection, Inc.	(S) Intermediate in the manufacture of an intermediate of a fungicide	(S) Ethanone, 1-[3-(trifluoromethyl)phenyl]-, oxime*
P–00–0344	12/15/99	03/14/00	CBI	(S) Base fluid for hydraulic fluids; base fluid for engine lubricants	(G) Mixed polyol-glycerol fatty aid ester
P–00–0345	12/15/99	03/14/00	CBI	(G) Component of coating with open use	(G) Styrene acrylate
P–00–0346	12/14/99	03/13/00	CBI	(G) Petroleum additive	(G) Alkylated phenol
P–00–0347	12/16/99	03/15/00	CBI	(G) Open non-dispersive (polyurethane microcellular elastomer)	(G) Aromatic isocyanate
P–00–0348	12/15/99	03/14/00	CBI	(G) Wax	(G) *N,N′*-bis (octadecanoyl) hexylenediamine, or hexamethyl enebiss tearamide*
P–00–0349	12/16/99	03/15/00	Ciba Specialty Chem. Corp., Colors Division	(G) Textile dye	(G) Benzoic acid, 3,5-diamino-2,4-bis[[4-[[2-(sulfooxy)ethyl] sulfonyl]azo]-6-[[2-sulfo-4-[substituted]phenyl]azo]-, sodium salt
P–00–0350	12/17/99	03/16/00	CBI	(G) Open,non-dispersive use.	(G) Ketimine functional oligomer
P–00–0351	12/16/99	03/15/00	CBI	(G) Dye	(G) Sulphonated azo dye
P–00–0352	12/16/99	03/15/00	CBI	(G) Open non-dispersive (additive)	(G) Organic disulfide
P–00–0353	12/17/99	03/16/00	CBI	(G) Additive for surface coatings;additive for plastics and plastic surfaces	(G) Aliphatic urethane
P–00–0354	12/17/99	03/16/00	CBI	(G) Adhesive component	(G) Polyester-polyvinyl modified mdi-based polyurethane
P–00–0355	12/17/99	03/16/00	International Specialty Products	(S) Dye transfer inhibitor for detergents	(S) Acetic acid, chloro-, sodium salt, cmpd. with 4-ethenylpyridine homopolymer*
P–00–0356	12/21/99	03/20/00	Pilot Chemical Company	(G) Chemical intermediate - destructive use	(G) Alkarylsulfonic acid.
P–00–0357	12/21/99	03/20/00	CBI	(G) An open non-dispersive use	(G) Polyether - type polyurethane
P–00–0358	12/20/99	03/19/00	CBI	(G) Copying material	(G) Triphenylamine derivative
P–00–0359	12/20/99	03/19/00	Ruetgers Organics Corporation	(S) Ph adjuster	(G) Alkylnaphthalenesulfonic acid
P–00–0360	12/20/99	03/19/00	Arizona Chemical	(S) Tackifier for adhesives & hot melts	(G) Modified terpene-phenol resin
P–00–0361	12/22/99	03/21/00	Reichhold, Inc.	(G) Coating additive	(G) Triethylamine salt of aliphatic urethane polymer
P–00–0362	12/22/99	03/21/00	CBI	(G) Adhesive component	(G) 1,1′ methylenebis [isocyanatobenzene], polymer with polyether polyols, a polyester polyol, and a modified polyvinyl copolymer
P–00–0363	12/27/99	03/26/00	CBI	(G) Open-non-dispersive (co-reactant)	(G) Asphatic ester

I. 81 Premanufacture Notices Received From: 12/06/99 to 12/31/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–0364	12/27/99	03/26/00	CBI	(G) Open, non-dispersive use	(G) Copper complex of (substituted sulfonaphthyl azo substituted phenyl) disulfonaphthyl azo, amine salt
P–00–0365	12/27/99	03/26/00	CBI	(G) Destructive use	(G) Copper complex of (substituted sulfonaphthyl azo substituted phenyl) disulfonaphthyl azo, salt
P–00–0366	12/28/99	03/27/00	CBI	(S) Intermediate synthesis for higher molecular weight polymer used in sheet molding; intermediate synthesis for higher molecular weight polymer used in injection molding	(G) Alloy of polyolefin and polyamide
P–00–0367	12/28/99	03/27/00	CBI	(S) Intermediate synthesis for higher molecular weight polymer used in sheet molding; intermediate synthesis for higher molecular weight polymer used in injection molding	(G) Alloy of polyolefin and polyamide
P–00–0368	12/27/99	03/26/00	CBI	(S) Thermal developer for paper	(G) Benzenesulfon-amide derivative
P–00–0369	12/27/99	03/26/00	Bedoukian Research, Inc.	(S) Agricultural pheromone for use as sole active ingredient in monitoring traps. 40 CFR 152.10(b) (not pesticide);agricultural phenomone for use as sole active ingredient in traps to achieve pest control. 40 CFR 152.25(b)(4).	(S) 5-nonanone, 4-methyl-
P–00–0370	12/28/99	03/27/00	CBI	(S) Precursor used in the manufacture of acrylic monomer	(G) Aliphatic alcohol
P–00–0371	12/27/99	03/26/00	CBI	(G) Halogenating chemical intermediate for industrial chemical synthesis reactions	(G) Halogenated boron - alkyl cyanide complex
P–00–0372	12/28/99	03/27/00	CBI	(S) Monomer used in the manufacturer of acrylic polymers	(G) Acrylic monomer
P–00–0373	12/28/99	03/27/00	CBI	(S) Raw material used in the manufacture of photoresist	(G) P-hydroxystyrene-methacrylate copolymer
P–00–0374	12/27/99	03/26/00	CBI	(S) Polymer for adhesive manufacture	(G) Isocyanate functional polycarbamoyl (polyalkylene oxide)polyurea oligomer
P–00–0375	12/27/99	03/26/00	CBI	(S) Crosslinking urethane resin for coatings applied by electrode position	(G) Polyurethane crosslinking resin blocked with me et ketone oxime
P–00–0376	12/29/99	03/28/00	CBI	(S) Reactive dye for finishing cellulosic fabrics	(S) 1,5-naphthalenedisulfonic acid, 2(or 3)-[[8-amino-7-[[5-[[4-[4-[2-[[4-[[3-[[1-amino-7-[[1,5 (or 4,8)-disulfo-2-naphthalenyl]azo]-8-hydroxy-3,6-disulfo-2-naphthalenyl]azo]-4-sulfophenyl]amino]-6-chloro-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]azo]-1-hydroxy-3,6-disulfo-2-naphthalenyl]azo]-, sodium salt*
P–00–0377	12/27/99	03/26/00	Daikin America, Inc.	(S) Risin for paint	(G) Fluoroolefin copolymer
P–00–0378	12/28/99	03/27/00	CBI	(S) used to formulate water-based adhesive for technical lamination	(G) Polyester-polyurethane-elastomer dispersion
P–00–0379	12/28/99	03/27/00	Vianova Resins Inc., Mallard Creek Center	(S) Resin in automotive coatings	(G) Blocked polyurethane resin, amine salt
P–00–0380	12/28/99	03/27/00	International Specialty Products	(S) Intermediate in production of photographic dyes	(S) Benzeneethanol, 2,5-dimethoxy-.alpha.-methyl*
P–00–0381	12/29/99	03/28/00	CBI	(S) Elastomer resin for spinning into fiber*	(S) 1,4-benzenedicarboxylic acid, dimethyl ester, polymer with α-hydro-omega-hydroxypoly(oxy-1,4-butanediyl) and 1,3-propanediol*
P–00–0382	12/29/99	03/28/00	CBI	(S) Elastomer resin for spinning into fiber*	(S) 1,4-benzenedicarboxylic acid, dimethyl ester, polymer with 1,3-propanediol, tetrahydrofuran and tetrahydro-3-methylfuran*

I. 81 Premanufacture Notices Received From: 12/06/99 to 12/31/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–0383	12/29/99	03/28/00	CBI	(G) Component of coating with open use	(G) Water dispersible cationic acrylic resin
P–00–0384	12/29/99	03/28/00	CBI	(G) Component of coating with open use	(G) Water dispersible cationic acrylic resin
P–00–0385	12/29/99	03/28/00	CBI	(G) Component of coating with open use	(G) Water dispersible cationic acrylic resin
P–00–0386	12/29/99	03/28/00	CBI	(G) Component of coating with open use	(G) Water dispersible cationic acrylic resin
P–00–0387	12/29/99	03/28/00	CBI	(G) Component of coating with open use	(G) Water dispersible cationic acrylic resin
P–00–0388	12/29/99	03/28/00	CBI	(G) Component of coating with open use	(G) Water dispersible cationic acrylic resin
P–00–0390	12/29/99	03/28/00	CBI	(G) Component of low viscosity industrial lubricant	(S) C_{10} to C_{24} branched alkanes*

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 46 Notices of Commencement From: 12/06/99 to 12/31/99

Case No.	Received Date	Commencement/Import Date	Chemical
P–94–2136	12/10/99	12/06/99	(G) Polyalphaolefins
P–96–1162	12/13/99	11/13/99	(G) Fatty acids, C_{18}-unsatd. dimers, polymers with ethylenediamine, a dibasic acid, diamines and a mono-basic acid.
P–96–1624	12/13/99	12/06/99	(G) Quaternary ammonium salt
P–97–0677	12/14/99	11/19/99	(G) Mixed alkyl aluminoxanes
P–97–1007	12/10/99	12/01/99	(G) Polyurethane prepolymer
P–98–0408	12/06/99	11/03/99	(G) Substituted styrene-acrylate polymer
P–98–0937	12/09/99	12/07/99	(G) Polyester polyether urethane block copolymer
P–98–0947	12/09/99	12/07/99	(G) Polyester polyether urethane block copolymer
P–98–1006	12/16/99	11/19/99	(G) Amino substituted butyric acid ester
P–99–0277	12/07/99	11/29/99	(G) 2,7-naphthalenedisulfonic acid, 5-substituted-4-hydroxy-3-substituted azo, salt
P–99–0523	12/09/99	12/01/99	(G) Substituted polyoxyethylene
P–99–0549	12/10/99	11/11/99	(G) Polyester urethane polymer
P–99–0698	12/17/99	12/08/99	(G) Aliphatic, aromatic polyol
P–99–0708	12/13/99	11/26/99	(G) Epoxy-isocyanate co-polymer
P–99–0775	12/14/99	11/24/99	(G) Alkyl methacrylate copolymer
P–99–0777	12/13/99	11/24/99	(G) Alkyl methacrylate copolymer
P–99–0815	12/14/99	12/04/99	(G) Complex acids/amine condensation products
P–99–0900	12/17/99	12/06/99	(G) Quinoline dyestuff
P–99–0917	12/10/99	11/24/99	(G) Methacrylate polymer
P–99–0919	12/10/99	11/24/99	(G) Methacrylate copolymer
P–99–0933	12/13/99	11/24/99	(G) Alkyl methacrylate copolymer
P–99–0990	12/17/99	12/10/99	(G) Cobaltate (5-, bis[4-[[6-[(substituted)-1,3,5-triazin-2-yl) amino]-1-hydroxy-3-sulfo-2-naphthalenyl]azo]-3-hydroxy-7-substituted-1-naphthalenesulfonato(4-)]-, pentasodium
P–99–0999	12/07/99	11/11/99	(G) Polyoxyethylene derivative
P–99–1010	12/09/99	11/24/99	(G) Substituted butanoic acid
P–99–1011	12/09/99	11/20/99	(G) Substituted halo butanoic acid, ester
P–99–1012	12/09/99	11/21/99	(G) Substituted butanoic acid, ester
P–99–1022	12/13/99	12/01/99	(G) Triazolo thiadiazinyl substituted acetamide
P–99–1025	12/13/99	12/01/99	(G) Substituted butanoic acid, heterocyclic hydrazide
P–99–1048	12/20/99	12/13/99	(G) Polycarbonate polyol
P–99–1067	12/13/99	11/15/99	(G) Poly (arylene ether)
P–99–1069	12/06/99	11/24/99	(G) Polyalkoxylated aromatic amine tint
P–99–1168	12/10/99	11/29/99	(G) Acrylic emulsion copolymer
P–99–1169	12/10/99	11/29/99	(G) Acrylic emulsion copolymer
P–99–1170	12/10/99	11/29/99	(G) Acrylic emulsion copolymer
P–99–1171	12/10/99	11/29/99	(G) Acrylic emulsion copolymer
P–99–1175	12/13/99	12/02/99	(G) Triazolo thiadiazinyl amino substituted acetamide
P–99–1176	12/14/99	11/24/99	(S) Hexanoic acid, 2-bromo-, methyl ester*
P–99–1200	12/06/99	11/10/99	(S) Alcohols, C_{11-14}-isoalkyl, C_{13}-rich, butoxylated ethoxylated*

II. 46 Notices of Commencement From: 12/06/99 to 12/31/99—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–99–1230	12/14/99	11/25/99	(S) 1,3-benzenedicarboxylic acid, polymer with 2-butyl-2-ethyl-1,3-propanediol, 1,4-cyclohexanedicarboxylic acid, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, hexanedioic acid and 1,3-isobenzofurandione, 2-hydroxy-3-[(1-oxoneodecyl)oxy]propyl ester, 3-oxobutanoate*
P–99–1231	12/10/99	12/07/99	(S) Siloxanes and silicones, di-me, me hydrogen, me pr, reaction products with polyethylene-polypropylene glycol allyl bu ether and polyethylene-polypropylene glycol monoally ether*
P–99–1250	12/09/99	12/01/99	(G) Polyester polyol polyurethane and organopolysiloxane containing hydroxy group copolymer
P–99–1284	12/14/99	12/05/99	(G) Substituted benzenesulfonyl chloride*
P–99–1285	12/14/99	12/08/99	(G) Substituted benzenesulfinic acid salt
P–99–1290	12/16/99	12/03/99	(G) Substituted hydroxyphenyl halosubstituted benzamide
P–99–1303	12/14/99	12/07/99	(G) Substituted hydroxyhalophenyl halobenzamide
P–99–1304	12/09/99	11/30/99	(G) Substituted benzenesulfonic acid salt

List of Subjects

Environmental protection, Chemicals, Premanufacture notices, Test marketing exemptions.

Dated: January 12, 2000,

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 00–1549 Filed 1–21–00; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–2844]

Process for Providing Service Under Global International section 214 Authorizations Using Approved Non-U.S.-Licensed Satellite Systems Listed on the Permitted Space Station List

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces a change in the International Bureau's interpretation of its Exclusion List in light of the Commission's decision in the DISCO II Recon. proceeding. This action will reduce the regulatory burden on carriers seeking to provide international services using certain non-U.S.-licensed satellite systems by permitting the use of pre-approved satellites under global international section 214 authorizations without the need to obtain separate authority for such non-U.S.-licensed satellites.

DATES: Effective December 22, 1999.

FOR FURTHER INFORMATION CONTACT: Lisa Choi, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1460.

SUPPLEMENTARY INFORMATION:

1. The International Bureau announces its interpretation of its Exclusion List for International section 214 Authorizations (Exclusion List) to conform to a recent Commission order streamlining rules relating to the use of non-U.S. licensed satellite systems. See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, IB Docket No. 96–111, FCC 99–325 (64 FR 61791, November 15, 1999).

2. The Commission developed the Exclusion List as a procedural mechanism to identify restrictions on providing common carrier service. The Exclusion List identifies those countries or facilities that are not included within the scope of a global section 214 authorization (61 FR 15724, April 9, 1996). When a carrier seeks to use facilities or serve a country that is on the Exclusion List, the carrier must file a separate section 214 application pursuant to § 63.18(e)(4) of the Commission's rules.

3. Currently, the Exclusion List prohibits carriers from using all non-U.S.-licensed satellite systems without obtaining a separate section 214 authorization (64 FR 19057, April 19, 1999). The Commission, however, recently changed its rules regarding the use of non-U.S.-licensed satellite systems in the *DISCO II Recon.* proceeding. In the *DISCO II Recon.* proceeding, the Commission simplified the process by which authorized non-U.S.-licensed fixed satellites may serve the U.S. market. In particular, U.S. earth station operators with ALSAT licenses will be permitted to access a non-U.S.-licensed satellite to provide fixed-satellite service in the conventional C- or Ku-bands without further regulatory approval, once that non-U.S.-licensed satellite has been authorized to serve the United States. Originally, earth station operators with ALSAT licenses were permitted to access any U.S.-licensed satellite. In the *DISCO II Recon.* proceeding, these licensees' authority was expanded to include non-U.S.-licensed satellites on the Permitted Space Station List. Pursuant to the *DISCO II Recon.* proceeding, the International Bureau will keep a list of such authorized non-U.S.-licensed satellite systems to be referred to as the Permitted Space Station List (www.fcc.gov/ib/srd/se/permitted.html).

4. In light of the *DISCO II Recon.* proceeding, it is not necessary to require holders of global section 214 authorizations to file for and obtain a separate section 214 authorization for non-U.S.-licensed satellite systems that have been authorized to provide fixed-satellite service in the United States and placed on the Permitted Space Station List. Prior to placing a space station on the Permitted Space Station List, the Commission will conduct a proceeding that will provide parties notice and an opportunity to comment on any potential Title III or section 214 issues raised by permitting operators with ALSAT licenses to access the non-U.S.-licensed satellite.

5. Accordingly, we interpret the Exclusion List restriction for all non-U.S.-licensed satellite systems to refer only to non-U.S.-licensed satellite systems that are not listed on the Permitted Space Station List. This interpretation will avoid confusion, reduce regulatory burden, and ensure that the Exclusion List is consistent with the Commission's policies. This interpretation of the Exclusion List became effective December 22, 1999. The announcement of the effective date of the *DISCO II Recon.* proceeding is

published elsewhere in this issue of the FR. Until the *DISCO II Recon.* proceeding became effective, the Commission required that carriers wishing to use non-U.S.-licensed satellite systems must file a separate section 214 application pursuant to § 63.18(e)(4) of the Commission's rules.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Attachment—Exclusion List for International Section 214 Authorizations Last Modified December 22, 1999

The following is a list of countries and facilities not covered by grant of global section 214 authority under § 63.18(e)(1) of the Commission's Rules, 47 CFR 63.18(e)(1). In addition, the facilities listed shall not be used by U.S. carriers authorized under § 63.18 of the Commission's Rules unless the carrier's section 214 authorization specifically lists the facility.

Carriers desiring to serve countries or use facilities listed as excluded hereon shall file a separate section 214 application pursuant to § 63.18(e)(4) of the Commission's Rules. See generally 47 CFR 63.22.

Countries: Cuba (Applications for service to Cuba shall comply with the separate filing requirements of the Commission's Public Notice Report No. I–6831, dated July 27, 1993, ''FCC to Accept Applications for Service to Cuba.'')

Facilities: All non-U.S.-licensed satellite systems that are not on the Permitted Space Station List, maintained at *www.fcc.gov/ib/srd/se/permitted.html.* See International Bureau Public Notice, DA 99–2844 (rel. Dec. 17, 1999).

This list is subject to change by the Commission when the public interest requires. Before amending the list, the Commission will first issue a public notice giving affected parties the opportunity for comment and hearing on the proposed changes. The Commission may then release an order amending the exclusion list. This list also is subject to change upon issuance of an Executive Order. See Streamlining the section 214 Authorization Process and Tariff Requirements, IB Docket No. 95–118, FCC 96–79, 11 FCC Rcd 12,884, released March 13, 1996 (61 Fed. Reg. 15,724, April 9, 1996). A current version of this list is maintained at http://www.fcc.gov/ib/td/pf/exclusionlist.html. For additional information, contact the International Bureau's Telecommunications Division, Policy & Facilities Branch, (202) 418–1460.

[FR Doc. 00–1620 Filed 1–21–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 7, 2000.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer), 230 South LaSalle Street, Chicago, Illinois 60690–1413:

1. Horizon Bancorp Employees' Stock Bonus Plan Trust, Michigan City, Indiana; to acquire voting shares of Horizon Bancorp, and thereby indirectly acquire Horizon Bank, N.A., both of Michigan City, Indiana.

Board of Governors of the Federal Reserve System, January 18, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–1577 Filed 1–21–00; 8:45 am]

BILLING CODE 6210–01–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 February 17, 2000.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Assistant Vice President), 701 Easy Byrd Street, Richmond, Virginia 23261–4528:

1. FNB Corp., Asheboro, North Carolina; to acquire 100 percent of the voting shares of Carolina Fincorp, Inc., Rockingham, North Carolina, and thereby indirectly acquire Richmond Savings Bank, Inc., SSB, Rockingham, North Carolina.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Vision Bancshares, Inc., Gulf Shores, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Vision Bank (in organization), Gulf Shores, Alabama.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President), 411 Locust Street, St. Louis, Missouri 63102–2034:

1. National Commerce Bancorporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of Piedmont Bancorp, Inc., Hillsborough, North Carolina, and thereby indirectly acquire Hillsborough Savings Bank, Inc., SSB, Hillsborough, North Carolina.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President), 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Mesquite Financial Services, Inc., Alice, Texas; to acquire 100 percent of the voting shares of Falfurrias State Bank, Falfurrias, Texas. Comments on this application must be received by February 15, 2000.

E. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group), 101 Market Street, San Francisco, California 94105–1579:

1. Eggemeyer Advisory Corp.; WJR Corp.; Castle Creek Capital LLC; Castle Creek Capital Partners Fund I, LP; Castle Creek Capital Partners Fund IIa, LP; Castle Creek Capital Partners Fund IIb, LP, all of Rancho Santa Fe, California; to acquire up to 35 percent of the voting shares of First Community Bancorp, Rancho Santa Fe, California, and thereby indirectly acquire Rancho Santa Fe National Bank, Rancho Santa Fe,

California, and First Community Bank of the Desert, Indian Wells, California.

2. First Community Bancorp, Rancho Santa Fe, California; to become a bank holding company by acquiring 100 percent of the voting shares of Rancho Santa Fe National Bank, Rancho Santa Fe, California, and First Community Bank of the Desert, Indian Wells, California.

Board of Governors of the Federal Reserve System, January 18, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–1576 Filed 1–21–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Revised Jurisdictional Thresholds for Section 8 of the Clayton Act

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission announces the revised thresholds for interlocking directorates required by the 1990 amendment of section 8 of the Clayton Act. Section 8 prohibits, with certain exceptions, one person from serving as a director or officer of two competing corporations if two thresholds are met. Competitor corporations are covered by section 8 if each one has capital, surplus, and undivided profits aggregating more than $10,000,000, with the exception that no corporation is covered if the competitive sales of either corporation are less than $1,000,000. Section 8(a)(5) requires the Federal Trade Commission to revise those thresholds annually, based on the change in gross national product. The new thresholds, which take effect immediately, are $16,732,000 for section 8(a)(1), and $1,673,200 for section 8(a)(2)(A).

EFFECTIVE DATE: January 24, 2000.

FOR FURTHER INFORMATION CONTACT: H. Gabriel Dagen, Bureau of Competition, Office of Accounting and Financial Analysis, (202) 326–2573.

Authority: 15 U.S.C. 19(a)(5).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–1653 Filed 1–21–00; 8:45am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

John L. Ho, M.D., Cornell University: Based on a report dated June 16, 1999, by Cornell University (Report), as well as information obtained by ORI during its oversight review, ORI found that Dr. John Ho, Associate Professor, Department of Medicine and Department of Microbiology at Cornell University Medical College, engaged in scientific misconduct by reporting falsified and fabricated research results in a National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health (NIH), grant application.

Specifically, ORI found that Dr. John Ho committed scientific misconduct in connection with the data contained in Figure 10 of the Application that purportedly demonstrated cytokine production heterogeneity. Dr. John Ho falsified the text describing Panel 2 of Figure 10 by representing that the interferon-γ values reflected data from 25 donors when values from only four donors had been obtained. In addition, Dr. John Ho falsified the data entries for Panels 1 and 3 of Figure 10 by representing that approximately 19 and 25 donor samples, respectively, were studied when only three and six genuine values were obtained, the remaining symbols reflecting fabricated results.

Dr. John Ho has accepted the ORI finding and has entered into a Voluntary Exclusion Agreement with ORI in which he has voluntarily agreed:

(1) to comply with all terms and conditions of the plan for remedial training and scientific and administrative oversight imposed by Cornell University. Pursuant to the Cornell Plan, Dr. John Ho can return to work at Cornell University only after it receives written confirmation from Dr. David Ho that Dr. John Ho has successfully completed a program of remedial training of at least one (1) year's duration at the Aaron Diamond Foundation. Under the terms of the Cornell Plan, Dr. John Ho will be subject to a two (2) year plan of scientific and administrative oversight of his research upon his return to Cornell University from the Aaron Diamond Foundation.

(2) that, for a period of three (3) years beginning on December 28, 1999, any institution (including but not limited to Cornell University and the Aaron Diamond Foundation) that submits an application for U.S. Public Health Service (PHS) support for a research project on which Dr. John Ho's participation is proposed or which uses him in any capacity on PHS supported research, or that submits a report of PHS-funded research in which he is involved, must concurrently submit to PHS and ORI:

a. a plan for supervision of his duties during the particular PHS-related project at issue, which must be designed to ensure the scientific integrity of his research contribution; and

b. a certification that the data provided by Dr. John Ho are based on actual experiments or are otherwise legitimately derived, and that the data, procedures, and methodology are accurately reported in the application or research report.

(3) to exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a three (3) year period beginning December 28, 1999.

Further, in the event that Dr. John Ho obtains a new employer at anytime during the three (3) year period beginning on December 28, 1999, Dr. John Ho has agreed to:

(1) notify ORI in writing no later than ten (10) business days after the commencement of his new employment of the name and address of his new employer;

(2) provide his new employer with a copy of the Agreement (including the Cornell Plan); and

(3) ensure that, for so long as the Cornell Plan is in effect, his new employer will agree to assume the scientific and research oversight responsibilities adopted by Cornell University pursuant to paragraphs 1, 2, and 3 of the Cornell Plan.

FOR FURTHER INFORMATION CONTACT: Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Acting Director, Office of Research Integrity.

[FR Doc. 00–1621 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substance and Disease Registry

Public Meeting of the Inter-tribal Council on Hanford Health Projects (ICHHP) in Association With the Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

Name: Public meeting of the Inter-tribal Council on Hanford Health Projects (ICHHP) in association with the Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Time and Date: 9 a.m.–4 p.m., February 9, 2000.

Place: DoubleTree Hotel Portland—Downtown, 310 S.W. Lincoln, Portland, Oregon 97201, telephone: (503) 221–0450.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC. Community Involvement is a critical part of ATSDR's and CDC's energy-related research and activities and input from members of the ICHHP is part of these efforts. The ICHHP will work with the HHES to provide input on American Indian health effects at the Hanford, Washington site.

Purpose: The purpose of this meeting is to address issues that are unique to tribal involvement with the HHES, including a presentation and discussion on the DOE Richland Indian Office, update on tribal cooperative agreements, and agency updates.

Matters To Be Discussed: Agenda items will include a dialogue on issues that are unique to tribal involvement with the HHES. This will include updating tribal members of the cooperative agreement activities in environmental health capacity building and providing support for tribal involvement in and representation on the HHES.

Agenda items are subject to change as priorities dictate.

Contact Persons For More Information: Leslie C. Campbell, Executive Secretary HHES, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE M/S E–32, Atlanta, Georgia 30333, telephone 1–888/42–ATSDR (28737), fax 404/639–0654.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 18, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–1591 Filed 1–21–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substance and Disease Registry

Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Times and Dates: 8:30 a.m.–5:30 p.m., February 10, 2000. 8 a.m.–4 p.m., February 11, 2000.

Place: DoubleTree Hotel Portland—Downtown, 310 S.W. Lincoln, Portland, Oregon 97201, telephone: (503) 221–0450.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Background: Under a Memorandum of Understanding (MOU) signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles. In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community, American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to receive an update from the Inter-tribal Council on Hanford Health Projects; to review and approve the Minutes of the previous meeting; to receive updates from ATSDR/NCEH and NIOSH; to receive reports from the Outreach, Public Health Assessment, Public Health Activities, and the Studies Workgroups; and to address other issues and topics, as necessary.

Matters To Be Discussed: Agenda items include a continuing discussion on the health effects subcommittee evaluation, update on the membership selection process, and Public health assessments and reports. Agenda items are subject to change as priorities dictate.

Contact Persons for More Information: Leslie C. Campbell, Executive Secretary HHES, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE M/S E–32, Atlanta, Georgia 30333, telephone 1–888/42–ATSDR(28737), fax 404/639–0654.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register**

notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 18, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–1590 Filed 1–21–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0144]

Agency Information Collection Activities; Announcement of OMB Approval; Biological Products Regulated Under Section 351 of the Public Health Service Act; Implementation of Biologics License; Elimination of Establishment License and Product License

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Biological Products Regulated Under Section 351 of the Public Health Service Act; Implementation of Biologics License; Elimination of Establishment License and Product License'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 20, 1999 (64 FR 56441), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0427. The approval expires on December 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: January 14, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–1537 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2549]

Agency Information Collection Activities; Announcement of OMB Approval; Cosmetic Product Voluntary Reporting Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Cosmetic Product Voluntary Reporting Program'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 28, 1999 (64 FR 58069), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0030. The approval expires on December 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: January 14, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–1538 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00F–0175]

Cultor Food Science, Inc., DSM Food Specialties, and Protein Technologies International; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cultor Food Science, Inc., DSM Food Specialties, and Protein Technologies International have filed a petition proposing that the food additive regulations be amended regarding the safe use of natamycin on cheese.

FOR FURTHER INFORMATION CONTACT: Felicia Binion Williams, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3122.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 0A4704) has been filed by Cultor Food Science, Inc., 430 Saw Mill River Rd., Ardsley, NY 10502; DSM Food Specialties, 700 American Ave., suite 300, King of Prussia, PA 19406; and Protein Technologies International, Checkerboard Square, St. Louis, MO 63164. The petition proposes that the food additive regulations in 21 CFR 172.155 *Natamycin (pimaricin)* be amended by listing only the use level of natamycin permitted in cheese and by eliminating the reference for the method of application.

The agency has determined under 21 CFR 25.32(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: January 4, 2000.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–1541 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

State Food Safety Task Force Meetings; Availability of Conference Grants; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the anticipated availability of conference grant funds for the support of State Food Safety Task Force meetings contingent on the availability of fiscal year (FY) 2000 funds. This initiative is intended to support and encourage State food regulatory agencies to establish (or provide support of existing) regularly scheduled Food Safety Task Force meetings. These meetings should foster communication and cooperation within the State among State and local food safety regulatory agencies and is part of the President's Food Safety Initiative (FSI).

DATES: For States with existing State Food Safety Task Forces, the lead/champion/food regulatory agency must submit applications by March 24, 2000. For States in the process of developing a State Food Safety Task Force, submit applications by April 15, 2000. If the closing date falls on a weekend, or the date falls on a holiday, the date of submission will be extended to the following workday.

ADDRESSES: Application forms are available from, and completed applications should be submitted to Cynthia M. Polit, Grants Management Office, Division of Contracts and Procurement Management (HFA–520), Food and Drug Administration, 5600 Fishers Lane, rm. 2129, Rockville, MD 20857, 301–827–7180, e-mail: cpolit@oc.fda.gov. Applications hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Regarding the administrative and financial management aspects of this notice: Cynthia M. Polit (address above).

Regarding the programmatic aspects of this notice: Paul M. Raynes, or Glenn E. Johnson, Division of Federal-State Relations (DFSR), Office of Regulatory Affairs (ORA), Food and Drug Administration (HFC–150), 5600 Fishers Lane, rm. 12–07, Rockville, MD 20857, 301–827–6906, or access the Internet at www.fda.gov/ora/fed__state/default.htm.

SUPPLEMENTARY INFORMATION: FDA will support meetings covered by this notice under section 1701 (300u-300u-5) of the Public Health Service (PHS) Act (42 U.S.C. 241) or the Radiation Control for Health and Safety Act of 1968 (Public Law 90–602) (42 U.S.C. 263b-n). FDA's Conference Grant Program is described in the Catalog of Federal Domestic Assistance, No. 93–103 and applicants are limited to State food safety regulatory agencies. Applications submitted under this program are subject to the requirements of Executive Order 12372. Requirements under the original FDA request for applications for its Conference Grant Program (52 FR 12257, April 15, 1987) apply. PHS strongly encourages all award recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

PHS urges applicants to submit workplans that address specific objectives of ''Healthy People 2000.'' Potential applicants may obtain a copy of ''Health People 2000'' (Full Report, stock No. 017–0010–0474–0) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, 202–512–1800.

I. Background

ORA is the inspection component of FDA and has 1,000 investigators and inspectors who cover the country's approximately 95,000 FDA-regulated businesses. These investigators and inspectors inspect more that 15,000 facilities a year. In addition to the standard inspection program, they conduct special investigations, food inspection recall audits, perform consumer complaint inspections and sample collections. FDA has relied on the States in assisting with the above duties through formal contracts, partnership agreements, and other informal arrangements. Under the FSI, the demands on both the agency and the States will increase. Procedures need to be reviewed and innovative changes made that increase effectiveness and efficiency and conserve resources. ORA will support FSI by: (1) Providing effective and efficient compliance of regulated products, and (2) providing high quality, science-based work that maximizes consumer protection.

Under the FSI, FDA is encouraging State food safety regulatory agencies to establish (or provide support of existing) regularly scheduled Food Safety Task Force meetings. These meetings should foster communication and cooperation within the State among State and local food safety regulatory agencies. The purpose of the meetings should be to discuss/resolve issues at the State and local level relating to: (1) State/local agency roles and responsibilities, (2) capacity and resource needs, (3) outbreak coordination and investigations, (4) information sharing and data collection, (5) uniform regulatory standards, (6) communications and education, (7) State/local laboratory operations and coordination, and (8) adoption/implementation of the Food Code.

II. Project Goals, Definitions, and Examples

The purpose of these meetings is to foster communication and cooperation within the State among State and local food safety regulatory agencies. The meetings should: (1) Provide a forum for all the stakeholders of the food safety initiative; (2) assist in adopting or implementing the Food Code; and (3) promote the integration of a Statewide food safety system to become a cost effective, efficient system to maximize the protection of the public health.

Grant funds will be awarded for 1 year for direct costs only to secure meeting facility rental/expenses and in-state travel expenses for meeting attendees during the 1-year period. FDA and the U.S. Department of Agriculture region/district representatives may be invited to be a non-member liaison or advisor at the meetings but the task force should develop its own guidelines for work, consensus decisionmaking, size, and format at the initial meeting. Conference grant funds may not be used for Federal employees to travel to these meetings.

DFSR will provide meeting guidelines and other meeting organization documents as requested. Information on ''Productive Meeting Fundamentals'' is available via the Fax-on-Demand system by calling 301–827–4352 and requesting document #1606. A model partnership agreement may be obtained from Fax-on-Demand by requesting document #1605. FDA encourages at least two meetings a year for these task forces and recommends one each quarter.

III. Reporting Requirements

A final Program Progress Report or conference proceedings and a final Financial Status Report (FSR) (SF–269) are required within 90 days of the expiration date of the project period as noted on the Notice of Grant Award. An original and two copies of each report shall be submitted to FDA's Grants Management Office. Failure to file these

reports in a timely fashion may jeopardize future grant support.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of a grant. These grants will be subject to all policies and requirements that govern the conference grant programs of PHS, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 also apply to this program and are implemented through the U.S. Department of Health and Human Services (DHHS) regulations at 45 CFR part 100. Executive Order 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. A current listing of SPOC's is included in the application kit. The SPOC should send any State review process recommendations to the FDA Grants Management Office (address above). The due date for the State process recommendations is no later than 60 days after the deadline date for the receipt of applications. FDA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cutoff.

B. Eligibility

These grants are available to State food regulatory agencies (see section IV.A of this document).

C. Length of Support

The length of support will be for 1 year from the date of issuance of the award.

V. Review Procedure and Criteria

All applications submitted in response to this RFA will first be reviewed by grants management and program staff for responsiveness. If applications are found to be nonresponsive, they will be returned to the applicant without further consideration.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Final funding decisions will be made by the Commissioner of Food and Drugs or her designee.

Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria prior to the submission of their application. All questions of a technical or programmatic nature must be directed to the ORA Program Staff (address above) and all questions of an administrative or financial nature must be directed to the Grants Management Staff (address above). Applications will be given an overall score and judged based on all of the following criteria:

1. Participant determination of the size and membership of the meetings' operating rules and goals in relation to the mission and priorities of FDA;
2. Makeup of the participants to include State and local food safety agencies, industry, consumers, legislators (State and local) and other interested associations or groups. Recommended attendance at meetings is approximately 15 to 20 persons;
3. Information dissemination to constituents regarding the existence of the meetings and information regarding the goals and outcomes;
4. Biannual or quarterly meetings as necessary to accomplish the established goals;
5. Yearly self-evaluation concerning the progress toward achieving goals and outcomes.

VI. Submission Requirements

The original and two copies of the completed grant application Form PHS–5161–1 (Revised 5/96) for State and local governments should be delivered to the Grants Management Office (address above). The application receipt date is March 24, 2000, for applicants with an established task force and April 15, 2000, for applicants in the process of developing a task force. If the receipt date falls on a weekend or if the date falls on a holiday, the date of submission will be extended to the following workday. No supplemental material or addenda will be accepted after the receipt date.

The outside of the mailing package and item 2 of the application facepage should be labeled ''Response to RFA–FDA–ORA–00–1.''

Note: A lead/champion/initiating State food regulatory agency who will coordinate/host and take the lead in establishing the Food Safety Task Force must be determined within the State prior to submission of an application. That lead/champion/initiating State food regulatory agency would prepare and submit the application. Only one grant will be awarded per State. Approximately $250,000 will be available in FY 2000, subject to the availability of funds. FDA anticipates making awards, not to exceed $5,000 in direct costs per award. Support of these grants will be for 1 year. The number of grants funded will depend on the quality of the applications received and the availability of Federal funds to support the grant. These grants are available to State food regulatory agencies that have an existing State Food Safety Task Force as well as State food regulatory agencies that are in the process of developing a State Food Safety Task Force. The formation of these Food Safety Task Force meetings will not interfere with existing advisory mechanisms within the Federal/State/local system and is not a mandatory requirement of FDA.

VII. Method of Application

A. Submission Instructions

Applications will be accepted during working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date. Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.

Do not send applications to the Center for Scientific Research, National Institutes of Health (NIH). Any application that is sent to NIH, that is then forwarded to FDA and not received in time for orderly processing, will be deemed nonresponsive and returned to the applicant. Instructions for completing the application are included in Form PHS–5161–1. FDA is unable to receive applications via the Internet.

B. Format for Application

When using Form PHS 5161–1 (Revised 5/96), all instructions for the enclosed Standard Form 424 (SF424) should be followed using the nonconstruction application pages. The facepage of the application should be labeled ''RFA–FDA–ORA–00–1.''

Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on PHS Form 5161–1 were approved and issued under the Office of Management and Budget Circular A–102.

C. Legend

Unless disclosure is required by FOIA as amended (5 U.S.C. 552), as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of an application that have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted and/or proprietary information shall not be used or disclosed except for evaluation purposes.

Dated: January 12, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–1539 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Allergenic Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Allergenic Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on February 10, 2000, 8:30 a.m. to 3:30 p.m.

Location: Holiday Inn, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: William Freas or Pearline K. Muckelvene, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12388. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will receive an update on the organizational changes of the Laboratory of Immunobiochemistry, its regulatory activities (including reference replacements and lot release statistics) and its research activities. The committee will hear presentations and discuss the following regulatory issues: (1) Potency limits for standardized allergen vaccines, (2) selection of allergen extracts for standardization, and (3) a proposed algorithm for the standardization of new allergens.

Procedure: On February 10, 2000, from 8:30 a.m. to 3:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 26, 2000. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before February 3, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 11, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–1543 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0132]

FDA Modernization Act of 1997; Guidance on Medical Device Tracking; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the revised guidance document entitled ''Guidance on Medical Device Tracking.'' This guidance document, which replaces the previous guidance issued on February 12, 1999, provides guidelines to manufacturers and distributors concerning their responsibilities for medical device tracking under the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit written comments at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the guidance document entitled ''Guidance on Medical Device Tracking'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments on ''Guidance on Medical Device Tracking'' to the contact person (address below). See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Chester T. Reynolds, Center for Devices and Radiological Health (HFZ–300), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4618.

SUPPLEMENTARY INFORMATION:

I. Background

Section 211 of FDAMA (Public Law 105–115) amended the tracking provisions of section 519(e) of the act (21 U.S.C. 360i(e)) to authorize FDA, at its discretion, to issue orders that require a manufacturer to track a class II or class III device if: (1) The failure of the device would be reasonably likely to have serious adverse health consequences; (2) the device is intended to be implanted in the body for more than 1 year; or (3) the device is life sustaining or life supporting and used outside a device user facility. The FDAMA tracking provisions became effective on February 19, 1998.

The revised final guidance replaces the February 1999 guidance and clarifies the devices that must be tracked. Agency experience indicates that industry and other interested parties are confused about the term ''replacement heart valves'' because there is more than one type. The category of replacement heart valves that must be tracked is limited to mechanical heart valves only and does not include human allograft (tissue) heart valves. The revised guidance document includes this descriptive limitation.

Agency experience also indicates that industry and other interested parties are confused about which infusion pumps are subject to medical device tracking because the types of fluids the pumps are intended to deliver may not be clear from indications for use set out in labeling. The previous guidance stated that infusion pumps, except those designated and labeled for use

exclusively for fluids with low potential risks, such as enteral feeding or anti-infectives, were subject to tracking. The agency has reevaluated the types of infusion pumps subject to tracking and the best way to describe them in the guidance document. The revised guidance explains that tracking is required only for electromechanical infusion pumps that are used outside a user facility. This was the agency's position in 1993 when tracking was originally implemented (58 FR 43442 at 43449). The phrase ''electromechanical only'' will be used to describe the pumps rather than a reference to the classification regulation. FDA believes this will clarify the guidance because the terms used in the classification language for infusion pumps may include types that do not require tracking.

Finally, the agency added abdominal aortic aneurysm stent grafts to the devices that must be tracked. The agency issued tracking orders for these devices on September 28, 1999, which were effective immediately. FDA determined that these devices meet the statutory tracking criteria under section 519(e) of the act because failure of the device would be reasonably likely to have serious adverse health effects. The agency may add or remove devices from the list of tracked devices as a result of its review of premarket applications, recall data, medical device reporting, inspections, petitions, postmarket surveillance, or other information.

II. Significance of Guidance

This guidance document represents the agency's current thinking on medical device tracking requirements, as amended by FDAMA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 2 guidance consistent with GGP's.

III. Electronic Access

In order to receive ''Guidance on Medical Device Tracking'' via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (169) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes ''Guidance on Medical Device Tracking,'' device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. ''Guidance on Medical Device Tracking'' will be available at http://www.fda.gov/cdrh/ochome.html.

IV. Comments

Interested persons may, at any time, submit to the contact person (address above) written comments regarding this guidance. Such comments will be considered when determining whether to amend the current guidance.

Dated: January 9, 2000.

Linda S. Kahan,

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

[FR Doc. 00–1542 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–5297]

Medical Devices; Guidance Document for Premarket Notification Submissions for the Nitric Oxide Delivery Apparatus, Nitric Oxide Analyzer, and Nitrogen Dioxide Analyzer; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Guidance Document for Premarket Notification Submissions for the Nitric Oxide Delivery Apparatus, Nitric Oxide Analyzer, and Nitrogen Dioxide Analyzer.'' This guidance will serve as a special control for nitric oxide delivery apparatus; nitric oxide analyzer; and nitrogen dioxide analyzer. FDA's Center for Devices and Radiological Health (CDRH) believes that this guidance is necessary to provide reasonable assurance of the safety and effectiveness of these devices. The guidance document includes material specific for the devices, consensus standards for electrical safety, electromagnetic compatibility, software and hardware documentation, and resistance to environmental effects.

DATES: Written comments concerning this guidance document must be received by April 24, 2000.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance document. Submit written requests for single copies of the guidance document entitled ''Guidance Document for Premarket Notification Submissions for Nitric Oxide Delivery Apparatus, Nitric Oxide Analyzer, and Nitrogen Dioxide Analyzer'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. By April 24, 2000, written comments concerning this guidance document must be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. After April 24, 2000, comments must be submitted to the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Michael G. Bazaral, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8609.

SUPPLEMENTARY INFORMATION:

I. Background

On January 11, 2000, FDA issued an order to Datex-Ohmeda, Inc., under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(2)) classifying the nitric oxide administration apparatus, the nitric oxide gas analyzer, and the nitric dioxide analyzer into class II (special controls). This guidance document is intended to serve as the special control for these devices.

FDA is making this guidance document effective immediately

because these devices are necessary for the administration of a drug that provides a significant public health benefit. The drug, which was approved by FDA on December 23, 1999, is used for the treatment of neonates with hypoxic respiratory failure associated with clinical or echocardiographic evidence of pulmonary hypertension. The drug improves oxygenation and reduces the need for extracorporeal membrane oxygenation.

The guidance document is intended to set forth the controls and testing that FDA believes ensure the safety and effectiveness of the nitric oxide administration apparatus, nitric oxide gas analyzer, and nitrogen dioxide gas analyzer. It also intends to provide comprehensive directions to enable a manufacturer to submit a 510(k) premarket notification demonstrating substantial equivalence for any or all three device types.

The guidance document identifies the risks associated with these types of devices and contains information that will help manufacturers address those risks. The guidance outlines the controls that should be incorporated in the devices for controlling risks, testing that should be completed for each device, and suggested methods for developing preclinical criteria. Other elements of the guidance document include: (1) General device description; (2) specific description of the information to support applications for each device; and (3) general considerations for each device, such as software and hardware testing.

II. Significance of Guidance

This guidance document represents the agency's current thinking on the premarket notification submissions for the nitric oxide delivery apparatus, nitric oxide analyzer, and nitrogen dioxide analyzer. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive the ''Guidance Document for Premarket Notification Submissions for Nitric Oxide Delivery Apparatus, Nitric Oxide Analyzer, and Nitrogen Dioxide Analyzer'' via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1157) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance document may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes the ''Guidance Document for Premarket Notification Submissions for Nitric Oxide Delivery Apparatus, Nitric Oxide Analyzer, and Nitrogen Dioxide Analyzer,'' device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. The ''Guidance Document for Premarket Notification Submissions for Nitric Oxide Delivery Apparatus, Nitric Oxide Analyzer, and Nitrogen Dioxide Analyzer'' will be available at http://www.fda.gov/cdrh/ggpmain.html.

IV. Comments

Interested persons may, on or before April 24, 2000, submit to the Dockets Management Branch (address above) written comments regarding this immediately in effect guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 13, 2000.

Linda S. Kahan,

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

[FR Doc. 00–1535 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0298]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New; *Title of Information Collection:* Evaluation of New Medicare Members of Medicare+Choice Plans; *Form No.:* HCFA–R–0298 (OMB# 0938-New); *Use:* The objective of this survey is to understand the special information needs of new Medicare members, their sources of information, their preferred distribution channels, their understanding of the traditional Medicare program and their understanding of their particular +Choice plan, and the impact National Medicare Education Program activities may have on new members' decisions to choose a +Choice plan or change their plan; *Frequency:* On occasion; *Affected Public:* Individuals; *Number of Respondents:* 3000; *Total Annual Responses:* 3000; *Total Annual Hours:* 1212.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: December 28, 1999.

John Parmigiani,

Manager, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–1602 Filed 1–21–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration.

[Document Identifier: HCFA–R–0262]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, with change, of a previously approved collection for which approval expired; *Title of Information Collection:* The Adjusted Community Rate Proposal (ACRP) M+C Plan Benefit Package and Supporting Regulations in 42 CFR 417.401, 22.1–422.10, 422.50–422.80, 422.100–422.132, 422.300–422.312, 422.400–422.404, and 422.560–422.622; *Form No.:* HCFA–R–0262 (OMB# 0938–0763); *Use:* The plan benefit package data will be used to approve managed care organization benefits, approve adjusted community rate pricing packages, and support both managed care organization and HCFA beneficiary information campaign and marketing efforts. Respondents include any M+C organization that intends to offer an M+C plan in calendar years 2001–2003.

This collection will also allow the HCFA to provide a totally automated submission and review capability, replace text with data format, establish a standard set of benefit descriptions/definitions, provide a framework to describe benefits, reduce variation in benefit descriptions, and eliminate the need to validate Medicare Compare data; *Frequency:* Annual; *Affected Public:* Business or other for-profit, and Not-for-profit institution; *Number of Respondents:* 300; *Total Annual Responses:* 300; *Total Annual Hours:* 900.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: January 7, 2000.

John Parmigiani,

Acting Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–1603 Filed 1–21–00; 8:45 am]

BILLING CODE 4120–03–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: Assessment of the Impact of the National Practitioner Data Bank—NEW

Under the Health Resources and Services Administration (HRSA), Bureau of Health Professions (BHPr), the Division of Quality Assurance (DQA) is planning to conduct a survey to obtain information on the degree of user satisfaction with the National Practitioner Data Bank's (NPDB) querying and reporting processes, how users believe these processes can be improved, and how users perceive the usefulness of information they obtained from the NPDB for licensing and credentialing of health care entities, *e.g.* managed care organizations, State licensing boards for physicians and dentists, and professional societies. The study will also identify and survey non user entities. The information obtained in this study will be interpreted in relation to similar information from previous studies conducted by the DQA and the Office of the Inspector General.

The estimated response burden is as follows:

Questionnaire version	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Users Survey					
Reporting:					
Hospital	1031	1	1031	.25	257.8
Group Practice	210	1	210	.25	52.5
HMOs	161	1	161	.25	40.3

Questionnaire version	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
State Boards	81	1	81	.25	20.3
Malpractice Payers	188	1	188	.25	47.0
Professional Societies	67	1	67	.25	16.8
Other	209	1	209	.25	52.3
Querying:					
Hospital	770	1	770	.4	308
Group Practice	173	1	173	.4	69.2
HMOs	153	1	153	.4	61.2
State Boards	74	1	74	.4	29.6
Malpractice Payers	*				
Professional Societies	66	1	66	.4	26.4
Other	184	1	184	.4	73.6
Match Responses:					
Hospital	770	2.6	2002	.33	660.7
Group Practice	173	2.8	484.4	.33	159.9
HMOs	153	2.2	336.6	.33	111.1
State Boards	74	2.2	162.8	.33	53.7
Malpractice Payers	*				
Professional Societies	66	2.0	132	.33	43.6
Other	184	1.9	349.6	.33	115.4
Non-Users Survey					
Version/Entity Type:					
Hospital					
Group Practice	113	1	113	.1	11.3
HMOs	151	1	151	.1	15.1
State Boards					
Malpractice Payers					
Professional Societies	113	1	113	.1	11.3
Other	113	1	113	.1	11.3
Total Users	2,366		6,834		2,199
Total Non-Users	490		490		49
Total Users and Non-Users	2,856		7,324		2,248

*Cannot query the NPDB; thus these entities do not receive querying or match response questionnaires.
**These are the unduplicated numbers of entities required for the surveys.

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: January 14, 2000.

James J. Corrigan,

Associate Administrator for Management and Program Support.

[FR Doc. 00–1533 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of February 2000.

Name: National Advisory Council on the National Health Service Corps (NHSC).

Date and Time:

February 10–11, 2000; 9 a.m.–noon.
February 12, 2000; 9 a.m.–4:30 p.m.
February 13, 2000; 9 a.m.–10:00 a.m.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814, Phone: (301) 897–9400.

The meeting is open to the public.

Agenda: Items will include updates on the NHSC and Scholarships and Loan Repayments program; Health Professional Shortage Areas (HPSA) designations; and a report from the Philadelphia field office. The Council will be attending the Capitol Area Rural Health Roundtable on Thursday, February 10, from 3:00 p.m. to 5:00 p.m. A site visit will be on Friday, February 11. Transportation for the public will not be available.

For further information, call Ms. Eve Morrow, Division of National Health Service Corps, at (301) 594–4144.

Dated: January 14, 2000.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–1532 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of February 2000.

The National Advisory Committee on Rural Health will convene its thirty-fourth meeting at the time and place specified below:

Name: National Advisory Committee on Rural Health.

Date and Time:

February 7, 2000; 8:30 a.m.–4:45 p.m.
February 8, 2000; 8:30 a.m.–4:00 p.m.

February 9, 2000; 8:30 a.m.–10:30 a.m.P='02'≤

Place: Washington Court Hotel, 525 New Jersey Avenue, N.W., Washington, D.C. 20001. Phone: (202) 628–2100.

The meeting is open to the public.

Purpose: The National Advisory Committee on Rural Health provides advice and recommendations to the Secretary with respect to the delivery, research, development, and administration of health care services in rural areas.

Agenda: Monday morning, February 7, at 8:30 a.m. the new chairperson, Senator Nancy Kassebaum Baker will open the meeting and welcome the Committee members. The first plenary session will be a presentation on the rural health issues in the Veterans Administration. At 10:00 a.m. the group will move to the National Rural Health Association's Policy Institute Congressional Forum (also convened in the same hotel). After lunch, presentations will include the Kaiser Commission on Medicaid and the uninsured; update on public health and hospital capital, and the Indian Health Service.

Tuesday morning at 8:30 a.m., there will be an update of the Office of Rural Health Policy activities, followed by presentations on Medicare payment in rural areas, rural mental issues, and an update on research and regulatory activities.

After lunch, Committee discussion will continue on issues presented by the Indian Health Service, and Veterans Administration.

The final plenary session will be convened on Wednesday, February 9 at 8:30 a.m. During this session the Committee will discuss future activities and next meeting. The meeting will be adjourned at 10:30 a.m.

Anyone requiring information regarding the subject Committee should contact Wayne W. Myers, M.D., Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, Room 9A–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443–0835, Fax (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Sandi Lyles or Lilly Smetana, Office of Rural Health Policy, (301) 443–0835.

Dated: January 14, 2000.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–1534 Filed 1–21–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 60-Day Proposed Collection: Common Reporting Requirements for Urban Indian Health Program; Republication

Editorial Note: In the issue of January 14, 2000, beginning on page 2417, FR Doc. 00–888 was printed as a duplicate of FR Doc. 00–887, beginning on page 2416. The correct FR Doc. 00–888 is published below.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, to provide a 60-day advance opportunity for public comment on proposed information collection projects, the Indian Health Service (IHS) is publishing for comment a summary of a proposed information collection to be submitted to the Office of Management and Budget (OMB) for review.

Proposed Collection

Title: 09–17–0007, ''Common Reporting Requirements for Urban Indian Health Program.'' *Type of Information Collection Request:* Extension of currently approved information collection, 09–17–0007, ''Common Reporting Requirements for Urban Indian Health Program,'' which expires February 28, 2000. *Form Number:* Reporting formats contained in the Indian Health Service Urban Indian Health Programs Common Reporting Requirements Instruction Manual. *Need and Use of Information Collection:* American Indian/Alaska Native (AI/AN) urban health organization contracting with the IHS provide the information collected. The information is collected annual and is used to monitor contractor performance, prepare budget reports, allocate resources, and evaluate the urban health contract program.

Affected Public: Businesses or other for-profit organizations, individuals, not-for-profit institutions, and State, local, or Tribal Government. *Type of Respondents:* health care providers.

Table 1 below provides: Types of data collection instruments, Estimate number of respondents, Number of responses per respondent, Annual Number of Responses, Average burden hour per response, and total annual burden hour.

Data collection instructions	Estimated number or respondents	Responses per respondent	Annual number of responses	Average burden hr per response [1]	Total annual burden hours
Face Sheet	34	1	34	0.50 (30 mins)	17.0
Table 1	34	1	34	2.00 (120 mins)	68.0
Table 2	34	1	34	0.75 (45 mins)	26.0
Table 3	34	1	34	22.25 (135 mins)	77.0
Table 4	[2] 23	1	23	0.50 (30 mins)	12.0
Table 5	34	1	34	2.00 (120 mins)	68.0
Table 6	34	1	34	2.00 (120 mins)	68.0
Table 7	34	1	34	1.00 (60 mins)	34.0
Tabke 8	34	1	34	1.25 (75 mins)	43.0
Total	295		295		413.0

[1] For ease of understanding, burden hours are also provided in actual minutes.
[2] Excludes urban Indian health projects with no medical component.

There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments

Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumption used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Comments and Request For Further Information: Send your written comments, requests for more information of the proposed collection, or requests to obtain a copy of the data collection instrument(s) and

instructions to: Mr. Lance Hodahkwens, Sr., M.P.H. IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852.1601: call non-toll free (301) 443–5938, send via facsimile to (301) 443–2316, or send your E-mail requests, comments, and return address to: 1hodahkw@hqe.ihs.gov.

Comment Due Date: Your comments regarding this information collection are best assured of having their full effect if received on or before March 14, 2000.

Dated: January 7, 2000.

Michael H. Trujillo,

Assistant Surgeon General Director.

[FR Doc. 00–888 Filed 1–13–00; 8:45 am]

BILLING CODE 4160–16–M

Editorial Note: In the issue of January 14, 2000, beginning on page 2417, FR Doc. 00–888 was printed as a duplicate of FR Doc. 00–887 beginning on page 2416. FR Doc. 00–888 is being republished in this issue of January 24, 2000.

[FR Doc. 00–888 Filed 1–21–00; 8:45 am]

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: December 1999

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of December 1999, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject city, state	Effective date
PROGRAM-RELATED CONVICTIONS:	
ARIAS, MIGUEL DEPAULA, MIAMI, FL	01/19/2000
ASENCIO, MARIO, MIAMI, FL	01/19/2000
BAKER, ROBERT L, ST ROBERTS, MO	01/19/2000
BUNNA, JASON, SOLEDAD, CA	01/19/2000
DUPUY, SIDNEY J III, BREAUX BRIDGE, LA	01/19/2000
DUZAN, ROBIN, SOUTH SHORE, KY	01/19/2000
EDMONDS, DOROTHY A, BATON ROUGE, LA	01/19/2000
FERGUSON, RUTH, WICHITA, KS	01/19/2000
FLETCHER, JOHN D JR, CHARLESTON, SC	03/08/1900
GORDON, ALICE J, MARIANNA, FL	01/19/2000
HELLYER, DANIEL, MALTA, MT	01/19/2000
HOFFMAN, JAYNE, LAWRENCEVILLE, GA	01/19/2000
HOFFMAN, MARK D, LAWRENCEVILLE, GA	01/19/2000
JOSEPH, MORGAN, MOUSIE, KY	01/19/2000
JUDGE, DANIEL BARKSDALE, RIVERSIDE, CA	01/19/2000
LOFTON, BARBARA P, VESTAVIA HILLS, AL	01/19/2000
NEAL, ROY GLENN, IRVINE, KY	01/19/2000
NEAL, BESSIE, IRVINE, KY	01/19/2000
PETERSON, CHERYL, LINCOLN, NE	01/19/2000
REGINS, KATHRYN S, BATON ROUGE, LA	01/19/2000
SHACK, CAESAR SALANTO, JACKSONVILLE, FL	01/19/2000
WIEMAN, WILLIAM, GRAHAM, WA	01/19/2000
YANG, ROBERT CHANG-CHUN JR, LAND O'LAKES, FL	01/19/2000
FELONY CONTROL SUBSTANCE CONVICTION:	
SLACK, JUDITH A., LONGMONT, CO	01/19/2000
PATIENT ABUSE/NEGLECT CONVICTIONS:	
BAKER, GARY J, ANCHORAGE, AK	01/19/2000
BORER, STEPHANIE M, BUCYRUS, OH	01/19/2000
COLELLO, NATALIE D, PROVIDENCE, RI	01/19/2000
COLEMAN, SALLIE B, SALUDA, SC	01/19/2000
ELLYSON, REBEKKA ANN, CHICO, CA	01/19/2000
JONES, CHRISTIE, BLACKVILLE, SC	01/19/2000
KHAFAGA, MERVAT, CLEVELAND, OH	01/19/2000
MERCHANT, DAVID L, WINDSOR, VT	01/19/2000
OGUNDAPO, VANESSA I, CLEVELAND, OH	01/19/2000
ROGERS, ROY, SANTA MONICA, CA	01/19/2000
WILLIAMS, JACKSON, SYRACUSE, NY	01/19/2000
WOODS, WENDY L, CLEVELAND, OH	01/19/2000
YOUNG, NORD LEVERNE, SAN FRANCISCO, CA	01/19/2000
CONVICTION FOR HEALTH CARE FRAUD:	
NEAVETH, BRANDON RAY, DENVER, CO	01/19/2000
QUINONES, CATHERINE, ALBURQUERQUE, NM	01/19/2000
LICENSE REVOCATION/SUSPENSION/SURRENDERED:	
ABNEY, LINDA A, COLUMBIA, SC	01/19/2000
ADLER, ROGER E, JAMES ISLAND, SC	01/19/2000
ALLMON-RODRIGUEZ, KAREN J, SAN BRUNO, CA	01/19/2000
ANDERSEN, SUZANNE, NOVATO, CA	01/19/2000
ANDREWS, CRYSTAL DAWN, SHERMAN, TX	01/19/2000
APADACA, RAYMOND T, VENTURA, CA	01/19/2000

Subject city, state	Effective date
BAZEMORE, SHARON T, ELIZABETH CITY, NC	01/19/2000
BLACKMAN, SANDRA PHILERMENE, HIGHLAND, CA	01/19/2000
BONA, RANDOLPH J, BROOKLYN CENTER, MN	01/19/2000
BOWDEN, STEPHEN D, CHICO, CA	01/19/2000
BRAGG, STEVEN WAYNE, HARVEST, AL	01/19/2000
BUJAUCIUS, MERRYANN, NEWBURY, VT	01/19/2000
BYRD, TARESA MAY BRYANT, SPARKMAN, AR	01/19/2000
CARY, MONTE RAY, KISSIMMEE, FL	01/19/2000
CLARK, JAMES, NAPA, CA	01/19/2000
CORROW, CHRISTINE E, LYNDONVILLE, VT	01/19/2000
COTTER, ANDREA M, ST PAUL, MN	01/19/2000
EGRES, DEBORAH L, LAKE ORION, MI	01/19/2000
ELGIN, MELODY LOUISE, TULARE, CA	01/19/2000
ELSEA, CLARA E, BERRYVILLE, VA	01/19/2000
GARCIA, ANTON R, HICKORY HILLS, IL	01/19/2000
GRIFFITH, BONNIE DEAN, ANDERSON, CA	01/19/2000
HAMMER, MARTHA M, FLINT, MI	01/19/2000
HARRIS, CLIFTON GORDON III, VISALIA, CA	01/19/2000
HARRIS, RAMONA GAIL BULTER, UNION GROVE, AL	01/19/2000
HASTON, JAMES PARKER, HOUSTON, TX	01/19/2000
HILL, ANNE KATHOLEEN, BIRMINGHAM, AL	01/19/2000
HOGAN, JAMES T, MOOSE LAKE, MN	01/19/2000
HOGENSON, LORI A, DIXON, IL	01/19/2000
IRBY, JAMES H, ANDERSON, SC	01/19/2000
IRELAND, JULIE K, MONTICELLO, IA	01/19/2000
JENSEN, CHRISTINE A, MINNEAPOLIS, MN	01/19/2000
JONES, LINDA D, DES MOINES, IA	01/19/2000
KAREL, JAN, LEMON GROVE, CA	01/19/2000
KESTER, KELLIE L, FRIDLEY, MN	01/19/2000
LABOUNTY, CHRISTOPHER C, DULUTH, MN	01/19/2000
LAIR, CARL BRUCE, WEATHERFORD, TX	01/19/2000
LANEY, MELISSA DIANNE MILLER, DECATUR, AL	01/19/2000
LENART, PAUL J, URBANA, IL	01/19/2000
LUKE, STEVEN JEROME, OREM, UT	01/19/2000
MACKINS, WILLIAM E, COLORADO SPNGS, CO	01/19/2000
MAJOR, VICTORIA ANN, PIEDMONT, CA	01/19/2000
MARMIE, CANDACE L, LOVELAND, CO	01/19/2000
MCKEY, LINDA BENGELE, SUFFOLK, VA	01/19/2000
MEJIA, PHYLLIS A, WAYNESBORO, VA	01/19/2000
MILLER, ANDREA CAMILLE, POTTSBORO, TX	01/19/2000
MINER, RENEE L, SAINT JAMES, VT	01/19/2000
MRAZ, GINA C, MINNEAPOLIS, MN	01/19/2000
OZENBAUGH, SUSAN, COTTONWOOD, CA	01/19/2000
PAGE, KIMBERLEE B, AUSTIN, MN	01/19/2000
PENCE, DEBBIE LYNN, MT VERNON, WA	01/19/2000
PINAN, ROQUE E, COLCHESTER, VT	01/19/2000
POLLARD, OLIVIA M, DENVER, CO	01/19/2000
RICKETSON, GREER HOMER, NASHVILLE, TN	01/19/2000
RICKS, MELVIN THEODORE, SANTA CLARA, CA	01/19/2000
RIGSBY, ROBERT E, MAYO, FL	01/19/2000
ROBINS, KENITH L, PROVO, UT	01/19/2000
ROGERS, GARY DEAN, HUNTSVILLE, AL	01/19/2000
SPEEGLE, MICHAEL CLINTON, CULMAN, AL	01/19/2000
STANFIELD, MARILYN RENEE, TUSCUMBIA, AL	01/19/2000
STRONG, HELEN, DETROIT, MI	01/19/2000
SULTZ-ZIKE, DIANE MARCELLA, BAKERFIELD, CA	01/19/2000
TAYLOR, NELDA JEAN, THORSBY, AL	01/19/2000
VAN AUKEN, BRUCE P, ORLAND PARK, IL	01/19/2000
WATSON, CYNTHIA KATHYRN STREET, HOOVER, AL	01/19/2000
WHITE, PAUL D, SALIDA, CO	01/19/2000
WOOD, PATSY DEAN, PHENIX CITY, AL	01/19/2000
WYLIE, MELODY P, MONCRUE, NC	01/19/2000
FRAUD/KICKBACKS:	
FOREST HILLS NEUROPSYCHIATRIC, BELLEVUE, KY	05/28/1900
OWNED/CONTROLLED BY CONVICTED/EXCLUDED:	
COMMUNICARE HOME HEALTH CARE, SAN ANTONIO, TX	01/19/2000
FLORIDA MOBILE DENTAL, INC, HIALEAH, FL	01/19/2000
JOMA DIAGNOSTIC, CORP, MIAMI, FL	01/19/2000
MEDICAL CORPORATION, OAK RIDGE, LA	01/19/2000
NEURO-VASCULAR INSTITUTE, INC, MIAMI, FL	01/19/2000
STATEWIDE DENTAL SERVICES, MIAMI, FL	01/19/2000
SUGAR SHACK AMBULATORY, JACKSONVILLE, FL	01/19/2000
THE CREST CLINICS OF MIAMI, MIAMI, FL	01/19/2000
DEFAULT ON HEAL LOAN:	

Subject city, state	Effective date
AVEDISSIAN, GREGORY M, WORCESTER, MA	01/19/2000
CAMPBELL, ROCHELLE S, BATON ROUGE, LA	01/19/2000
COONTS, JERRY A, EL DORADO SPNGS, MO	01/19/2000
DAVIS, LARRY L, EL PASO, TX	01/19/2000
DAWS, MICHAEL R, ENGLEWOOD, CO	01/19/2000
DEMEHRI, SHERIAR F, LEONARDTOWN, MD	01/19/2000
DOWER, PATRICK B, NOKOMIS, FL	01/19/2000
EDWARDS, DOUGLAS R, JONESBORO, GA	01/19/2000
ENSLEY, DENNIS L, GREAT BEND, KS	01/19/2000
GUTHRIE, WANDA D, CHARLOTTE, NC	01/19/2000
KARAKIZIS, DEMETRIOS D, JAMAICA, NY	01/19/2000
KEMPIS, RICHARD A, SAN FRANCISCO, CA	01/19/2000
KERSTEIN, GARY R, LOUISVILLE, KY	01/19/2000
LESTER, ROBERT C, GRAND PRAIRIE, TX	01/19/2000
MADDOX, JOSEPH T, EVERETT, MA	01/19/2000
MARTIN, JOSEPH E, MORGAN HILL, CA	01/19/2000
MEYER, RICHARD D, POWDER SPRINGS, GA	11/04/1900
PATEL, AVINASH M, MANHATTAN, NY	01/19/2000
PAULE, LAWRENCE D, TOLLESON, AZ	01/19/2000
PURYEAR, CHERYLL D, SUGAR LAND, TX	01/19/2000
RILEY, DAVID C, MILWAUKEE, WI	01/19/2000
SHEEHAN, MATTHEW E, MEDFORD, OR	01/19/2000
SMITH, PAMELA R, HIGHLAND, CA	12/14/1900
STEINFELD, AUDREY G, NORTHRIDGE, CA	01/19/2000
STRICKLAND, DAVID K, BLACKSBURG, VA	01/19/2000
TURNQUEST, GREOGRY L, QUINCY, FL	01/19/2000

Dated: January 12, 2000.

Joanne Lanahan,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 00–1604 Filed 1–21–00; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel I in November and December 1999.

A summary of the meetings and a roster of the members may be obtained from: Ms. Coral Sweeney, Review Specialist, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–2998.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meetings will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, these meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b© (6) and 5 U.S.C. App.2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: February 6–11, 2000.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: February 6–11, 2000, 8:30 a.m.—5 p.m./adjournment.

Panel: Community Treatment Program, PM 99–050

Contact: Danielle Johnson, Room 17–89, Parklawn Building, Telephone: 301–443–2683 and FAX: 301–443–1587.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: February 13–16, 2000.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: February 13–16, 2000, 8:30 a.m.—5 p.m./adjournment.

Panel: Substance Abuse and Mental Health Services Administration Conference Grant PA 98–090(a).

Contact: Ferdinand Hui, Room 17–89, Parklawn Building, Telephone: 301–443–9919 and FAX: 301–443–3437.

Dated: January 10, 2000.

Coral Sweeney,

Review Specialist,

Substance Abuse and Mental Health Services Administration

[FR Doc. 00–1540 Filed 1–21–00; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Earth Observing System (EOS) Land Processes Distributed Active Archive Center (DAAC) Science Advisory Panel; Notice of Reestablishment

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), 5 U.S.C. App. (1988). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is reestablishing the EOS Land Processes DAAC Science Advisory Panel.

The purpose of the Panel is to advise the U.S. Geological Survey, Earth Resources Observation Systems (EROS) Data Center in the definition, development, implementation, and operation of data processing, archiving, and distribution systems and associated science support capabilities required in its role as one of eight original DAACs established by the National Aeronautics and Space Administration (NASA) as part of the EOS Program. EOS is a major component of the U.S. Global Change Program.

The Panel is responsible for providing advice and consultation on a broad range of scientific technical topics and for representing the interests and requirements of the scientific research community in guiding development and operation of Land Processes DAAC systems and capabilities. Membership

on the Panel includes representation by scientists formally affiliated with the EOS Program and by scientists who do not have such formal affiliation, including representation from the U.S. academic research community.

The Panel functions solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Act, 15 days from the date of publication of this notice. Further information regarding the Land Processes DAAC Science Advisory Panel may be obtained from the Director, U.S. Geological Survey, Department of the Interior, 12201 Sunrise Valley Drive, Reston, Virginia 22092. Certification of reestablishment is published below.

Certification

I hereby certify that the reestablishment of the EOS Land Processes DAAC Science Advisory Panel is necessary and in the public interest in connection with the performance of duties undertaken by the Department of the Interior pursuant to the Memorandum of Understanding between the U.S. Geological Survey and the National Aeronautics and Space Administration (NASA) for Experiment Land Remotely Sensed Data Processing, Distribution, Archiving and Related Science Support. The U.S. Geological Survey is authorized to cooperate with NASA in developing and operating the Land Processes DAAC pursuant to the Organic Act of the U.S. Geological Survey of March 3, 1879 (43 U.S.C. 31), Sec. 101(h) of P.L. 99–591 (An act making appropriations for the Department of Interior and related agencies for the fiscal year ending September 10, 1987, and for other purposes.), 100 Stat, 3341, 3341–252; and NASA's Section 203(c)(5) of the National Aeronautics and Space of 1958, as amended (42 U.S.C. 2473(C)(5)).

Dated: January 3, 2000.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 00–1599 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service

Klamath River Basin Fisheries Task Force; Notice of Meeting

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath River Basin Fisheries Task Force (Task Force) will meet from 8:00 a.m. to 4:30 p.m. on Thursday, February 10, 2000 and from 8:00 a.m. to 1:00 p.m. on Friday, February 11, 2000.

PLACE: The meeting will be held at the Brookings Inn, 1143 Chetco Avenue, Brookings, Oregon.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1215 South Main), Yreka, California 96097–1006, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Elizabeth H. Stevens,

Acting Manager, California Nevada Operations.

[FR Doc. 00–1592 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

WO–880–9500–PF–24–1A

Extension of Approved Information Collection; OMB Number 1004–0109

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request renewal of approval to collect certain information from the Governors of States to allow the BLM to compute units of payments due to local governments. The Payments in Lieu of Taxes (PILT) Act of September 13, 1982, as amended, requires that the Governor of each State furnish BLM with a listing of payments made to local governments by the State on behalf of the Federal Government under 11 receipt-sharing statutes. This information helps local governments recover some of the expenses incurred by providing services on public lands.

DATE: BLM must receive comments on the proposed information collection by March 24, 2000 to assure consideration.

ADDRESSES: You may mail comments to the Bureau of Land Management, (630), Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, DC 20240. You may also hand deliver comments to Bureau of Land Management, Room 401, 1620 L Street, NW, Washington, DC 20036. To file comments electronically, send your comments via Internet to *WOComment@blm.gov.* Please include ''ATTN: 1004–0109'' and your name and return address in your Internet message. BLM will make comments available for public review in Room 401, 1620 L Street, NW, Washington, DC during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bill Howell, Budget Group, (202) 452–7721 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339, 24 hours a day, 7 days a week, to contact Mr. Howell about the information collection.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in 43 CFR 1880 to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriated automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them in its request for approval from the Office of Management and Budget under (44 U.S.C. 3501 *et seq.*).

BLM makes payments in lieu of taxes to units of local governments for certain Federal lands within their boundaries through authority provided by the PILT Act of October 20, 1976 (90 Stat. 2662, 31 U.S.C. 6901–6907). The implementing regulations located at 43 CFR Subpart 1881—Payments in Lieu of Taxes. The Governor of each State or his agent must furnish BLM with a listing of payments made to local governments

by the State on behalf of the Federal Government under 11 revenue-sharing laws specified at (31 U.S.C. 6903(a)(1)). BLM provides the States with a printout matrix designed to facilitate recording the requested information. Each printout lists each qualifying unit of local government down the left hand side of the page along with the unit of local government code used by the Census Bureau. Across the top of the printout are columns which indicate each of the revenue Acts. BLM uses the information provided by the States to compute the PILT payments to local governments within the State.

Based on BLM's experience in administering PILT, BLM estimates each State's reporting burden for this information collection to average 20 hours. The respondents already maintain this information for their own record-keeping purposes and need only transfer it to the matrix described above. The estimate includes time for research, time to transcribe and audit the data, and time to prepare the PILT submission. The respondents are offices designated by the Governor of each State, usually the Treasurer's office. The frequency of response is once annually, reporting on the previous fiscal year's revenues. The number of responses per year is 50. The estimated total annual burden on the States collectively is about 1,000 hours.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: January 3, 2000.

Carole Smith,

Bureau of Land Management, Information Clearance Officer.

[FR Doc. 00–1607 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–930–00–1020–PH]

Availability of Proposed Statewide Resource Management Plan Amendment/Final Environmental Impact Statement, of Land Use Plans in New Mexico for Implementation of New Mexico Standards for Public Land Health and Guidelines for Livestock Grazing Management

AGENCY: Bureau of Land Management, New Mexico State Office.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Proposed Statewide Resource Management Plan Amendment/Final Environmental Impact Statement, of Land Use Plans in New Mexico for Implementation of New Mexico Standards for Public Land Health and Guidelines for Livestock Grazing Management.

The Proposed Statewide Resource Management Plan

Amendment/Final Environmental Impact Statement addresses the effects of adopting statewide standards for public land health and guidelines for livestock grazing on BLM administered lands in New Mexico. When adopted the standards and guidelines would be incorporated into eight BLM land use plans that cover approximately 13.5 million acres of BLM-administered land. This action is proposed in accordance with revised regulations for livestock grazing on BLM-administered lands (43 CFR 4100).

The Proposed Plan is the New Mexico Resource Advisory Council (RAC) Alternative. The RAC modified the alternative based on public comment on the Draft, and to make the alternative more in concert with the regulations (43 CFR § 4180). All parts of the Proposed Plan may be protested. Only those persons or organizations who participated in the planning amendment and analysis process may protest issues previously raised in the Draft.

ADDRESSES: Protests must be sent to the Director (WO–210), Bureau of Land Management, Attn.: Brenda Williams, 1849 C Street, NW, Washington, DC 20240. Also send a Carbon Copy to the Office of the Lieutenant Governor, State Capitol, Santa Fe, New Mexico 87505—Attention Cecilia Abeyta. Protests must be postmarked on or before February 28, 2000. The protest must include the following information: (1) Name, mailing address, telephone number, and interest of the person filing the protest; (2) a statement of the issue or issues being protested; (3) a statement of the parts or part being protested; (4) a copy of all documents addressing the issue or issues that were submitted during the planning amendment process by the protesting party or an indication of the date the issue or issues were discussed for the records; and (5) a concise statement explaining why the BLM New Mexico State Director's decision is wrong. For those who do not want to protest the Proposed Plan but wish to comment on the Proposed Plan, they may do so. All comments received will be considered in preparation of the Record of Decision. Comments must also be postmarked on or before February 28, 2000 and sent to: BLM—S&G Comment, NM931, P.O. Box 27115, Santa Fe, NM 87502–0115. At the end of the 30-day protest period, and following resolution of any protests, a Record of Decision will be published and the Resource Management Plans updated to reflect the Resource Management Plan Amendment changes. Single copies of the Proposed Statewise Resource Management Plan Amendment/Final Environmental Impact Statement can be obtained by writing or calling J.W. Whitney the BLM Project Team Leader. A limited number of copies of the Proposed Statewide Resource Management Plan Amendment/Final Environmental Impact Statement are available at BLM Field Offices in Farmington, Taos, Albuquerque, Socorro, Las Cruces, Roswell, Carlsbad and at the BLM State Office in Santa Fe, NM.

FOR FURTHER INFORMATION CONTACT: J.W. Whitney, BLM Project Leader, BLM, New Mexico State Office, P.O. Box 27115, Santa Fe, NM 87502–7115; telephone 505–438–7438.

SUPPLEMENTARY INFORMATION: Four alternatives are considered in detail in the Proposed Statewide Resource Management Plan Amendment/Final Environmental Impact Statement. The Four alternatives include: No Action Alternative (continuation of current management), RAC Alternative (Proposed Plan), County Alternative, and Fallback Alternative.

The RAC Alternative (Proposed Plan) has four Standards which include: an Upland Standard, a Biotic Standard, a Riparian Standard, and a Sustainable Communities and Human Dimension Standard.

Dated: January 14, 2000.

M.J. Chavez,

State Director.

[FR Doc. 00–1593 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–930–1310–01]; [NMNM 101077]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease NMNM 101077 for lands in Eddy County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from September 1, 1999, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice. The Lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective September 1, 1999, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

For further information contact: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: December 29, 1999.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 00–1606 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–020–1310–00]

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent for Planning Analyses.

SUMMARY: The Jackson Field Office, Eastern States, will prepare Planning Analyses (PA) for consideration of leasing six scattered tracts of Federal mineral estate for oil and gas exploration and development. The PAs will be prepared in concert with Environmental Analyses (EA).

This notice is issued pursuant to Title 40 Code of Federal Regulations (CFR) 1501.7 and Title 43 CFR 1610.2(c). The planning effort will follow the procedures set forth in 43 CFR Part 1600.

The public is invited to participate in this planning process, beginning with the identification of planning issues and criteria.

DATES: Comments relating to the identification of planning issues and criteria will be accepted for thirty days from the date of this publication.

ADDRESSES: Send comments to Bureau of Land Management, Jackson Field Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206.

FOR FURTHER INFORMATION CONTACT: Quazi T. Islam, Physical Scientist, Jackson Field Office, (601) 977–5400.

SUPPLEMENTARY INFORMATION: The BLM has responsibility to consider applications to lease Federal mineral estate for oil and gas exploration and development. An interdisciplinary team will be used in the preparation of the PA/EAs. Preliminary issues, subject to change as a result of public input, are (1) potential impacts of oil and gas exploration and development on the surface resources and (2) consideration of restrictions on lease rights to protect surface resources.

Due to the scattered nature of the six tracts proposed for leasing, a separate analysis will be prepared for each tract.

Tract locations, along with acreages, are listed below.

Alabama, Tuscaloosa County, Huntsville Meridian

T 18 S, R 8 W, Section 7; T 18 S, R 9 W, Sections 11 and 12; 200.94 acres.

Louisiana, Concordia Parish, 5th Principal Meridian

T 5 N, R 9 E, Sections 66 and 67; 112.80 acres.

Mississippi, Lamar County, St. Stephens Meridian

T 2 N, R 16 W, Sections 11, 12, 13, and 14; 1,470.0 acres.

Mississippi, Covington County, St. Stephens Meridian

T 8 N, R 14 W, Section 4; 40.0 acres.

Mississippi, Covington County, St. Stephens Meridian

T 6 N, R 54 W, Sections 8 and 17; 70.0 acres.

Virginia, Dickenson County

Tract No. 550G, Parcel A–3. 200.61 acres.

Due to the limited scope of this PA/EA process, public meetings are not scheduled.

Bruce E. Dawson,

Field Manager, Jackson Field Office.

[FR Doc. 00–1605 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–GS–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(CO–930–1430–ET; COC–28531, COC–17321)

Public Land Order No. 7428; Revocation and Partial Revocation of Two Executive Orders Which Created Public Water Reserves; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes one Executive order in its entirety and partially revokes another Executive order insofar as they affect 491 acres of public lands withdrawn for the Bureau of Land Management's Public Water Reserve No. 139 and Public Water Reserve No. 107. This action will open these lands to surface entry under the public land laws and to nonmetalliferous location and entry under the United States mining laws. This action is consistent with the Northeast Resource Area Management Plan. The lands have been and will remain open to mineral leasing and to metalliferous mining.

EFFECTIVE DATE: February 23, 2000.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. (1994), it is ordered as follows:

1. Executive Order No. 5593, dated April 4, 1931, which established Public Water Reserve No. 139, is hereby revoked in its entirety:

Sixth Principal Meridian

T. 4 N., R. 61 W.,
Sec. 5, S½NW¼.

The area described contains 80 acres in Weld County.

2. The Executive Order dated April 17, 1926, which established Public Water Reserve No. 107, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

T. 5 N., R. 60 W.,
Sec. 27, SW¼NE¼
T. 4 N., R. 62 W.,
Sec. 12, SE¼SE¼.
T. 3 N., R. 71 W.,
Sec. 10, lot 4.
T. 1 N., R. 72 W.,
Sec. 6, lot 112, and lots 117 to 122, inclusive.
T. 7 S., R. 70 W.,
Sec. 20, SW¼SE¼.
T. 3 S., R. 72 W.,
Sec. 17, lots 52, 53, and 54.
T. 3 S., R. 73 W.,
Sec. 1, NW¼NE¼, NW¼SW¼, and E½SW¼;
Sec. 2, E½NE¼;
Sec. 11, NE¼NW¼ and SW¼SW¼.

The areas described aggregate 411 acres in Boulder, Weld, Gilpin, and Jefferson Counties.

2. At 9:00 a.m. on February 23, 2000, the lands described in Paragraphs 1 and 2 will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of

existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on February 23, 2000, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9:00 a.m. on February 23, 2000, the lands described in Paragraphs 1 and 2 will be opened to nonmetalliferous location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order to nonmetalliferous mining under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: January 11, 2000.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 00–1608 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05; N–61840]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management.

ACTION: Recreation and Public Purpose Lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Las Vegas proposes to use the land for a Public Park.

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
Sec. 21, NE¼SE¼
Containing *40* acres.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau Planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement 40 feet in width along the North boundary, 30 feet in width along the South boundary, 30 feet in width along the West boundary, and 40 feet in width along the East boundary in favor of the City of Las Vegas for roads, public utilities and flood control purposes.

2. Those rights for public utility purposes which have been granted to Nevada Power Company by Permit No. N–38447 under the Act of October 26, 1976 (FLPMA).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Field Manager, Las Vegas Field Office, Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a Public Park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a Public Park.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: January 7, 2000.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 00–1611 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–015–1610–DG]

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Record of Decision (ROD) for the Owyhee Resource Management Plan and Final Environmental Impact Statement (RMP/EIS).

SUMMARY: Pursuant to section 202 of the Federal Land Policy and Management and section 102(2)(c) of the National Environmental Policy Act, the Bureau of Land Management (BLM) has issued a Record of Decision (ROD) for the Proposed Owyhee Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS). The ROD documents approval of BLM's plan to manage the public lands within the Owyhee Resource Area during the next 15 to 20 years and beyond. The Owyhee RMP establishes direction for management on about 1.3 million acres of BLM administered public lands in the Owyhee Resource Area in southwest Idaho. The Owyhee RMP is the same as the Proposed Owyhee Resource Management Plan (Alternative E) published in July 1999.

EFFECTIVE DATE: The Owyhee Resource Management Plan is effective December 30, 1999. Implementation of the Owyhee RMP will begin immediately. Some RMP decisions require immediate action while other decisions are identified for implementation during

the life of the RMP. Some decisions will require action only when an activity is initiated.

ADDRESSES: Copies of the Record of Decision are available at the BLM, Lower Snake River District Office, 3948 Development Avenue, Boise, ID 83705.

FOR FURTHER INFORMATION CONTACT: Daryl Albiston, Field Manager; or Fred Minckler, Team Leader at telephone (208) 384–3300.

SUPPLEMENTARY INFORMATION: The Owyhee Resource Area includes 1,320,032 acres of BLM administered public lands in western Owyhee County, Idaho. The Owyhee RMP is a general land use plan that establishes guidance for managing a broad spectrum of land uses and allocations and contains resource objectives, land use allocations, management actions and direction needed to achieve program and multiple use goals. The Owyhee RMP replaces the BLM's land management guidance for the Owyhee Resource Area contained in the Owyhee Management Plan (MFP) which was approved in 1981. The record of decision documents selection of Alternative E (the Proposed Owyhee RMP) as presented in the Proposed Owyhee Resource Management Plan and Final Environmental Impact Statement issued July 1999, with associated Appendices, Tables and Maps, as the approved Owyhee RMP.

The following are the major components of the approved RMP:

Manage land uses and activities to ensure properly functioning watershed conditions.

Manage vegetation to achieve healthy rangelands

Meet State of Idaho water quality standards.

Provide habitat for special status plants and animals and habitat for a high diversity of wildlife.

Provide habitat for a wild horse herd appropriate management level of 192 wild horses.

Provide for a sustained level of livestock use. Initially allocate 135,116 livestock AUMs.

Manage livestock grazing activities so goals for rangeland health are achieved.

Use fire as a management tool to improve rangeland health.

Manage Douglas-fir communities to emphasize forest health.

Recommend and manage nine river segments (163 miles) as suitable for designation as Wild and Scenic Rivers. Sixty (60) miles of eligible river segments were determined to be non-suitable and are released from further Wild and Scenic River consideration.

Designate 13 areas totaling 167,372 acres as Areas of Critical Environmental Concern (ACECs).

Continue management of 298,630 acres as Wilderness Study Areas (WSAs). 195,980 acres were previously recommended to Congress as suitable for Wilderness designation.

Designate off-highway motorized vehicle (OHMV) use as ''Open'' on 192 acres, ''Limited'' on 1,217,805 acres and ''Closed'' on 101,994 acres.

Identify 325,000 acres potentially available for disposal, subject to further review.

Dated: January 3, 2000.

Howard Hedrick,

Associate District Manager.

[FR Doc. 00–1609 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430-ET; IDI–33168]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of the Interior, Bureau of Land Management proposes to withdraw 19.09 acres of public land in Cassia County for the protection of the Burley Administrative Site. This notice closes the land up to 2 years from settlement, sale, location or entry, under all of the general land laws, including the mining laws, but not from leasing under the mineral leasing laws, subject to valid existing rights.

DATES: Comments and requests for a meeting should be sent on or before February 23, 2000.

ADDRESSES: Comments and meeting requests should be sent to the Idaho State Director, BLM, Idaho State Office, 1387 S. Vinnell Way, Boise, ID 83709.

FOR FURTHER INFORMATION CONTACT: Jackie Simmons, BLM, Idaho State Office, 1387 S. Vinnell Way, Boise, ID 83709, 208–373–3867.

SUPPLEMENTARY INFORMATION: On December 1, 1999, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land:

Boise Meridian

A parcel of land lying in the E½SW¼ of Section 32, Township 10 South, Range 23 East, Boise Meridian, the said parcel being more particularly described as follows: Beginning at a point 1500.4 feet north and 33.0 feet west of the quarter section corner common to Section 32, Township 10 South, Range 23 East and Section 5, Township 11 South, Range 23 East, Boise Meridian; said point being on the west right-of-way line of State Highway No. 27; thence N. 0°22′03″ E. along the highway right-of-way a distance of 515.12 feet; thence N. 89°27′57″ W. a distance 1184.19 feet to the centerline of the U.S.R.S. ''H'' Canal; thence S. 35°17′24″ W. along the canal centerline a distance of 80.64 feet; thence S. 21°20′41″ W. along the canal centerline a distance of 89.13 feet; thence S. 11°08′55″ W. along the canal centerline a distance of 221.23 feet to the west quarter section boundary of said section 23; thence S. 0°18′27″ E. along the quarter section boundary 501.81 feet; thence S.89°26′03″ E. a distance of 496.15 feet; thence N. 0°36′56″ E. a distance of 355.45 feet; thence S.89°21′29″ E. a distance of 800 feet to the point of beginning.

The area described aggregates 19.09 acres, more or less, in Cassia County.

The purpose of the proposed withdrawal is to protect the Burley Administrative Site.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Idaho State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Idaho State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to this date. The temporary uses which may be permitted during this segregative period are all uses other than settlement, sale, location, or entry, under the general land laws, including the mining laws.

Jimmie Buxton,

Branch Chief for Lands and Minerals.

[FR Doc. 00–1610 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 15, 2000. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by February 8, 2000.

Carol D. Shull,
Keeper of the National Register.

ARKANSAS

Pulaski County: Brewer, Adrian, Studio, 510 Cedar St., Little Rock, 00000069

GEORGIA

Barrow County: Omer Christian Church and Cemetery, Jct. of GA 316 and GA 324, Winder, 00000074
Fulton County: Washington Park Historic District, Jct. of Martin Luther King, Jr. Dr. and Ashby St., Atlanta, 00000071
McDuffie County: Boneville Historic District, Jct. of Boneville Rd. and the Georgia RR, approx. 5 mi. SE of Thomson, Boneville, 00000072
Pierce County: Blackshear Depot, 200 S. Central Ave., Blackshear, 00000070

LOUISIANA

Winn Parish: Phillips School, Approx. ½ W of jct of LA 421 and Harrisburg Rd., Atlanta, 00000073

MASSACHUSETTS

Franklin County: Bardwell's Ferry Bridge, Bardwell's Ferry Rd. over the Deerfield R., Conway, 00000076
Norfolk County: Bent, G.H., Company Factory, 7 Pleasant St., Milton, 00000075
Worcester County: Bartlett's Bridge, Clara Barton Rd. over the French R., Oxford, 00000077

MICHIGAN

Wayne County: Gibraltar Road—Waterway Canal Bridge, (Highway Bridges of Michigan MPS) Gibraltar Rd. over Waterway Canal, Gibraltar, 00000082
Jefferson Avenue—Huron River and Harbin Drive—Silver Creek Canal Bridges (Highway Bridges of Michigan MPS) Jefferson Ave. over Huron R.; Harbin Dr. over Silver Creek Canal, Brownstone, 00000080
Lilley Road—Lower Rouge River, (Highway Bridges of Michigan MPS) Lilley Rd. over Lower Rouge R., Canton Township, 00000078
Waltz Road—Huron River Bridge, (Highway Bridges of Michigan MPS) Waltz Rd. over Huron R., Huron Township, 00000081
West Jefferson Avenue—Rouge River Bridge, (Highway Bridges of Michigan MPS) W. Jefferson Ave. over Rouge R., River Rouge, 00000079

MISSOURI

Barry County: Wheaton Missouri and North Arkansas Railroad Depot, Jct. of Main and Barnett Sts., Wheaton, 00000085
Cole County: Jefferson Female Seminary, 416 and 420 E. State St., Jefferson, 00000087
Madison County: Fredericktown Missouri Pacific Railroad Depot, 406 Villar St., Fredericktown, 00000088
St. Louis Independent city: 1907 Dorris Motor Car Company Building, 4063–4065 Forest Park Ave., St. Louis, 00000084
Security Building, 319 N. Fourth St., 01/10/2000, St. Louis, 00000083
Sullivan County: Green City Presbyterian Church, One East St., Green City, 00000086

NEW YORK

Livingston County: Union Block, 38–42 State St., Nunda, 00000092
Oneida County: Holland Patent Railroad Station, Park Ave., Holland Patent, 00000089
Miller—Wheeler House, 1423 Genesee St., Utica, 00000093
Saratoga County: Crescent Methodist Episcopal Church, Crescent, Crescent, 00000091
Grooms Tavern Complex, Sugar Hill Rd. at Grooms Rd., Grooms Corners, 00000094
Tompkins County: Newfield Covered Bridge, Covered Bridge St., Newfield, 00000095
Ulster County: South Gilboa Railroad Station, Bailey Spur Rd., South Gilboa, 00000090

OHIO

Cuyahoga County: Shore High School, 291 E. 22nd St., Euclid, 00000097
Ottawa County: Port Clinton, Adams St., Port Clinton, 00000096

SOUTH DAKOTA

Minnehaha County: South Dakota Dept. of Trans. Bridge No. 50–195–104, (Historic Bridges in South Dakota MPS) Local Rd. over the Big Sioux R., Sverdrup Township, 00000098

A Request for Removal has been made for the following Resource:

ALASKA

Yukon-Koyukuk Burough: Taylor, James, Cabins (Yukon River Lifeways TR) Right bank of the Yukon opposite Fourth of July Creek Eagle, 87001203

[FR Doc. 00–1630 Filed 1–21–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet on February 17, 2000 to discuss the CALFED Preferred Alternative, Water Use Efficiency, and CALFED Implementation, including the Ecosystem Restoration Program. This meeting is open to the public. Interested persons may make oral statements to the BDAC or may file written statements for consideration.

DATE: The Bay-Delta Advisory Council will meet in Sacramento from 8:30 a.m. to 5:00 p.m. on Thursday, February 17, 2000 in the Auditorium of the Sacramento Association of Realtors.

ADDRESSES: The Bay-Delta Advisory Council will meet at the Sacramento Association of Realtors' Auditorium at 2003 Howe Avenue, Sacramento CA 95825, (916) 922–8294.

FOR FURTHER INFORMATION CONTACT: Eugenia Laychak, CALFED Bay-Delta Program, at (916) 654–4214. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the

CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: January 18, 2000.

Lester A. Snow,

Regional Director, Mid-Pacific Region.

[FR Doc. 00–1594 Filed 1–21–00; 8:45am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731–TA–539–C, E and F (Review); Uranium From Russia, Ukraine and Uzbekistan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping duty order on uranium from Ukraine and the suspended investigations on uranium from Russia and Uzbekistan.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on uranium from Ukraine and the termination of the suspended investigations on uranium from Russia and Uzbekistan would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: January 14, 2000.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On November 4, 1999, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (64 FR 62691, November 17, 1999). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on May 8, 2000, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on May 25, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 15, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 19, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is May 17, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided

in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is June 5, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before June 5, 2000. On June 28, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before June 30, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: January 14, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–1636 Filed 1–21–00; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act and the Solid Waste Disposal Act

Notice is hereby given that a proposed consent decree in the action entitled *United States* v. *Ambroid Company, Inc.,* Civil Action No. 97–11377–JLT, was lodged on January 13, 2000, with the United States District Court for the District of Massachusetts. The proposed consent decree resolves the claims of the United States against J. Frank Strauss and Robert M. Kuzara in a complaint filed against these parties, and several others, pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. § 9607. In the complaint, which was filed on June 17, 1997, the United States sought the recovery of past unreimbursed response costs incurred by the United States in connection with a drum removal action performed at the Yankee Chemical Superfund Site, located at 600 West Water Street, in Taunton, Massachusetts (the ''Site''). The settlement also resolves the claims of the United States against Bank Hapoalim, B.M., a third-party defendant in the action. Pursuant to the proposed settlement, the Settling Defendants will reimburse the EPA Hazardous Substance Superfund in the amount of $50,000. The United States has provided a covenant not to sue under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, as well as pursuant to Section 7003 of the Solid Waste Disposal Act, 42 U.S.C. § 6973, with respect to the site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Any comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Amoroid Company, Inc.,* DOJ Ref. Number 90–11–3–1747. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of the Solid Waste Disposal Act, 42 U.S.C. § 6973(d).

The proposed consent decree may be examined at EPA Region 1, located at One Congress Street, Suite 1100, Boston, MA 02114 (contact Peter DeCambre, 617–918–1890). A copy of the proposed consent decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $7.25 (25 cents per page reproduction costs).

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1645 Filed 1–21–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Oil Pollution Act of 1990

Notice is hereby given that a proposed consent decree in the action entitled *United States* v. *Amity Products Carriers, Inc.*, Civil Action No. 00–11–P–H, was lodged on January 7, 2000, with the United States District Court for the District of Maine. The proposed consent decree resolves the claims of the United States under Section 1002(b)(2)(A) of the Oil Pollution Act of 1990 (''OPA''), 33 U.S.C. § 2702(b)(2)(A), against Amity Products Carriers, Inc. (''Settling Defendant''), in connection with the oil spill that occurred, on September 27, 1996, as a result of the collision of the Tank Vessel *Julie N* with the Million Dollar Bridge spanning the Fore River from Portland to South Portland, Maine, which resulted in the discharge of oil into the Fore River. The proposed consent decree also resolves the claims of the United States against Maritime Overseas Corporation, OSG Ship Management, Inc., as well as the officers, directors, and employees of those companies, as well as of the Settling Defendant, to the extent that their liability arises from actions taken in their official capacities as officers, directors, and employees of these corporations. The proposed settlement resolves the claims filed in a complaint on January 7, 2000. The complaint alleges, pursuant to Section 1002(b)(2)(A) of OPA, 33 U.S.C. § 2702(b)(2)(A), that Settling Defendant, the owner of the *Julie N* at the time of the spill, is liable for damages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damage. The proposed consent decree also resolves the claims of the State of Maine set forth in a similar complaint filed on January 7, 2000. *See State of Maine* v. *Amity Products Carriers, Inc.*, Civil Action No. 00–12–P–H.

Pursuant to the proposed consent decree, the Settling Defendant will make a payment of $1 million to the *Julie N* Oil Spill Restoration Account, which shall be used by Federal and State natural resource trustees to plan,

implement or oversee restoration of the natural resources injured by the *Julie N* spill in accordance with the Restoration Plan attached as Appendix B to the proposed consent decree. Pursuant to the Restoration Plan, the Trustees will use the funds to implement and oversee three restoration projects: a project intended to reduce the discharge of oil and grease from the streets of Portland into the Fore River, a project that will enhance a portion of the Scarborough Marsh, and a project that will involve the construction of a one-mile segment of a larger trail system in Portland. The Settling Defendant has already paid the trustees their costs of assessment, including $410,000 to the National Oceanic and Atmospheric Administration, $53,057.09 to U.S. Department of the Interior, and $24,531.79 to the State of Maine.

The Settling Defendant has agreed not to file claims against the United States in connection with the *Julie N* spill, but has reserved the right to submit claims for removal costs or damages with the Oil Spill Liability Trust Fund under Section 1013 of OPA, 33 U.S.C. § 2713, to the extent permitted by Section 1008 of OPA, 33 U.S.C. § 2708.

The Department of Justice will receive, for a period of forty-five (45) days from the date of this publication, comments relating to the proposed consent decree, including comments concerning the Restoration Plan attached as Appendix B to the proposed consent decree. Any comments should be addressed to Lois J. Schiffer, Assistant Attorney General, U.S. Department of Justice, Environment and Natural Resource Division, P.O. Box 7611, Washington, D.C. 20044. Comments should state ''Attention: Don Frankel'' and refer to *United States* v. *Amity Products Carriers, Inc.*, DOJ Ref. Number 90–5–1–1–4390.

The proposed consent decree may be examined at the offices of the United States Attorney's Office for the District of Maine, East Tower, Sixth Floor, One Hundred Middle Street Plaza, Portland, ME 04101 (contact David Collins, 207–780–3257). A copy of the proposed consent decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $18.00 (25 cents per page reproduction costs).

Bruce Gelber,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1612 Filed 1–21–00; 8:45am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that on January 6, 2000, the United States lodged a proposed Consent Decree with the District Court for the Western District of Wisconsin, in *United States* v. *Didion Milling Company, Inc.*, Case No. 99–C–261–C (W.D. Wis.), under Section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b). The proposed Consent Decree resolves certain claims of the United States against Didion Milling, Inc., relating to its grain transfer facility that was located at St. Feriole Island in Prairie du Chien, Wisconsin. Under the proposed Consent Decree Didion will pay the United States a $107,500 civil penalty.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611, and should refer to *United States* v. *Didion Milling Company, Inc.*, Case No. 99–C–261–C (W.D. Wis.), 90–5–2–1–2219/1. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Wisconsin, 660 W. Washington Ave., Suite 200, Madison, Wisconsin and the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the Consent Decree may also be obtained by overnight mail addressed to the Department of Justice Consent Decree Library, 13th Floor, 1425 New York Avenue, NW, Washington, DC 20005, or by regular mail addressed to the Department of Justice Consent Decree Library, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of $3.75 for the Decree, payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1613 Filed 1–21–00 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Consistent with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Robert Odabashian, et al.* was lodged with the United States District Court for the Western district of Tennessee on December 17, 1999 (95–2361 G/Bre). The United States filed a First Amended Complaint pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), as amended, against five defendants, including Chevron Chemical Company, LLC (''Chevron''). The First Amended Complaint alleges that the defendants are liable under Section 107 of CERCLA for costs incurred by the United States Environmental Protection Agency during a cleanup of the Pulvair Corporation Superfund Site in Millington, Tennessee. The proposed Consent Decree settles the liability of Chevron. Under the Consent Decree, Chevron agrees to reimburse the United States in the amount of $100,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, D.C. 20044; and refer to *United States* v. *Robert Odabashian, et al.,* DOJ Ref. #90–11–3–1474.

The proposed settlement agreement may be examined at the Office of the United States Attorney, Suite 410, 200 Jefferson Avenue, Memphis, TN 38103, and at the office of the Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303. A copy of the proposed Consent Decree may be obtained in person or by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.25 (25 cents

per page reproduction costs), payable to the Consent Decree Library.

Walker Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–1644 Filed 1–21–00; 8:45am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

Notice of Document Availability and Issuance of a Negative Declaration and Finding of No Significant Impact for the Water and Sewer Extension Project To Serve the United States Penitentiary at the Castle Airport and Aviation Development Center, Merced County, California

AGENCY: Federal Bureau of Prisons, Department of Justice/City of Atwater

SUMMARY: Notice Is Hereby Given regarding the availability of a Joint Initial Study/Environmental Assessment (IS/EA) for public review at the City of Atwater Planning Department, located at 750 Bellevue Road, Atwater, California 95301, in conformance with the California Environmental Quality Act (CEQA). The IS/EA is also available through the Federal Bureau of Prisons, 500 First Street NW, Washington DC 20534 in conformance with the National Environmental Policy Act (NEPA).

A Negative Declaration, filed by the Planning Department in conformance with CEQA, along with the Joint IS/EA may be reviewed at the City during normal business hours (8:00 AM to 5:00 PM) for a 30 day review period commencing on January 20, 2000.

The proposed project will extend municipal water and sewer services from the City of Atwater to the United States Penitentiary at the Castle Airport and Aviation Development Center. Given that the proposed project involves federal, state and local agencies, a joint CEQA/NEPA environmental document has been prepared.

All interested parties should review the document and provide written comments to the City of Atwater Planning Department (Attention: Mo Khatami, Planning and Redevelopment Director) no later than February 22, 2000. A separate Planning Commission public hearing notice will be issued by the City to provide an opportunity for interested parties to give oral comments.

Questions concerning the action can also be answered by: David J. Dorworth, 5stChief, Site Selection and Environmental Review Branch, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534, Telephone (202) 514–6470, Telefacsimile (202) 616–6024, ddorworth@BOP.gov.

Dated: January 18, 2000.

David J. Dorworth,

Chief, Site Selection and Environmental Review Branch.

[FR Doc. 00–1617 Filed 1–21–00; 8:45 am]

BILLING CODE 4410–05–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health (MACOSH); Request for Nominations

AGENCY: Occupational Safety and Health Administration, (OSHA), Labor.

ACTION: Request for nominations for persons to serve on MACOSH.

SUMMARY: OSHA intends to renew the charter of the Maritime Advisory Committee for Occupational Safety and Health (MACOSH). MACOSH advises the Secretary of Labor on matters relating to occupational safety and health programs, policies, and standards for the maritime industries of the United States. The Committee will consist of 15 members and will include a cross-section of individuals who represent the following interests: employers, employees; Federal and State safety and health organizations; professional organizations specializing in occupational safety and health; and national standards setting groups. OSHA invites persons interested in serving on MACOSH to submit their names in nomination for committee membership.

DATE: Nominations for MACOSH membership should be postmarked by March 6, 2000.

ADDRESSES: Nominations for MACOSH membership should be sent to: Chappell Pierce, Office of Maritime Standards, Room N–3609, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Chappell Pierce, Acting Director, Office of Maritime Standards, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3609, 200 Constitution Avenue, NW, Washington, DC 20210; Telephone: (202) 693–2255.

SUPPLEMENTARY INFORMATION:

I. Background

On October 18, 1999, OSHA announced its intention to request that MACOSH be rechartered for another two years. MACOSH was established to advise the Secretary on various issues pertaining to providing safe and healthful employment in the maritime industries, which include shipyard and longshoring activities. The Secretary consults with MACOSH on rulemaking issues affecting the industry, and has sought the committee's advice on other issues including streamlining regulatory efforts and improving training and outreach programs. In addition, MACOSH recommends enforcement initiatives that will help improve the working conditions and the safety and health of men and women working in the maritime industry.

II. Nominations

OSHA is seeking men and women with an interest in the safety and health of workers in the maritime industry for membership on MACOSH. Interested persons may submit their own name or the name of another whom they believe to be interested in and qualified to serve on MACOSH. The Agency is looking for nominees to represent the following interests or categories: Employees, Employers, State or Federal Safety and Health Organizations, and Professional Organizations or National Standards-Setting Groups.

OSHA seeks a broad-based and diverse membership for MACOSH. Nominations of women and minorities are encouraged. Nominations of new members or re-nominations of former or current members will be accepted in all categories of membership. Interested persons may nominate themselves or may be nominated by organizations from one of the categories listed above. Nominations should include the name and address of the candidate. Each nomination should include a summary of the candidate's training or experience relating to safety and health in the maritime industry and the interest the candidate represents. In addition to listing the candidate's qualifications to serve on the committee, each nomination should state that the person consents to the nomination and acknowledges the responsibilities of serving on MACOSH.

III. Authority

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210, pursuant to sections 6(b) and

7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), and 29 CFR Part 1912.

Signed at Washington, DC this 18th day of January 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 00–1643 Filed 1–21–00; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Notice of Special Enrollment Rights, Health Insurance Portability for Group Health Plans; Correction

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Correction.

SUMMARY: In notice document 99–33599 beginning on page 72696 in the issue of Tuesday, December 28, 1999, make the following correction:

On page 72697 in the first column in the second paragraph, the submission date for written comments was on or before January 27, 2000. It should be changed to read on or before February 28, 2000.

Dated: January 19, 2000.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research Pension and Welfare Benefits Administration.

[FR Doc. 00–1637 Filed 1–21–00; 8:45am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection; Comment Request; Prohibited Transaction Class Exemption 78–6

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of the information collection provisions of Prohibited Transaction Class Exemption 78–6. A copy of the Information Collection Request (ICR) may be obtained by contacting the office listed in the addresses section of this notice.

DATES: Written comments must be submitted to the office shown in the addresses section below on or before March 24, 2000.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–5647, Washington, D.C. 20210. Telephone: (202) 219–4782; Fax: (202) 219–4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 78–6 allows a multiple employer welfare benefit plan maintained for the purpose of providing apprenticeship or other training programs (apprenticeship plan) to (1) purchase personal property and (2) lease personal property or real property (other than office space as described in section 408(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA)) from an employer who makes contributions to an apprenticeship plan (contributing employer), from a wholly-owned subsidiary of a contributing employer, or from an employee organization any of whose members' work results in contributions being made to the apprenticeship plan. In the absence of this exemption, sections 406(a)(1) (A), (C) and (D) of ERISA might prohibit part or all of these transactions.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- 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.

III. Current Action

This existing information collection should be continued because without this exemption, apprenticeship plans would have difficulty operating in accordance with the purposes for which they were established. For the Department to grant an exemption, however, it is required by the provisions of section 408(a) of ERISA to ensure the participants and beneficiaries are protected. It, therefore, included certain conditions and required that records be kept for six years from the date of the transaction so that the Department, contributing employers and their employees, the sponsoring employee organization, and plan participants can determine whether these conditions have been met. Without such records, the Department and other interested parties would be unable to enforce the terms of the exemption and ensure user compliance.

Type of Review: Extension of a currently approved collection of information.

Agency: Pension and Welfare Benefits Administration, Department of Labor

Titles: Prohibited Transaction Class Exemption 78–6

OMB Number: 1210–0080

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions

Estimated Total Burden Hours: 417

Respondents: 1,000

Frequency of Response: On occasion.

Responses: 5,000.

Annual hour burden: 5 minutes.

Total Burden Cost (Operating and Maintenance): $0.00.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: January 19, 2000.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research Pension and Welfare Benefits Administration.

[FR Doc. 00–1638 Filed 1–21–00; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice; National Leadership Grant for Libraries

SUMMARY: The Institute of Museum and Library Services has prepared a report regarding two funding categories for its National Leadership Grant for Libraries: education and training, and research and demonstration. The full text of the report can be found on the IMLS web site at *http://www.imls.gov/grants/library/lib__nlgl.asp#adv* or received by contacting the Institute at the address below.

The Institute of Museum and Library Services' National Leadership Grants for libraries are designed to support leading edge activities in the field of library and information science. In 1999, IMLS awarded over $10 million in awards for model projects in education and training, research and demonstration and the preservation and archiving of digital media. These grants also help to build digital library resources and to promote cooperation between libraries and museums. The Institute is the only federal agency that administers grants specifically targeted for libraries, library education and library research.

IMLS places a high priority on developing ongoing and open communication with the constituents it serves. Dialogue is essential to assuring that policy and grant making procedures are developed in concert with the needs of the library community. To further this dialogue IMLS held a series of meetings in 1999 in Washington, DC, with library leaders to exchange ideas about priorities for the education and training, and research and development grant categories of National Leadership Grants. The meetings were designed to promote discussion among library leaders to help ensure that funding priorities address current problems and provide leadership for future needs.

IMLS is an independent Federal grantmaking agency that fosters leadership, innovation, and a lifetime of learning by supporting the nation's 8,000 museums and 122,000 libraries. Created by the Museum and Library Services Act of 1996, P.L. 104–208, IMLS has an annual budget of $190 million. For more information about IMLS contact: Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, (202) 606–8536, or *http://www.imls.gov.*

FOR FURTHER INFORMATION CONTACT: Comments and questions received by March 17, 2000 will be most useful. All interested parties should respond to: Barbara Holton, Office of Library Services, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, Washington, DC 20506, *bholton@imls.gov*.

Mamie Bittner,

Director, Public and Legislative Affairs, Institute of Museum and Library Services.

[FR Doc. 00–1588 Filed 1–21–00; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING MEETING: National Science Foundation, National Science Board.

DATE AND TIME: February 2, 2000: 9:00 a.m.–5:30 p.m., Open Session; February 3, 2000: 8:30 a.m.–12:15 p.m., Open Session.

PLACE: The Arnold & Mabel Beckman Center, 100 Academy Drive, Irvine, California 92612.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Wednesday, February 2

—Open Session Minutes, November 1999
—Closed Session Items for March 2000
—Chair's Report
—Director's Report
—NSF Strategic Plan
—NSB Report: Environmental Science & Engineering for the 21st Century
—Committee on Communication & Outreach Interim Report
—NSB Symposium: Communicating Science & Technology In the Public Interest

Thursday, February 3

—NSB Symposium: Communicating Science & Technology In the Public Interest, continued

Marta Cehelsky,

Executive Officer.

[FR Doc. 00–1750 Filed 1–20–00; 3:37 pm]

BILLING CODE 7555–01–M

POSTAL SERVICE

Establishment of Permanent Nonletter-Size Business Reply Mail Classification and Fees; Changes in Domestic Classification and Fees

AGENCY: Postal Service.

ACTION: Notice of implementation of changes to the Domestic Mail Classification Schedule and accompanying fee changes.

SUMMARY: This notice sets forth the changes to Domestic Mail Classification Schedule (DMCS) § 931 and the accompanying Fee Schedule 931 changes to be implemented as a result of the November 1, 1999, Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Establishment of Permanent Classification and Fees For Weight-Averaged Nonletter-Size Business Reply Mail, Docket No. MC99–2.

EFFECTIVE DATE: February 6, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Tidwell, (202) 268–2998.

SUPPLEMENTARY INFORMATION: On March 10, 1999, pursuant to its authority under 39 U.S.C. 3621 *et seq.*, the Postal Service filed with the Postal Rate Commission (PRC) a request for a recommended decision on the establishment of a permanent classification and fees for weight-averaged nonletter-size Business Reply Mail. The PRC designated the filing as Docket No. MC99–2. On March 19, 1999, the PRC published a notice of the filing, with a description of the Postal Service's proposals, in the **Federal Register** (64 FR 13613–13617).

On July 14, 1999, pursuant to its authority under 39 U.S.C. 3624, the PRC issued to the Governors of the Postal Service its recommended decision on the Postal Service's request. The PRC recommended the establishment of the permanent weight averaging classification and fees which were requested by the Postal Service and ratified by the Docket No. MC99–2 parties in a Stipulation and Agreement.

Pursuant to 39 U.S.C. 3625, the Governors of the United States Postal Service acted on the PRC's Docket No. MC99–2 recommendations on November 1, 1999. The Governors determined to approve those recommendations. A copy of the attachment to that decision, setting forth the Docket No. MC99–2 classification and fee changes approved by the Governors, is set forth below.

Also on November 1, 1999, the Board of Governors of the Postal Service, pursuant to their authority under 39 U.S.C. 3625(f), determined to make the Docket No. MC99–2 classification and fee changes approved by the Governors effective at 12:01 a.m. on February 6, 2000 (Resolution No. 99–12).

In accordance with the aforementioned Decision of the Governors and Resolution No. 99–12, the Postal Service hereby gives notice that the classification and fee changes

set forth below will become effective at 12:01 a.m. on February 6, 2000. Implementing regulations also become effective at that time, as noted elsewhere in this issue.

Stanley F. Mires,

Chief Counsel, Legislative.

(Attachment to the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on the Establishment of Permanent Classification and Fees for Weight-Averaged Nonletter-Size Business Reply Mail, Docket No. MC99–2)

BILLING CODE 7710–12–U

CHANGES IN THE DOMESTIC MAIL CLASSIFICATION SCHEDULE.

The following material represents changes to Domestic Mail Classification Schedule (DMCS) § 931 and Fee Schedule 931 which were approved by the Governors of the United States Postal Service in response to the Postal Rate Commission's Recommended Decision in Docket No. MC99-2. Additions are underlined; deletions are stricken through.

Domestic Mail Classification Schedule § 931-- Business Reply Mail

931 BUSINESS REPLY MAIL

931.1 Definitions

931.11 Business reply mail is a service whereby business reply cards, envelopes, cartons and labels may be distributed by or for a business reply distributor for use by mailers for sending First-Class Mail without prepayment of postage to an address chosen by the distributor. A distributor is the holder of a business reply license.

931.12 A business reply mail piece is nonletter-size for purposes of this section if it meets addressing and other preparation requirements, but does not meet the machinability requirements specified by the Postal Service for mechanized or automated letter sortation.
~~This provision expires February 29, 2000, or upon implementation of permanent fees for nonletter-size business reply mail, whichever comes first.~~

931.2 Description of Service

~~931.21~~ The distributor guarantees payment on delivery of postage and fees for all returned business reply mail. Any distributor of business reply cards, envelopes, cartons and labels under any one license for return to several addresses guarantees to pay postage and fees on any returns refused by any such addressee.

931.3 Requirements of the Mailer

931.31 Business reply cards, envelopes, cartons and labels must be preaddressed and bear business reply markings.

931.32 Handwriting, typewriting or handstamping are not acceptable methods of preaddressing or marking business reply cards, envelopes, cartons, or labels.

931.4 **Fees**

931.41 The fees for business reply mail are set forth in Fee Schedule 931.

931.42 To qualify as an active business reply mail advance deposit trust account, the account must be used solely for business reply mail and contain sufficient postage and fees due for returned business reply mail.

931.43 An accounting fee as set forth in Fee Schedule 931 must be paid each year for each advance deposit business reply account at each facility where the mail is to be returned.

931.5 ~~[RESERVED]~~

~~931.6 Experimental~~ Nonletter-Size Weight Averaging Fees

~~931.61 [RESERVED]~~

~~931.62~~ A nonletter-size weight averaging monthly fee as set forth in Fee Schedule 931 must be paid each month during which the distributor's weight averaging account is active.

~~This fee applies to the (no more than 10) advance deposit account holders which are selected by the Postal Service to participate in the weight averaging nonletter-size business reply mail experiment.~~

~~This provision expires February 29, 2000, or upon implementation of permanent fees for nonletter-size business reply mail, whichever comes first.~~

931.~~7~~6 **Authorizations and Licenses**

931.~~7~~61 In order to distribute business reply cards, envelopes, cartons or labels, the distributor must obtain a license or licenses from the Postal Service and pay the appropriate fee as set forth in Fee Schedule 931.

931.~~7~~62 Except as provided in section 931.~~7~~63, the license to distribute business reply cards, envelopes, cartons, or labels must be obtained at each office from which the mail is offered for delivery.

931.~~7~~63 If the business reply mail is to be distributed from a central office to be returned to branches or dealers in other cities, one license obtained from the post office where the central office is located may be used to cover all business reply mail.

931.~~7~~64 The license to mail business reply mail may be canceled for failure to pay business reply postage and fees when due, and for distributing business reply cards or envelopes that do not conform to prescribed form, style or size.

931.~~7~~65 Authorization to pay ~~experimental~~ nonletter-size weight-averaging business reply mail fees as set forth in Fee Schedule 931 may be canceled for failure of a business reply mail advance deposit trust account holder to meet the standards specified by the Postal Service for the weight averaging accounting method.

~~This provision expires February 29, 2000, or upon implementation of permanent fees for nonletter-size business reply mail, whichever comes first.~~

CHANGES IN DMCS FEE SCHEDULE 931.

The following material represents changes to DMCS Fee Schedule 931 approved by the Governors of the United States Postal Service in response to the Postal Rate Commission's Recommended Decision in Docket No. MC99-2.

Fee Schedule 931 -- Business Reply Mail

	Fee
Active business reply advance deposit account:	
Per piece	
Qualified	$0.05
Nonletter-size, using weight averaging ~~(experimental)~~	0.01
Other	0.08
Payment of postage due charges if active business reply mail advance deposit account not used:	
Per piece	$0.30
Annual License and Accounting Fees:	
Accounting Fee for Advance Deposit Account	$300
Permit fee (with or without Advance Deposit Account)	$100
Monthly Fees for customers using weight averaging for nonletter-size business reply	$600
~~Nonletter size, using weight averaging (experimental)~~	

~~Experimental per piece and monthly fees are applicable only to participants selected by the Postal Service for the nonletter-size business reply mail experiment. The experimental fees expire February 29, 2000, or upon implementation of permanent fees for weight-averaged nonletter-size business reply mail, whichever comes first.~~

[FR Doc. 00–1571 Filed 1–21–00; 8:45 am]

BILLING CODE 7710–12–C

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Survivor Questionnaire; OMB 3220–0032.

Under Section 6 of the Railroad Retirement Act (RRA), benefits that may be due on the death of a railroad employee *or* a survivor annuitant include (1) a lump-sum death benefit (2) a residual lump-sum payment (3) accrued annuities due but unpaid at death, and (4) monthly survivor insurance payments. The requirements for determining the entitlement of possible beneficiaries to these benefits are prescribed in 20 CFR 234.

When the RRB receives notification of the death of a railroad employee or survivor annuitant, an RRB field office utilizes Form RL–94–F, Survivor Questionnaire, to secure additional information from surviving relatives needed to determine if any further benefits are payable under the RRA. Completion is voluntary. One response is requested of each respondent.

The RRB proposes minor, non-burden impacting, formatting and editorial changes to Form RL–94–F. The completion time for the RL–94–F is estimated at between 5 to 11 minutes.

The RRB estimates that approximately 8,000 responses are received annually.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 00–1614 Filed 1–21–00; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Application and Claim for RUIA Benefits Due at Death.

(2) *Form(s) submitted:* UI–63.

(3) *OMB Number:* 3220–0055.

(4) *Expiration date of current OMB clearance:* 4/30/2000.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 200.

(8) *Total annual responses:* 200.

(9) *Total annual reporting hours:* 23.

(10) *Collection description:* The collection obtains the information needed by the Railroad Retirement Board to pay, under section 2(g) of the RUIA, benefits under that Act accrued, but not paid because of the death of the employee.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 00–1615 Filed 1–21–00; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24254; 812–11250]

Franklin Capital Corporation; Notice of Application

January 18, 2000.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice of an application for an order under section 61(a)(3)(B) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicant, Franklin Capital Corporation, requests an order approving its Non-Statutory Stock Option Plan (the ''Director Plan'') and the grant of certain stock options under the Director Plan.

FILING DATES: The application was filed on August 6, 1998, and amended on April 14, 1999. Applicant has agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 11, 2000, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW, Washington, DC 20549–0609. Applicant, 450 Park Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574, or George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. Applicant is an internally-managed business development company (''BDC'') within the meaning of section 2(a)(48) of the Act.[1] Applicant does not have an external investment adviser within the meaning of section 2(a)(20) of the Act.

2. Applicant requests an order under section 61(a)(3)(B) of the Act approving the Director Plan for directors who are not employees, officers, or interested persons (as defined in section 2(a)(9) of the Act) of the applicant (''Eligible Directors'').[2] Applicant has a five member board of directors (the ''Board''), four of whom are Eligible Directors. On August 5, 1997, applicant's Board adopted the Director Plan, and on September 9, 1997, applicant's shareholders approved the Director Plan. The Director Plan will become effective on the date that the Commission issues an order on the application (the ''Approval Date'').

3. The Director Plan provides for the grant of stock options to purchase shares of applicant's common stock (''Options'') to each of the Eligible Directors on the Approval Date. A total of 30,000 shares of applicant's common stock is reserved for issuance under the Director Plan. Pursuant to the Director Plan, on the Approval Date, each of the Eligible Directors will be granted Options for 5,000 shares of common stock (20,000 shares total). The Options vest as follows: one-third of each Eligible Director's 5,000 Options will vest immediately, one-third will vest one year from the date of grant, and the remaining one-third will vest two years from the date of grant. The remaining 10,000 shares will be granted in the following manner: Options to purchase an additional 1,250 shares of common stock will be automatically granted to each Eligible Director upon his election, re-election, or appointment to the Board at the Year 2000 and Year 2001 annual shareholders' meetings.

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] Each Eligible Director receives director's fees equal to $12,000 per year. The Eligible Directors do not receive any other compensation for their services.

4. Under the Director Plan, the exercise price for Options will be the fair market value of the applicant's stock, defined as the closing price on the American Stock Exchange on the date of grant. Options granted under the Director Plan are exercisable for a period of 10 years from the date of grant or a shorter period as the Board may establish. Options will become exercisable, in accordance with the vesting schedule prescribed in each Eligible Director's Option agreement. In the event of death or permanent and total disability of an Eligible Director during the Director's service, unexercised Options will become exercisable only during the period of twelve months following the date of death or disability. In the event of the termination of an Eligible Director's directorship for a reason other than by death or permanent and total disability, an Option shall be exercisable only during a period of thirty days following the date of termination. The Options will not be transferable except for disposition by gift, will, intestacy, or pursuant to a qualified domestic relations order as defined by section 414(p) of the Internal Revenue Code of 1986, as amended.

5. Applicant's officers and employees, including any employee directors, are eligible to receive stock options under the Franklin Holding Corporation Stock Incentive Plan (the ''Employee Plan''). Eligible Directors are not eligible to receive stock options under the Employee Plan. The total number of shares of common stock issuable under the Director Plan and the Employee Plan is 75,000 shares (30,000 shares under the Director Plan and 45,000 shares under the Employee Plan), representing 10.3% of the 730,588 shares of applicant's stock outstanding as of December 31, 1999. Applicant has no warrants, options or rights to purchase its outstanding voting securities other than those granted to its directors, officers, and employees pursuant to the Employee Plan and the Director Plan.

Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current net asset value upon the exercise of any option issued in accordance with section 61(a)(3) of the Act. Section 61(a)(3)(B) of the Act provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) the options expire by their terms within ten years; (b) the exercise price of the options is not less than the current market value of the underlying securities at the date of the issuance of the options, or if no market exists, the current net asset value of the voting securities; (c) the proposal to issue the options is authorized by the BDC's shareholders, and is approved by order of the Commission upon application; (d) the options are not transferable except for disposition by gift, will or intestacy; (e) no investment adviser of the BDC receives any compensation described in section 205(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (A) or (B) of that section; and (f) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act.

2. In addition, section 61(a)(3) of the Act provides that the amount of the BDC's voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance may not exceed 25% of the BDC's outstanding voting securities, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to the BDC's directors, officers, and employees pursuant to an executive compensation plan would exceed 15% of the BDC's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance will not exceed 20% of the outstanding voting securities of the BDC.

3. Applicant represents that the terms of the Director Plan meet all the requirements of section 61(a)(3)(B) of the Act. Applicant states in support of the application that the Eligible Directors are actively involved in the oversight of applicant's affairs and that it relies on the judgment and experience of the Board. Applicant also states that the Eligible Directors provide guidance and advice on financial and operational issues, credit and loan policies, asset valuation, and strategic direction, as well as serve on committees. Applicant believes that the Options to be granted to the Eligible Directors provide significant incentives for the Eligible Directors to remain on the Board and to devote their best efforts to the success of applicant's business and the enhancement of shareholder value. Applicant also states that the Options will provide a means for the Eligible Directors to increase their ownership interests in applicant, thereby ensuring close identification of their interests with the interests of applicant's shareholders.

4. Applicant submits that the terms of the Director Plan are fair and reasonable and do not involve overreaching of applicant or its shareholders. Applicant states that the number of voting securities that would result from the exercise of all Options issued or issuable to the directors, officer, and employees under the Director Plan and the Employee Plan is 75,000 shares, or 10.3% of the company's outstanding stock, which is below the percentage limitations in the Act. Applicant asserts that, given the small amount of common stock issuable upon the exercise of Options under the Director Plan, the exercise of Options would not have a substantial dilutive effect on the net asset value of the applicant's stock.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–1635 Filed 1–21–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA–1851/803–140]

Ibbotson Associates, Inc.; Notice of Application

January 18, 2000.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Advisers Act of 1940 (''Advisers Act'').

APPLICANT: Ibbotson Associates, Inc.

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 203A(c) from section 203A(a).

SUMMARY OF APPLICATION: Applicant requests an order to permit it to register with the SEC as an investment adviser.

FILING DATES: The application was filed on August 2, 1999, and amended on December 8, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 14, 2000, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the

request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549–0609. Applicant, Ibbotson Associates, Inc., 225 North Michigan Avenue, Suite 700, Chicago, Illinois 60601–7676.

FOR FURTHER INFORMATION CONTACT: Karen L. Goldstein, Attorney, at (202) 942–0646 or Jennifer L. Sawin, Special Counsel, at (202) 942–0716 (Division of Investment Management, Task Force on Investment Adviser Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an Illinois corporation with its principal place of business in Chicago, Illinois. Until July 8, 1997, Applicant was registered as an investment adviser with the SEC. Applicant is currently registered as an investment adviser in California, Illinois and New York.

2. Applicant provides services predominantly to institutional clients such as pension plans, pension consultants, investment advisers, broker-dealers, insurance companies and banks. None of Applicant's current clients are natural persons.

3. Applicant provides a wide range of services to its clients; these services include portfolio strategy design, asset allocation, assessment of investor risk tolerance and financial engineering, corporate finance, client specific research and educational programs. Applicant also assists institutional clients by designing model asset allocation portfolios or by designing a questionnaire for institutions to use in determining model portfolio allocations for their individual investor clients. Applicant's institutional clients, however, are responsible for their individual investor clients.

Applicant's Legal Analysis

1. On October 11, 1996, the National Securities Markets Improvement Act of 1996 was enacted. Title III of the Act, the Investment Advisers Supervision Coordination Act (''Coordination Act''), added new section 203A to the Advisers Act. Under section 203A(a)(1),[1] an investment adviser that is regulated or required to be regulated as an investment adviser in the state in which it maintains its principal office and place of business is prohibited from registering with the SEC unless the investment adviser (i) has assets under management of not less than $25 million or (ii) is an investment adviser to an investment company registered under the Investment Company Act of 1940 (''Investment Company Act''). Section 203A(a)(2) defines the phrase ''assets under management'' as the ''securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services.''[2]

2. Applicant states that it does not qualify for registration as an investment adviser with the SEC. Applicant states that it does not have $25 million or more in assets under management, does not serve as an investment adviser to an investment company registered under the Investment Company Act, and does not qualify for an exemption from the prohibition on SEC registration as provided in rule 203A–2 under the Advisers Act.

3. Applicant notes that section 203A(c) of the Advisers Act authorizes the SEC to permit an investment adviser to register with the SEC if prohibiting registration would be ''unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of [section 203A].''[3]

4. Applicant argues that prohibiting it from registering as an investment adviser with the SEC would be inconsistent with the purposes of section 203A. Applicant submits that Congress intended section 203A to divide responsibility for regulating investment advisers between the SEC and the states; the states should be responsible for regulating advisers ''whose activities are likely to be concentrated in their home state,'' and ''larger advisers, with national businesses'' should be regulated by the Commission and ''be subject to national rules.''[4] Applicant asserts that Congress chose the ''assets under management'' requirement as a rough guide for this division, on the theory that investment advisers with $25 million or more of assets under management are likely to be national investment advisers that should be regulated by the SEC, while investment advisers managing less than $25 million in assets are likely to be smaller advisers that should be subject to the local rules of the states.

5. Applicant submits that Congress recognized that the ''assets under management'' requirement does not precisely differentiate national investment advisers from local investment advisers, and that some national investment advisers may not qualify for SEC registration under the test formulated by Congress. Applicant states that Congress acknowledged that ''the definition of 'assets under management' * * * may, in some cases, exclude firms with a national or multistate practice from being able to register with the SEC.''[5] Applicant further states that Congress intended the SEC to use its exemptive authority under section 203A(c) to remedy any unfairness, burdens or inconsistencies caused by the assets under management requirement by permitting, ''where appropriate, the registration of such firms with the [SEC].''[6]

6. Applicant argues that it engages in a large, national investment advisory business of the type Congress contemplated when it provided the SEC exemptive authority under section 203A(c). Applicant asserts that by providing services to institutional clients across the country, its activities, like those of pension consultants exempted by SEC rule from the prohibition on SEC registration,[7] have a direct effect on billions of dollars of assets under management at the nation's investment companies, investment advisers, broker-dealers, insurance companies, banks, and other institutional investors.

7. Applicant submits further that it is inconsistent with the purposes of section 203A for a state to regulate investment advisers whose activities involve little or no traditional state interest. Applicant notes that, in section 203A, Congress preserved the states' ability to regulate certain investment adviser representatives of advisers registered with the SEC. Applicant further notes that under the SEC's definition of investment adviser representative,[8] only personnel who work principally with individual, rather than institutional, clients are subject to state regulation. Applicant argues that this definition recognizes that, consistent with Congress' intent in the Coordination Act, the states' primary interest is in oversight of representatives who have an individual, not an institutional, clientele. Applicant submits that in fashioning this definition, the SEC noted its belief that distinguishing between retail and other clients was consistent with the intent of

[1] 15 U.S.C. 80b–3a(a)(1).

[2] 15 U.S.C. 80b–3a(a)(2).

[3] 15 U.S.C. 80b–3a(c).

[4] S. Rep. No. 293, 104th Cong. 2d Sess. (1996) at 4.

[5] *Id.*

[6] *Id.* at 5.

[7] *See* 17 CFR 275.203A–2(b).

[8] *See* 17 CFR 275.203A–3(a)(1).

Congress as reflected in the Coordination Act.

8. Applicant argues that it is the type of investment adviser that Congress intended the Commission to consider exempting under section 203A(c). Applicant states that it provides services predominantly to institutions and that it believes that its business will remain predominantly institutional. Applicant will not market its services to individual investors, and in no case will it have (i) more than five clients who are natural persons (other than certain ''excepted persons,'' as that term is defined in rule 203A–3, paragraph (a)(3)(i) under the Advisers Act [9]) or (ii) more than ten percent of its clients who are natural persons (other than certain excepted persons).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–1634 Filed 1–21–00; 8:45 am]

BILLING CODE 8010–01–M

[9] *See* 17 CFR 275.203A–3(a)(3)(i)

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [65 FR 2656, January 18, 2000]

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: January 18, 2000.

CHANGE IN THE MEETING: Cancellation of Meeting.

The closed meeting scheduled for Thursday, January 20, 2000 at 11:00 a.m., has been canceled.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: January 20, 2000.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–1753 Filed 1–20–00 3:47 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–42342; File No. SR–Amex–99–21)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Amending Section 106 of the Amex Company Guide

DATE: January 14, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 10, 1999, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Exchange filed Amendments No. 1 [3] and No. 2 [4] to the proposed rule change on June 14, 1999 and December 1, 1999, respectively. 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 Section 106 of the *Amex Company Guide* to provide for the trading of narrow-based stock index warrants pursuant to new Rule 19b–4(e) [5] under the Act.

II. Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

The Exchange proposes to amend Section 106 of the *Amex Company Guide* to provide for the trading of stock index industry group warrants [6] pursuant to new Rule 19b–4(e) under the Act. Section 106 of the *Amex Company Guide* currently authorizes the Exchange to trade warrants on a stock index industry group pursuant to Section 19(b)(3)(A) of the Act provided that the index meets the generic criteria set forth in Commentary .02 to Amex Rule 901C.[7] As discussed in the Commission release adopting new Rule 19b–4(e), however, the Exchange would no longer be required to submit, pursuant to new Rule 19b–4(e) under the Act, a proposed rule change to trade warrants on a new stock index industry group provided the index meets the generic criteria set forth in Commentary .02 to Amex Rule 901C.

In its release adopting new Rule 19b–4(e), the Commission noted that in order to rely on the amendment and not submit filings pursuant to Section 19(b)(3)(A) for warrants that satisfy the criteria of Rule 901C, a self-regulatory organization would be required to submit a proposed rule change for Commission approval to eliminate the Section 19(b)(3)(A) rule filing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Scott Van Hatten, Amex, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated June 11, 1999 (''Amendment No. 1''). The Exchange originally filed the proposed rule change under Section 19(b)(3)(A) of the Act. Pursuant to Commission staff's request, the Exchange refiled the proposed rule change under Section 19(b)(2) of the Act.

[4] Letter from Scott Van Hatten, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated December 1, 1999 (''Amendment No. 2''). Amendment No. 2 states that the exchange will issue a circular prior to trading any new index warrant pursuant to Rule 19b–4(e) to (i) highlight specific risks associated with warrants on new indexes and remind members that index warrants are direct obligations of the issuer, which are not subject to a clearing house guarantee, (ii) clarify that index warrants may only be sold to accounts approved for standardized options trading, and (iii) clarify that the Exchange's options suitability standards apply to index warrants. Amendment No. 2 also states that Amex Rules 1100 through 1110, which govern issuer eligibility, margin requirements, discretionary accounts, supervision of accounts, position and exercise limits, reportable positions, and trading halts and suspensions, will apply to index warrants. Finally, Amendment No. 2 states that the Exchange's enhanced surveillance procedures will continue to apply to surveillance of index warrants traded pursuant to Rule 19b–4(e).

[5] *See* Securities Exchange Act Release No. 40761 (Dec. 8, 1998), 63 FR 70952 (Dec. 22, 1998).

[6] Amex Rule 900C defines ''Stock Index Industry Group'' as a stock index group relating to a stock index which reflects representative stock market values or prices of a particular industry or related industries (also referred to as a ''narrow based index'').

[7] The Commission granted approval to list and trade narrow-based index warrants pursuant to Section 19(b)(3)(A) in Securities Exchange Act Release No. 37007 (March 21, 1996), 61 FR 14165 (March 29, 1996).

requirement from its existing rules.[8] Accordingly, to enable the Exchange to use new Rule 19b–4(e), the Exchange proposes to eliminate the Section 19(b)(3)(A) rule filing requirement from Section 106 of the *Amex Company Guide*.[9] Amex Rule 901C will remain unchanged. The Exchange represents that the use of new rule 19b–4(e) will be in accordance with the terms and conditions set forth in the order approving the Rule.

2. *Statutory Basis*

The proposed rule change is consistent with Section 6(b) of the Act[10] in general and furthers the objectives of Section 6(b)(5)[11] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The 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

The Exchange did not solicit or receive any written comments 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 Exchange 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.

[8] *See supra* n. 5, at n. 89.

[9] The Commission approved a similar change to Amex Rule 901C to permit the trading of narrow-based index options pursuant to new Rule 19–4(e). *See* Securities Exchange Act Release No. 41091 (Feb. 23, 1999), 64 FR 10515 (March 4, 1999).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–99–21 and should be submitted by February 14, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–1574 Filed 1–21–00; 8:45 am]

BILLING CODE 8010–01–M

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before February 23, 2000. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer,≤ Jacqueline White, Small Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, D.C. 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Pre-Disaster Mitigation Small Business Loan Application.

Form No: 5M.

Frequency: On Occasion.

Description of Respondents: Persons applying for pre-disaster mitigation loans.

Annual Responses: 2,500.

Annual Burden: 5,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 00–1531 Filed 1–21–00; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF STATE

[Public Notice 3206]

Culturally Significant Objects Imported for Exhibition Determinations: ''Science Under Sail: Russia's Great Voyages to America, 1728–1867''

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Science Under Sail: Russia's Great Voyages to America, 1728–1867,'' imported from abroad for temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Anchorage Museum of History and Art, Anchorage, Alaska, from on or about May 4, 2000,

to on or about October 22, 2000; the California Academy of Sciences, San Francisco, California, from early February to early May, 2001; and perhaps at other U.S. venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Lorie J. Nierenberg, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6084). The address is U.S. Department of State, SA–44; 301–4th Street, S.W., Room 700, Washington, D.C. 20547–0001.

Dated: January 17, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 00–1640 Filed 1–21–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Engine Instructions for Continued Airworthiness

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circular and request for comments

SUMMARY: This notice announces the availability of Advisory Circular (AC) No. 20.XX, Turbojet, Turboprop & Turbofan Engine Induction System Icing.

DATES: Comments must be received on or before February 23, 2000.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA 01803–5299

FOR FURTHER INFORMATION CONTACT: John Fisher, Engine and Propeller Standards, Staff, ANE–110, at the above address, telephone (781) 238–7149, fax (781) 238–7199

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the subject AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**. Interested persons are invited to comment on the proposed AC, and to submit such written data, views, or argument as they desire. Commenters must identify the subject of the AC, and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Engine and Propeller Directorate, Aircraft Certification Service, before issuance of the final AC.

Background

This AC is on the subject of continued airworthiness of aircraft engines certificated under Title 14 of the Code of Federal Regulation (CFR) parts 33 and 25. The information and guidance presented in this AC would provide a method that can be used to demonstrate compliance with the requirements of §§ 25.1093, 33.68, 33.77, and 33.89.

This advisory circular, published under the authority granted to the Administrator by 49 U.S.C. 106(g), 401113, 44701–44702, 44704, provides guidance for these proposed requirements.

Issued in Burlington, Massachusetts, on January 13, 2000.

David A. Downey,

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

[FR Doc. 00–1652 Filed 1–21–00; 8:45am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Federal Aviation Administration Rulemaking Advisory Committee.

DATE: The meeting will be held on February 9, 2000 at 10 a.m.

ADDRESSES: The meeting will be held at the Department of Transportation, 400 7th Street, SW, Rooms 6200–6204, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Regina Jones, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267–9822; fax (202) 267–5075; e-mail Regina.Jones@faa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Executive Committee to be held on February 9, 2000, at the Department of Transportation, 400 7th Street, SW, Rooms 6200–6204, Washington, DC 20590. The agenda will include:

- Use of proxy votes
- ARAC Chair
- Aviation Consumer Action Project (ACAP) motions

Attendance is open to the interested public but will be limited to the space available.

The public must make arrangements by February 7, to present oral statements at the meeting. The public may present written statements to the executive committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on January 18, 2000.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 00–1649 Filed 1–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Gainesville Regional Airport, Gainesville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Gainesville Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before February 23, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822.

In addition, one copy of any comments submitted to the FAA must

be mailed or delivered to Mr. Gene Clerkin, Director of Aviation of Gainesville-Alachua County Regional Airport Authority at the following address: Gainesville Regional Airport, 3880 N.E., 39th Avenue, Suite A, Gainesville, Florida 32609.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Gainesville-Alachua County Regional Airport authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Richard Owen, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (401) 812–6331 extension 19. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Gainesville Regional airport under the provisions of the aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 12, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by Gainesville-Alachua County Regional airport Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 12, 2000.

The following is a brief overview of the application.

PFC Application No.: 00–01–C–00–GNV.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 2000.

Proposed charge expiration date: September 1, 2008.

Total estimated PFC revenue: $3,053,325.

Brief description of proposed project(s): Terminal Hold Room Expansion; ALP Update/PFC Administration Fees; Airfield Safety Project-Runway 24 Protection Zone, Taxiway A Extension, Construct T-Hanger Taxiway, Construct Service Road, Security Upgrades and Access Road Reconstruction; Runway Vacuum Sweeper; ARFF Equipment; Security Equipment and Airfield Guidance Signs; Terminal Expansion and Renovation, Phases 1a and 1b; Passenger Lift Device, Runway and Taxiway Rehabilitation and Land Acquisition.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Gainesville Regional Airport.

Issued in Orlando, Florida on January 14, 2000.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc 00–1651 Filed 1–21–00 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In December 1999, there were five applications approved. Additionally, 14 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Appoved

Public Agency: City of Redmond, Oregon.

Application Number: 99–03–C–00–RDM.

Application Type: Impose and use of PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,021,900.

Earliest Charge Effective Date: December 1, 2000.

Estimated Charge Expiration Date: April 1, 2004.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Roberts Field—Redmond Municipal Airport.

Brief Description of Projects Approved for Collection and Use: Reconstruct taxiway F north and construct exit taxiway and holding apron.

Installation of distance-to-go signs on runway 10/28 and runway end identifier lights on runway 4.

Reconstruct taxiway F south and relocate taxiway H.

Construct building for storage and maintenance of airport snow and ice control equipment and materials.

Decision Date: December 8, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Vargas, Seattle Airports District Office, (425) 227–2660.

Public Agency: Scotts Bluff County, Gering, Nebraska.

Application Number: 99–01–I–00–BFF.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $108,000.

Earliest Charge Effective Date: March 1, 2000.

Estimated Charge Expiration Date: March 1, 2003.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Project Approved for Collection Only: Renovate terminal building.

Decision Date: December 13, 1999.

For Further Information Contact: Lorna Sandridge, Central Region Airports Division, (816) 329–2641.

Public Agency: City of Klamath Falls, Oregon.

Application Number: 99–01–C–LMT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $426,374.

Earliest Charge Effective Date: March 1, 2000.

Estimated Charge Expiration Date: November 1, 2004.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use

Airport master plan study.
Taxiway extension.
Revise airport layout plan.
Taxiway reconstruction.
Apron reconstruction.
Install Part 107 security gates.
Reconstruct T-hangar taxiway.
Sealcoat runway 7/25.
Taxiway construction.
Apron construction.
Access road construction.
Construct perimeter fencing.

Parking lot rehabilitation.
Land acquisition.
Terminal area improvements.
Airfield safety area study.
Pavement maintenance study.
Runway 7/25 safety area improvements.
Acquire snow removal equipment.
Acquire handicapped lift.

Brief Description of Project Withdrawn. Runway safety area design and construction.

Determination: This project was withdrawn by the public agency in its letter to the FAA dated September 24, 1999. Therefore, the FAA did not rule on this project in this decision.

Decision Date: December 20, 1999.

For Further Information Contact: Mary Vargas, Seattle Airports District Office, (425) 227–2660.

Public Agency: City of Minot, North Dakota.

Application Number: 99–04–C–00–MOT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $757,551.

Earliest Charge Effective Date: June 1, 2000.

Estimated Change Expiration Date: February 1, 2004.

Class of Air Carriers Not Required To Collect PFC'S: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Minot International Airport.

Brief Description of Projects Approved for Collection and Use.

PFC program administration and application preparation.
Acquisition of passenger loading bridges.
Acquire aircraft rescue and firefighting (ARFF) vehicle.
Rehabilitate porous friction course.
Construct blast pads on runway 13/31.
Rehabilitate taxiway C.
Install distance remaining signs and modify existing signs.
Construct service road.
ARFF, snow removal equipment (SRE) and security radios.
Acquire ARFF vehicle.
Reconstruct and mark taxiway F.
Security access control system installation.
Install security fencing.
Replace segmented circle and rotating beacon, and install airport signs.
Acquire SRE (rotary snow blower).
Upgrade security access control system.
Rehabilitate taxiway A.

Decision Date: December 21, 1999.

For Further Information Contact: Irene Porter, Bismarch Airports District Office, (701) 250–4385.

Public Agency: New York State Department of Transportation, New Windsor, New York.

Application Number: 00–02–C–00–SWF.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $4,558,000.

Earliest Charge Effective Date: January 1, 2000.

Estimated Change Expiration Date: December 1, 2003.

Class of Air Carriers Not Required To Collect PFC'S: (1) Unscheduled air taxi carriers operating under Part 135; (2) unscheduled charter air carriers operating under Part 121.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Stewart International Airport.

Brief Description of Projects Approved for Collection and Use.

Overlay and groove runway 9/27.
Pavement management plan and topographic mapping.
Glycol collection improvements.
North cargo ramp expansion.
Aircraft ramps rehabilitation.

Decision Date: December 30, 1999.

For further information contact: Dan Vornea, New York Airports District Office, (516) 227–3812.

Amendments to PFC Approvals

Amendment No. City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
97–01–C–01–ABI, Abilene, TX	05/05/99	1,210,647	2,008,611	09/01/05	01/01/15
97–01–C–02–MOB, Mobile, AL	10/25/99	1,300,000	1,791,374	06/01/99	06/01/99
98–01–C–01–JNU, Juneau, AK	12/01/99	1,089,272	1,172,772	04/01/00	06/01/00
92–01–I–05–SRQ, Sarasota, FL	12/01/99	21,737,893	21,287,893	03/01/01	01/01/01
92–03–C–02–SRQ, Sarasota, FL	12/01/99	650,000	1,100,000	07/01/01	07/01/01
96–04–C–01–PLN, Pellston, MI	12/01/99	27,600	16,265	09/01/02	07/01/02
95–02–C–04–STL, St. Louis, MO	12/01/99	108,214,867	108,214,867	07/01/98	07/01/98
98–05–C–01–MCO, Orlando, FL	12/09/99	231,705,000	111,484,000	05/01/05	01/01/01
93–02–C–01–SEA, Seattle, WA	12/09/99	47,500,500	48,790,226	01/01/96	01/01/96
94–02–C–02–GEG, Spokane, WA	12/09/99	4,992,228	4,913,994	05/01/00	05/01/00
92–01–C–03–HPN, White Plains, NY	12/20/99	22,383,000	19,383,000	02/01/15	10/01/03
92–01–C–04–DTW, Detroit, MI	12/21/99	1,820,657,000	1,604,483,000	10/01/31	10/01/29
92–03–C–02–DTW, Detroit, MI	12/21/99	60,000,000	54,967,000	10/01/31	10/01/29
98–05–C–02–MCO, Orlando, FL	12/29/99	111,484,000	111,734,000	01/01/01	01/01/01

Issued in Washington, DC, on January 14, 2000.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 00–1650 Filed 1–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Valley County, Idaho

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The Federal Highway Administration is issuing this notice of intent to advise the public that an environmental impact statement will be prepared for a proposed highway project in Valley County, Idaho.

FOR FURTHER INFORMATION CONTACT: Loren D. Thomas, District Engineer, District 3, Idaho Transportation Department (ITD), 8150 Chinden Blvd., Boise, Idaho 83707, Telephone (208) 334–8300,

or

Jack T. Coe, Division Administrator, Federal Highway Administration, 3050 Lake Harbor Lane, Suite 126, Boise, Idaho, 83703, Telephone: 208–334–1843.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the ITD will prepare an environmental impact statement (EIS) on a proposal to improve State Highway 55 (SH–55) in Valley County, Idaho. The proposed improvements would involve seven miles of existing SH–55 from approximately 4 miles south of Smith's Ferry (Milepost 95) to Round Valley (Milepost 102).

The improvements on State Highway 55 are considered necessary to improve safety, increase capacity, accommodate economic development, and correct operational deficiencies in the roadway.

Alternatives under consideration include: (1) taking no action; (2) improving the existing two-lane highway along the North Fork of the Payette River; (3) constructing a two or four lane rural highway on new alignment. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to the appropriate Federal, State, and local agencies and citizens who have previously expressed interest in this proposed project. Scoping will begin with the publication of the Notice of Intent. As part of the scoping process, a series of public information meetings will be held in Valley County beginning in February 2000. In addition, a public hearing will be held. Public notice will be given of the time and place of any public information meetings and the public hearing. The draft EIS will be made available for public and agency review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning this proposed action and the EIS should be directed to the ITD or FHWA at the addresses provided above.

Authority: 23 U.S.C. 315; 23 CFR 771.123.

Issued on: January 13, 2000.

Pamela S. Cooksey,

Assistant Division Administrator, Federal Highway Administration, Boise, Idaho.

[FR Doc. 00–1616 Filed 1–21–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice, and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C 3501 *et seq.*), this notice announces that the Information Collection Requirement (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 its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 13, 1999 (64 FR 25952)

DATES: Comments must be submitted on or before February 23, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety Analysis, Planning and Evaluation Division, RRS–21, Federal Railroad Administration (FRA), 1120 Vermont Ave., NW, Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, FRA, 1120 Vermont Ave., NW, Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13, section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506; 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On May 13, 1999, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 64 FR 25952. FRA received several comments after issuing this notice. FRA has carefully evaluated these comments and has responded to them fully in the information collection submission which it is presently forwarding to OMB. A summary of the comments and FRA responses are given below. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c). Interested members of the public may obtain a free copy of this information collection submission by contacting Mr. Robert Brogan or Ms. Dian Deal at the telephone numbers listed above.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3607(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995.

The summaries below describe the nature of the ICRs and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: U.S. DOT Crossing Inventory Form.

OMB Control Number: 2130–0017.

Type of Request: Revision of a currently approved collection.

Affected Public: 675 railroads and 50 States.

Form(s): FRA F 6180.71.

Abstract: Form FRA 6180.71 is a voluntary form and is being revised to include additional data elements at the request of states and railroads. The form is also being revised to fulfill National Transportation Safety Board (NTSB) recommendations and to take advantage of recent advances in information technology. The form is used by states and railroads to periodically update certain cite specific highway-rail crossing information which is then transmitted to FRA for input into the National Inventory File. This information has been collected on the U.S. DOT (formerly U.S. DOT–AAR) Crossing Inventory Form since 1974 and maintained in the National Inventory File database since 1975. The primary purpose of the National Inventory is to provide for the existence of a uniform database which can be merged with accident data and used to analyze information for planning and implementation of crossing safety improvement programs by public, private, and governmental agencies responsible for highway-rail crossing safety. Following the official establishment of the National Inventory

in 1975, FRA assumed the principal responsibility as custodian for the maintenance and continued development of the U.S. DOT/AAR National Highway-Rail Crossing Inventory Program. The major goal of the Program is to provide federal, state, and local governments, as well as the railroad industry, information for the improvement of safety at highway-rail crossings. Good management practices necessitate maintaining the database with current information. The data will continue to be useful only if maintained and updated as inventory changes occur. FRA previously cleared the reporting and recordkeeping burden for this form under Office of Management and Budget (OMB) clearance number 2130–0017. OMB approved the burden in the original form through March 31, 2000. Based on the most recent information available, FRA estimates approximately 65,000 updates per year. This is a substantial reduction in updates from the previous estimate of responses and represents a corresponding reduction of 1,538 hours in the reporting and recordkeeping burden. The reduction in responses is due to a lower response rate from states and railroads over the past few years and the expected continuation of this trend. FRA is requesting a three-year approval from OMB for this information collection.

Summary of Comments: FRA received a total of five written sets of comments in response to its earlier notice. Most of the comments pertained to the data elements and layout of the form. Michigan Department of Transportation (MDOT) submitted a number of comments. It stated that the reasonable time for filling out the DOT Crossing Inventory Form should be longer. MDOT noted that it has one person to perform many data conversions to provide data to FRA in the format the agency needs. After careful review, FRA believes its estimate of the amount of time required to gather the necessary information and complete the form is accurate. Thus, FRA is not changing the burden time for this form. FRA's estimate is based on the types of updates currently being provided and on the average-time estimate provided by one state which recently completed a massive state-wide update of all their crossings. MDOT requested a clearer description of what constitutes a crossing, especially in multiple crossing situations and the appropriate way to assign U.S. DOT–AAR numbers to the crossings. FRA believes the term is clear and notes in its response that a crossing inventory number shall be assigned to a crossing which is defined as ''the tracks between a pair of the same type of warning devices.'' See sections 1.5 and 2.3 of the 1996 Highway-Rail Crossing Inventory Instructions and Procedures Manual. While this may seem inconsistent at times in multiple track territory, it is required to properly define the warning devices and the character of the crossing. MDOT also requested that FRA make the Crossing Inventory Form available on its Website along with the ability to fill-in the form and transmit it to FRA. Upon approval by OMB, FRA will make available a blank form on its Website. The ability to fill-in the form and transmit it to FRA will not be available because the edit checks to insure data accuracy and quality would not be in place. The ''GX 32'' software is provided for this purpose. MDOT further requested that the railroad codes be made available on the FRA Website and also that the States and railroad be given the ability to download updated data from the Internet. FRA's response is that the railroad codes are already on the FRA Website under ''View or Download FRA Auxiliary Tables.'' With regard to the second matter, the capability to download the current data in the File is already available on the FRA Website under ''Download Database Files.'' Arrangements can also be made with FRA's data processing contractor to obtain and download updated files for the ''GX 32'' software. MDOT commented that a mechanism is needed to submit data that still has missing fields of information, and that some data is better than no data. FRA's response is that, if the agency allowed partial data submittal, there would be gaps in information, data accuracy and quality would suffer, and the probability would be high that missing data would not be submitted to complete the update or the addition to the new crossing. What is suggested can already be performed. The Crossing Inventory Form can be submitted with temporary or estimated information (for example, an estimate of highway traffic volume) and then it can be corrected or updated later. MDOT wanted to know exactly how latitude and longitude are determined and from what point in the crossings. In response, the new Instructions will define that actual recording of latitude and longitude be taken at the center of the crossing, that is, the midpoint of a diagonal line across the crossing between the primary warning devices facing the approach lanes of traffic. MDOT thought that a glossary of terms should be provided and that Item 5 of Part III: ''Is highway paved?'' should have the added designation of one-side only. In response, FRA does not believe a glossary of terms is needed. FRA recognizes that some states have specific and/or different procedures which they follow. However, for the National Inventory, the original Committee of States and Railroads established definitions that reflected the majority of users. Regarding Item 5, the instructions will indicate that if one side of the roadway is paved and the other is unpaved, it should be indicated as unpaved. MDOT observed that the states do not have the time/resources nor do the railroads to go out and specifically collect a special piece of data just because FRA has it on this form. In reply, FRA notes that the required information and data elements were defined by the states and railroads in 1973. In order to insure accuracy, consistency, and quality, FRA can not be flexible on allowing blank data fields. Lastly, MDOT had comments on system security and the integrity of data. FRA's response is to note that it accepts Inventory update information only from one designated contact person in each state and on each railroad. In order to insure the integrity and accuracy of the data, FRA requires all data elements be completed for new crossings before the record is inputted into the National File. The PCAPS (Personal Computer Accident Prediction System) program produces lists of the riskiest crossings for a specifically defined entity (state, county, city, railroad, or any combination thereof). If the data is not accurate, it is the responsibility of the state and/or railroad to provide updated information. It should be noted that the PCAPS program is only updated, produced, and distributed once per year.

A second set of comments was submitted by the Association of American Railroads (AAR). AAR recommended that the Crossing Inventory Form clearly identify the data elements which should be completed by the railroad industry and those elements which should be completed by the highway authority. FRA agrees, and has done this on the form (where possible), and in the instructions and additional materials which accompany the form instructions. AAR had several comments about the form itself. It requested that AAR's name be removed from the title of the form. FRA agrees. After consultation with the major Class I railroads which indicated their agreement, FRA has changed the title to ''DOT Crossing Inventory Form.'' AAR suggested that time could be saved by eliminating the second box in data items

which require a yes or no answer. FRA agrees in principle. However, it was determined that, in order to be consistent with a choice for a response, a ''yes'' and ''no'' box be provided for all elements for questions where such a response was appropriate. This also assures that the respondent addresses the questions. Thus, two boxes remain for these questions. AAR observed that Part I of the form (May draft) contained several categories which should be included and identified under Part IV ''Highway Department Information.'' In particular, he thought, data items 3, 13, 14, 15, 16, 18, 19, and 24 should be placed under Part IV. In response, FRA has clearly identified which data elements are to be completed by the railroad and which elements are to be completed by the highway authority in the Instructions and on the Form (again where possible). Part I ''Location and Classification'' of the revised form provides the critical information that is required for all crossings, whether public, private, or pedestrian, at-grade or grade separated. Parts II, III, and IV are only required to be completed if the crossing is public, although information in these parts will now be accepted and inputted into the File if it is supplied for private crossings. AAR suggested that instructions for Item 3 should be changed for crossings located on county lines to reflect the county responsible for maintenance at that crossing, and that High Speed Rail (HSR) codes be included in the instructions for Item 12. FRA agrees, and has added words to the instructions that the State/County that is responsible for maintenance at the crossing shall determine the location of the crossing, or an agreement/decision must be made between the jurisdictions as to the location of the crossing. The instructions will also reflect that HSR codes will be supplied by FRA as specific corridors are identified and that this field will normally be maintained by FRA's data processing contractor. AAR commented that Items 35, 36, and 37 of Part I, which FRA will have posted on its Website under Inventory History which identify contacts, do not add any significant value to the inventory data. FRA disagrees and notes that only telephone numbers and not names are required by these data elements. However, consideration will be given to not displaying this information on the FRA Website. AAR suggested that Items 1A through 1D of Part II ''Detailed Railroad Information'' need not be included on the form. FRA has revised and simplified these data elements in light of this observation. AAR requested that Item 1E of Part II which inquires ''whether typical number of daily train movements are actual or estimated'' be deleted. FRA agrees and has deleted this data element. AAR remarked that Part II Item 2B ''Typical Speed Range Over Crossing'' should identify maximum table speed (mph). FRA disagrees and feels that this information is necessary to identify if there are slow movements over the crossing. This information also helps planners to determine if Constant Warning Time (CWT) for the warning devices is needed. AAR stated that the instructions for Part I Item 11 ''Train Detection'' should only be provided for crossings with active warning devices. FRA agrees and has made the default ''None'' in the instructions. AAR noted that Part II Item 14 ''Whistle Bans'' does not make sense since FRA's anticipated proposed rule implementing the Swift Rail Act of 1994 would prohibit whistle bans. FRA agrees and has changed the title of Item 14 from ''Whistle Ban'' to ''Quiet Zone'' (now Part I Item 16). AAR observed that Item 16 of Part II should be in Part IV ''Highway Department Information.'' FRA agrees with this categorization. FRA has moved this item to Part III ''Traffic Control Information'' (Item 5) and has also re-named it ''Channelization Devices with Gates'' for clarity. AAR suggested that Items 5 and 10 of Part III (''Physical Data'') should be more appropriately categorized as roadway instead of highway. FRA does not agree. While it is true that several states use ''highway'' as a term to identify specific classifications of roadways, FRA desires that terminology on the form should be consistent such as the usage of ''highway-rail crossings.'' This term is used to refer to all crossings whether they are on an actual highway, road, or street. AAR commented that the draft instructions should identify the appropriate authority. FRA agrees and the final instructions will have a table identifying the primary authority responsible for providing each data element and, if appropriate, the secondary authority as well. Lastly, AAR suggested the current method of forwarding changes to FRA increases administration duties for submitting parties and for FRA. In response, FRA notes that a facilitation process is already available which allows a railroad or States to use the ''GX 32'' program software to submit changes and updates.

A third set of comments was submitted by the Burlington Northern-Santa Fe Railway Company (BNSF). BNSF had a number of comments regarding the data elements of the form. He suggested that data items 12, 13, 16, 18, 19, and 24 of Part I ''Location and Classification of All Crossings'' be moved to Part III (which should contain items provided by the highway authority). In response, FRA has revised the form and also the instructions to more clearly identify which data elements are to be completed by the railroad and which elements are to be completed by the highway authority. BNSF suggested removing Part I Item 25B ''Public Access'' since he believed the answer to this item is always ''no.'' FRA disagrees and has retained this item in the form. This field was specifically requested by a Class I railroad and is designed to cover those situations where the general public would use the crossing and not be aware that it was a private crossing. BNSF remarked that it did not wish to provide the information requested regarding the ''Railroad Contact'' in Item 35 of Part I. Again, this data element does not request names of individuals but only telephone numbers and is retained in the form. BNSF remarked that Part II ''Detailed Railroad Information'' should contain only data items that apply to railroads. FRA agrees and has taken steps in the revised form to separate Part II into two parts by creating a fifth part for the warning device information. BNSF further remarked that Item 1 ''Typical Number of Daily Train Movements'' of Part II should be dropped since it has never been able to determine the train movements by day or night. FRA disagrees and believes that this information is useful, particularly in the DOT Accident Prediction Formulas. However, changes have been effected in the revised form to simplify the information to be provided. BNSF advocated that Part II Item 2B ''Typical Speed Range Over Crossing'' be eliminated since determining what is typical for each crossing is not possible and can change over time. FRA disagrees and has retained this data element. In thru territory, the normal typical speed over the crossing would be constant, most probably the timetable speed. BNSF recommended that Part II Item 6E ''Hump Crossing Sign W 10–5'' be moved to Part III since this is information that the highway is responsible for providing. FRA agrees. FRA has created a new Part for Items 6 through 16 titled ''Traffic Control Device Information'' and has specified in the instructions that Item 6E is the responsibility of the highway authority. BNSF suggested that the part for ''Other Colored'' in Part II Item 7A ''Gates'' be removed. FRA has changed this data element (now Part III Item 3A) so that it will just count the number of gates

present at the crossing without distinction to the type or color. BNSF observed that the check box for ''None'' in Part II Item 11 ''Train Detection'' is not necessary and should be removed. The revised form retains this box since Item 11 provides a category ''None'' which would be checked or indicated if the crossing was not an active crossing. The default category would be ''None'' if no other box is checked. BNSF also advocated that Part II Item 14 ''Whistle Ban'' be removed from the inventory. As mentioned earlier, the revised form changes the title of Item14 from ''Whistle Ban'' to ''Quiet Zone'' (now Part I Item 16). BNSF commented that Part II Item 16 ''Median Barriers with Gates'' should be moved to Part III and be a part of the highway authority supplied data. Again, FRA notes that the highway authority will have the primary responsibility for supplying this data so it is retaining this data element. Like some other data elements, it is not difficult for railroads to observe that median barriers are present. Railroads would have secondary responsibility for submittal of this information. BNSF observed that most of the items in Part III ''Physical Data'' are data items known by the road authority and should be supplied by the road authority. In response, FRA has revised the form and instructions to clearly identify which data elements should be completed by the railroad and which data elements should be completed by the highway authority, and which can be completed by either. Lastly, regarding the typical number of daily train movements (Part II Item 1E), BNSF commented that it was not sure how indicating whether the typical number of daily train movements is an ''actual'' or ''estimated'' count will provide meaningful information to anyone. FRA agrees and Item 1E has been eliminated.

A fourth set of comments was submitted by the Virginia Department of Transportation (VDOT). VDOT noted that there is no place on the Crossing Inventory Form for independent cities. It wanted to know if there is an edit list of acceptable Counties/Cities in the FRA database. In response, FRA has provided an explanation in the Instruction Manual to ensure that Federal Information Processing Standards (FIPS) Codes are used in the Inventory File. FRA is evaluating placing the FIPS Codes on its Website. VDOT suggested that, regarding the instructions to Part I Item 7, the RRID No. (Item 8) box be used to enter the alpha component. In response, FRA notes that an alpha character can be entered in the ''Milepost'' field. However, because of data retrieval and printout anomalies, FRA strongly recommends that alpha characters be avoided. Usually avoiding the alpha character will not present a serious identification problem. VDOT suggested that the instructions to Item 3 of Part II be improved to clarify what are the acceptable types of ''other'' tracks and how they are defined. In response, the Instruction Manual supplied by FRA will provide examples of what to specify.

A fifth set of comments was submitted by unidentified individuals. One of these commenters requested an item for the ''number of signal heads'' be included in the form. FRA concurs that this is useful information and has added a data element for the ''number of flashing light pairs'' (now Part III item 3E). Another commenter suggested a change to both the Instructions and to Part II Item 6.C ''Other Stop Signs.'' This commenter stated that there should not be any other stop signs other than the Standard Highway Stop Sign. FRA agrees. It has deleted Item 6C and has specified in the instructions that non-standard stop signs should be reported as ''Other Signs,'' now Part III Item 2F. One commenter suggested that Part I Item 7 ''Mile Post'' should be one word. FRA agrees and has made the necessary change. Another commenter suggested that Part II Item 7A. ''Gates'' combine ''red and white reflectorized ''and ''other colored'' into one category. FRA concurs and Item 3A of Part III will just be a count of the number of gates present a the crossing without distinction to the type or color. There was also a suggestion that Part II Item 6A ''Crossbucks'' combine ''reflectorized'' and ''non-reflectorized'' into one category. FRA agrees and Part III Item 2A will just be a count of the number of Crossbucks present at the crossing without distinction to the type.

Another commenter requested that FRA create an additional Part on the form (there would be 5 Parts) and change Part II ''Detailed Railroad Information'' to ''Highway Warning Device Information.'' FRA agrees and has created a fifth Part (which becomes Part III ''Traffic Control Device Information''). One commenter recommended moving Part II Item 10 ''Is Commercial Power Available?'' to Part III ''Physical Data.'' FRA concurs and has moved this item to Part III ''Physical Data'(new Part IV). Two other form changes were requested by commenters. One was to change Part IV ''Highway Department Information'' (new Part V) to ''Highway Information.'' The other was to change Part III ''Physical Data'' to ''Physical Characteristics.'' FRA agrees and has made both changes. Several other suggestions were submitted. One concerned grouping Items 21, 22, 23, 24, and 25 together and inserting the subtitle ''State Supplied Information'' for this group. Another regarded changing the title of Part II from ''Detailed Railroad Information'' to ''Detailed Information.'' FRA has implemented these last two suggestions in the revised form. Also recommended by commenters was to change the title of Part I ''Location and Classification of All Crossings'' to ''Location and Classification Information,'' and to move ''Whistle Ban'' (Part II Item 14) to Part I and change the Item name to ''Quiet Zone.'' FRA agrees with both suggestions and has revised the form accordingly. FRA has also moved Part III Item 6 ''Pavement Marking'' and Item 7 ''Are Advanced Warning Signs Present?'' to the section ''Traffic Control Device Information'' in response to comments.

Annual Estimated Burden: 3,104 hours

Addressee: Send comments regarding this ICR to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventh Street, NW, Washington, DC 20503; Attention: FRA Desk Officer.

Comments are invited on: Whether the proposed information collection 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 of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, D.C.

Margaret B. Reid,

Acting Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 00–1506 Filed 1–21–00; 8:45 am]

BILLING CODE 4910–06–U

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information; States Where Licensed for Surety

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 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 ''States Where Licensed for Surety.''

DATES: Written comments should be received on or before March 24, 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 Martin, Manager, Surety Bond Branch, Room 608A, 3700 East West Highway, Hyattsville, Maryland, (202) 874–6850.

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: States Where Licensed for Surety.

OMB Number: 1510–0013.

Form Number: FMS 2208.

Abstract: Information is collected from insurance companies in order to provide Federal bond approving officers with this information. The listing of states, by company, appears in Treasury's Circular 570, ''Surety Companies Acceptable on Federal Bonds''.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 318.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 318.

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 techiques 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: January 18, 2000.

Judith R. Tillman,

Assistant Commissioner, Financial Operations.

[FR Doc. 00–1624 Filed 1–21–00; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Pools and Associations—Annual Letter

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 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 ''Pools and Associations—Annual Letter''.

DATES: Written comments should be received on or before March 24, 2000.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dorothy Martin, Manager, Surety Bond Branch, Room 608A, 3700 East West Highway, Hyattsville, MD 20872, (202) 874–6850.

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: Pools and Associations—Annual Letter.

OMB Number: 1510–0008.

Form Number: None.

Abstract: The information is collected for the determination of an acceptable percentage for each pool and association to allow Treasury certified companies credit on their Schedule F for authorized ceded reinsurance in determining the companies' underwriting limitations.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 1 hour 30 minutes.

Estimated Total Annual Burden Hours: 150.

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: January 18, 2000.

Judith R. Tillman,

Assistant Commissioner, Financial Operations.

[FR Doc. 00–1625 Filed 1–21–00; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Suretec Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 11 to the Treasury Department Circular 570; 1999 Revision, published July 1, 1999, at 64 FR 35864.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–7102.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following Company under 31 U.S.C. 9304 to 9308. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1999 Revision, on page 35889 to reflect this addition: Suretec Insurance Company. Business address: 10000 Memorial Drive, Suite 330, Houston, TX 77024. Phone: (713) 812–0800. Underwriting limitation b/: $307,000. Surety licenses c/: TX. Incorporated in: Texas.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet at http:/www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, Telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048000–00527–6.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: January 12, 2000.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 00–1623 Filed 1–21–00; 8:45 am]

BILLING CODE 4810–35–M

Federal Register

Monday,
January 24, 2000

Part II

Department of Defense

General Services Administration

National Aeornautics and Space Administration

48 CFR Parts 43 and 52

Federal Acquisition Regulation; Time-and-Materials or Labor-Hours; Proposed Rule

DEPARTMENT OF DEFENSE
GENERAL SERVICES ADMINISTRATION
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 43 and 52

[FAR Case 1999–606]

RIN 9000–AI65

Federal Acquisition Regulation; Time-and-Materials or Labor-Hours

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to clarify the requirements regarding changes to time-and-materials and labor-hour contracts.

DATES: Interested parties should submit comments in writing on or before March 24, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit e-mail comments via the Internet to:

farcase.1999__606@gsa.gov.

Please submit comments only and cite FAR case 1999–606 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein, Procurement Analyst, at (202) 501–3775. Please cite FAR case 1999–606.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends the FAR to conform the guidance in the clause at FAR 52.243–3, Changes—Time-and-Materials or Labor-Hours, with the guidance in Alternate II of the clause at FAR 52.243–1, Changes—Fixed Price, because most of the work performed under time-and-materials or labor-hour contracts involves services.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule 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 contractors are entitled to an equitable adjustment to contract terms and conditions if a change order is issued under the Changes clause of the contract. Therefore, we have not prepared an Initial Regulatory Flexibility Analysis. Comments are invited from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR subparts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1999–606), in correspondence.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 43 and 52

Government procurement.

Dated: January 18, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 43 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 43 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 43—CONTRACT MODIFICATIONS

2. Amend section 43.205 by revising paragraph (c) to read as follows:

43.205 Contract clauses.

* * * * *

(c) Insert the clause at 52.243–3, Changes—Time-and-Materials or Labor-Hours, in solicitations and contracts when a time-and-materials or labor-hour contract is contemplated. The contracting officer may vary the 30-day period in paragraph (c) of the clause according to agency procedures.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Amend section 52.243–3 by—

a. Revising the introductory text;

b. Revising the date of the clause;

c. Revising paragraph (a) of the clause;

d. In the introductory text of paragraph (b) and in paragraph (b)(4) by removing ''shall'' and adding ''will'' in their place;

e. In the first sentence of paragraph (c) by removing ''must'' and adding ''shall'' in its place; and

f. Revising paragraph (d). The revised text reads as follows:

52.243–3 Changes—Time-and-Materials or Labor-Hours.

As prescribed in 43.205(c), insert the following clause:

Changes—Time-and-Materials or Labor-Hours (Date)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Description of services to be performed.

(2) Time of performance (*i.e.,* hours of the day, days of the week, etc.).

(3) Place of performance of the services.

(4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(5) Method of shipment or packing of supplies.

(6) Place of delivery.

(7) Amount of Government-furnished property.

* * * * *

(d) Failure to agree to any adjustment will be a dispute under the Disputes clause. However, nothing in this clause excuses the Contractor from proceeding with the contract as changed. (End of clause)

[FR Doc. 00–1589 Filed 1–21–00; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Monday,
January 24, 2000

Part III

Department of Commerce

Economic Development Administration

Economic Development Assistance Programs—Availability of Funds Under the Public Works and Economic Development Act of 1965 and Trade Act of 1974; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 991215339–9339–01]

RIN 0610–ZA14

Economic Development Assistance Programs—Availability of Funds Under the Public Works and Economic Development Act of 1965, as Amended, and Trade Act of 1974, as Amended

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA) announces its policies and application procedures under the Public Works and Economic Development Act of 1965, as amended (PWEDA) for fiscal year 2000 to support projects designed to alleviate conditions of substantial and persistent unemployment and underemployment in economically-distressed areas and regions of the Nation, and to address economic dislocations resulting from sudden and severe job losses.

DATES: Unless otherwise noted below, applications are accepted on a continuous basis and will be processed as funds are available. Normally, two months are required for a final decision after the receipt of a completed application that meets all EDA requirements.

ADDRESSES: Addresses for EDA's six regional offices and Washington office are provided in Section XIII. Addresses for Economic Development Representatives (EDRs) are listed under each regional office.

FOR FURTHER INFORMATION CONTACT: Interested parties should contact the appropriate regional office or EDR as shown in Section XIII for community and regional economic development projects. For national technical assistance, research, and trade adjustment assistance projects, contact the headquarters program office as shown in Sections XI and XII, respectively.

SUPPLEMENTARY INFORMATION:

I. General Policies under PWEDA

In light of its limited resources and the demonstrated widespread need for economic development, EDA encourages only project proposals that will significantly benefit areas experiencing or threatened with substantial economic distress. EDA will focus its scarce financial resources on communities with the highest economic distress. Distress may exist in a variety of forms, including, but not limited to, high levels of unemployment, low income levels, large concentrations of low-income families, significant decline in per capita income, substantial loss of population because of the lack of employment opportunities, large numbers (or high rates) of business failures, sudden major layoffs or plant closures, military base closures, natural or other major disasters, depletion of natural resources, and/or reduced tax bases.

Potential applicants are responsible for demonstrating to EDA, by providing statistics and other appropriate information, the nature and level of the distress their project efforts are intended to alleviate. In the absence of evidence of high levels of distress, EDA funding is unlikely.

EDA's strategic funding priorities are intended to implement PWEDA and to continue the general goals in place over the past six fiscal years, which have been refined to reflect the priorities of the U.S. Department of Commerce. Unless otherwise noted below, the funding priorities listed will be considered by the Selecting Official (depending upon the program, either the Regional Director or Assistant Secretary) after the project proposal has been evaluated based upon evaluation criteria described in EDA's regulations at 13 CFR Chapter III (64 FR 5347, February 3, 1999 and 64 FR 69867, December 14, 1999).

During FY 2000, EDA will give priority consideration to projects that help communities achieve and sustain economic growth, including those that support the Administration's ''New Markets'' and ''Liveable Communities'' initiatives and the priorities of the Department of Commerce, including, among other things, the following:

- Construction and rehabilitation of essential public works infrastructure and economic development facilities that are necessary to achieve long-term growth and provide stable and diversified local economies in the Nation's distressed communities;
- Assistance to communities suffering job losses and/or plant closings resulting from changing trade patterns. This may include, but is not limited to, projects for export promotion, identification of new markets and products, increased productivity, and diversification of the local economic base;
- Commercialization and deployment of technology, particularly information technology and telecommunications, and efforts that support technology transfer, application, and deployment for regional economic development. Also included under this category would be projects that support the development of new environmental technologies and techniques (e.g., innovative material recycling or reuse within the context of eco-industrial development, pollution control or treatment processes, and flood mitigation) that significantly enhance an area's economic development potential; Sustainable development programs that will provide long-term economic development benefits while promoting eco-efficiency. Included are diversification of natural resource dependent economies, eco-industrial parks, aquaculture facilities, brownfields' redevelopment, and other projects that increase efficient use of resources without compromising the environment for future generations;
- Projects from Minority Serving Institutions to plan and implement activities that will create opportunities for minority enterprise and technology-based employment in distressed areas;
- Entrepreneurial development, especially programs that build local capacity such as small business incubators and community financial intermediaries, and projects benefitting minorities, businesses owned by women, and people with disabilities (e.g., revolving loan funds);
- Economic adjustment, especially in response to military base and Department of Energy facility closures and downsizing, defense industry downsizing, and post-disaster, long-term economic recovery;
- Projects that fall under the New Markets Initiative—those that attract private investment in economically distressed inner city areas, small and medium-sized towns, rural areas, and Native American communities.
- Projects located in federally designated rural and urban Enterprise Communities and Empowerment Zones and state enterprise zones;
- Projects that demonstrate innovative approaches to economic development;
- Projects that support the economic development of Native American communities including Alaska Native Villages;
- Projects that support locally created partnerships that focus on regional solutions for economic development. Such projects will be given priority over proposals that are more limited in scope. For example, projects that evidence collaboration in fostering an increase in regional (multicounty and/or multistate) productivity and growth will be considered to the extent that such projects demonstrate a substantial

benefit to economically distressed areas of the region;

• Projects that support the Environmental Protection Agency's (EPA) designated brownfield pilots and Brownfield Showcase Communities that are eligible for EDA funding; and/or

• Projects that support the Council on Environmental Quality's American Heritage Rivers Initiative. EDA will to the extent practicable, given its limited resources, work with EDA eligible river communities on each of the 14 Presidentially designated rivers in achieving their economic development goals and objectives.

To the degree that one or more funding priorities are included (or packaged together) in the proposal, the ability to obtain EDA assistance may be enhanced.

II. Other Information and Requirements

EDA regulations at 13 CFR Chapter III published in the **Federal Register** (64 FR 5347, February 3, 1999, and 64 FR 32973, June 18, 1999 and 64 FR 69867, December 14, 1999), are available from EDA offices listed in Section XIII and from the EDA web site at *www.doc.gov/eda.*

Certain Departmental and other requirements are noted below. Additional information is available through links to EDA's web site at *www.doc.gov/eda* or from the appropriate EDA office listed in Section XIII.

A. Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This notice involves a collection of information requirement subject to the provisions of the PRA and has been approved by OMB under Control Number 0610–0094.

B. All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations are hereby provided: Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, ''Drug-Free Workplace Requirements (Grants)'' and the related section of the certification form prescribed above applies;

Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

C. Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

D. The implementing regulations of the National Environmental Policy Act (NEPA) require EDA to provide public notice of the availability of project specific environmental documents such as environmental impact statements, environmental assessments, findings of no significant impact, records of decision etc., to the affected public as specified in 40 CFR 1506.6(b).

Depending on the project location, environmental information concerning specific projects can be obtained from the Regional Environmental Officer (REO) in the appropriate EDA regional office listed in Section XIII.

E. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DoC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DoC in accordance with the instructions contained in the award document.

F. No award of Federal funds will be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received; or

3. Other arrangements satisfactory to DoC are made.

G. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

H. Applicants should be aware that a false statement on the application is grounds for denial of the application or termination of the grant award and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

I. Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

J. Applicants seeking an early start, i.e., to begin a project before EDA approval, must obtain a letter from EDA allowing such early start. The letter allowing the early start will be null and void if the project is not subsequently approved for funding by the grants officer. Approval of an early start does not constitute project approval. Applicants should be aware that if they incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover preaward costs. Additionally, EDA also requires that compliance with environmental regulations, in accordance with the National Environmental Policy Act (NEPA), be completed before construction begins.

K. If an application is selected for funding, EDA has no obligation to provide any additional future funding in connection with an award. Renewal of an award to increase funding or extend the period of performance is at the sole discretion of EDA.

L. Unless otherwise noted below, eligibility, program objectives, application procedures, selection procedures, evaluation criteria and other requirements for all programs are set forth in EDA's regulations at 13 CFR Chapter III (64 FR 5347, February 3, 1999, 64 FR 39273, June 18, 1999, and 64 FR 69867, December 14, 1999).

M. Area eligibility is determined at the time that EDA invites an application under 13 CFR 305 or 308 and is based on the most recent Federal data available for the area where the project will be located or where the substantial direct benefits will be received. If no Federal data are available to determine eligibility, an applicant must submit to EDA the most recent data available for the area through the government of the State in which the area is located, i.e., conducted by or at the direction of the State government. Project areas must be

eligible on the date of submission of the application. In the case of any application received by EDA more than six months prior to the time of award, EDA will reevaluate the project to determine that the area remains eligible for EDA assistance before making the award.

EDA will reject any documentation of eligibility that it determines is inaccurate.

N. EDA is not authorized to provide any financial assistance directly to individuals for the purpose of starting a new business or expanding an existing business.

III. Special Need Criteria

An area is eligible pursuant to ''Special Need'' (13 CFR 301.2 (b) (3)), if the area meets one of the criteria described below:

A. Substantial out-migration or population loss. Applicants seeking eligibility under this criterion will be asked to present appropriate and compelling economic and/or demographic data to demonstrate the special need.

B. Underemployment, that is, employment of workers at less than full time or at less skilled tasks than their training or abilities permit. Applicants seeking eligibility under this criterion will be asked to present appropriate and compelling economic and/or demographic data to demonstrate the special need.

C. Military base closures or realignments, defense contractor reductions-in-force, or Department of Energy defense-related funding reductions.

1. A military base closure refers to a military base that was closed or is scheduled for closure or realignment pursuant to a Base Realignment and Closure Act (BRAC) process or other Defense Department process. The area is eligible from the date of Defense Department recommendation for closure until five years after the actual date of closing of the installation, provided that the closure recommendation is not sooner canceled.

2. A defense contractor reduction-in-force refers to a defense contractor(s) experiencing defense contract cancellations or reductions resulting from official DoD announcements and having aggregate value of at least $10 million per year. Actual dislocations must have occurred within one year of application to EDA and threatened dislocations must be anticipated to occur within two years of application to EDA. Defense contracts that expire in the normal course of business will not be considered in meeting this criterion.

3. A Department of Energy defense-related funding reduction refers to a Department of Energy facility that has experienced or will experience a reduction of employment resulting from its defense mission change. The area is eligible from the date of the Department of Energy announcement of reductions until five years after the actual date of reduced operations at the installation, provided that the reduction is not sooner canceled.

D. Natural or other major disasters or emergencies. An area that has received one of the following disaster declarations is eligible for EDA assistance for a period of 18 months after the date of declaration, unless further extended by the Assistant Secretary:

1. A Presidential Disaster Declaration authorizing FEMA Public Assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Public Law 93–288), 42 U.S.C. 5121 et seq.), or

2. A Federally Declared Disaster pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, (Public Law 94–265) as amended by the Sustainable Fisheries Act (Public Law 104–297), or

3. A Federal Declaration pursuant to the Consolidated Farm and Rural Development Act, as amended (Public Laws 92–419, 96–438, 97–35, 98–258, 99–198, 100–233, 100–387, and 101–624), or

4. A Federally Declared Disaster pursuant to the Small Business Act, as amended (Public Law 85–536).

E. Extraordinary depletion of natural resources. EDA presently recognizes the following conditions of extraordinary natural resource depletion:

1. Fisheries
2. Coal
3. Timber

Assistant Secretary modifications to the above listing of conditions of extraordinary natural resource depletion, as they may occur, will be announced in subsequent public notices.

F. Closure or restructuring of industrial firms, essential to area economies. An area that has experienced closure or restructuring of firms resulting in sudden job losses and meeting the following criteria:

1. For areas over 100,000 population, the actual or threatened dislocation is 500 jobs, or 1 percent of the civilian labor force (CLF), whichever is less.

2. For areas up to 100,000 population, the actual or threatened dislocation is 200 jobs, or 1 percent of the CLF, whichever is less.

Actual dislocations must have occurred within one year of application to EDA and threatened dislocations must be anticipated to occur within two years of application.

G. Local negative impacts of foreign trade. An area certified as eligible by the North American Development Bank (NADBank) Program or the Community Adjustment and Investment Program (CAIP) .

H. Other special need. The area is experiencing other special and/or extraordinary economic adjustment need as determined by the Assistant Secretary.

The applicant will be asked to present appropriate economic or demographic statistics to demonstrate a special need.

IV. Funding Availability

Under EDA's fiscal year 2000 appropriation, Pub. L. 106–113, program funds totalling $360,550,000 are available until expended. EDA has already received and begun processing requests for funding under its programs for fiscal year 2000. New requests submitted that require approval during this fiscal year will face substantial competition.

V. Authority

The authority for programs listed in Parts VI through XI is the Public Works and Economic Development Act of 1965, (Pub. L. 89–136, 42 U.S.C. 3121, *et seq.*), as amended, and as further amended by Pub. L. 105–393 (PWEDA). The authority for the program listed in Part XII is Title II Chapters 3 and 5 of the Trade Act of 1974, as amended, (19 U.S.C. 2341–2355; 2391) (Trade Act), as amended by Pub. L. 105–119.

VI. Program: Public Works and Economic Development Assistance

(Catalog of Federal Domestic Assistance: 11.300 Economic Development-Grants for Public Works and Infrastructure)

Funding Availability

Funds in the amount of $204,521,000 maybe appropriated for this program. The average funding level for a grant last fiscal year was $849,000.

VII. Program: Technical Assistance-Local Technical Assistance; National Technical Assistance; and University Centers

(Catalog of Federal Domestic Assistance: 11.303 Economic Development-Technical Assistance)

Funding Availability

Funds in the amount of $9,100,000 million have been appropriated for the Technical Assistance programs of which approximately $1,530,000 is available

for the Local Technical Assistance program; $1,101,000 for the National Technical Assistance program; and $6,469,000 for the University Center program. The average funding level in FY 1999 for Local Technical Assistance grants was $28,000; for National Technical Assistance grants, $108,000; and for University Center grants, $98,300.

EDA expects that most University Center funds will be used for support to existing University Centers. EDA is in the process of designating the University Center program as a multi-(up to three) year program and expects at least $6,469,000 in funding to be available in each of the second and third years. Applicants under EDA's University Center Technical Assistance programs may be invited to submit applications for multi-year awards, setting out the proposed budget and project activities for each year, up to three years. If accepted, such applications will simplify the application process in subsequent year or years, although in each year approval of an award will be dependent upon continued satisfactory performance during the preceding period, the availability of program funds, and will be at EDA's sole discretion. It is EDA's intention to have the multi-year funding cycle coincide with the peer review cycle called for under Section 506 of PWEDA and 13 CFR § 318.1.

A separate FR Notice will set forth the specific funding priorities, application process, and time frames for certain National Technical Assistance projects.

VIII. Program: Planning—Planning Assistance for Economic Development Districts, Indian Tribes, States, and Other Planning Organizations

(Catalog of Federal Domestic Assistance: 11.302 Economic Development—Support for Planning Organizations; 11.305 Economic Development—State and Local Economic Development Planning)

Funding Availability

Funds in the amount of $24,000,000 have been appropriated for the Planning program. The funding levels for planning grants last year ranged from $10,000 to $200,000. EDA expects the majority of planning funds will be used for support to existing Economic Development District and Indian Tribe grantees. EDA is in the process of designating the Planning programs as multi-(up to three)year programs and expects at least $24,000,000 in funding to be available annually in the second and third years. Applicants under EDA's Planning programs may be invited to submit applications for multi-year awards, setting out the proposed budget and project activities for each year, up to three years. If accepted, such applications will simplify the application process in the subsequent year or years, although in each year approval of an award will be dependent upon continued satisfactory performance during the preceding period, the availability of program funds, and will be at EDA's sole discretion. It is EDA's intention to have the multi-year funding cycle coincide with the peer review cycle called for under Section 506 of PWEDA and 13 CFR § 318.2. At the discretion of the Regional Office, other applicants for planning assistance may be invited to submit applications for up to a three-year period. Funding in FY 2001 and FY 2002 for these other applicants will be contingent upon the availability of funds from Congress, satisfactory performance, and at the sole discretion of EDA.

IX. Program: Economic Adjustment Assistance

(Catalog of Federal Domestic Assistance: 11.307 Economic Development and Adjustment Assistance Program)

Funding Availability

Funds in the amount of $34,629,000 have been appropriated for this program. Of this amount, $12,000,000 is available for economic adjustment projects located in regions impacted by coal industry downsizing and timber industry issues with an additional $3,129,000 available for disaster mitigation uses.

The $3,129,000 for disaster mitigation and recovery will be available to support selected hazard prone communities (areas subject to natural disasters) including Project Impact communities (communities recognized for taking actions on their own to mitigate) designated by the Federal Emergency Management Agency (FEMA), for capacity building and mitigation activities in areas that are EDA eligible. In addition to the eligibility criteria set forth in EDA's regulation's at 13 CFR Chapter III (64 FR 5347, February 3, 1999 and 64 FR 69867, December 14, 1999) these communities must have experienced a natural disaster or be located in natural hazard prone areas.

The average funding level for a regular economic adjustment grant last year was $180,000.

X. Program: Defense Economic Conversion

(Catalog of Federal Domestic Assistance: 11.307 Economic Development and Adjustment Assistance Program; 11.300 Economic Development Grants; 11.303 Economic Development-Technical Assistance; 11.302 Economic Development—Support for Planning Organizations; 11.305 Economic Development—State and Local Economic Development Planning; 11.312 Economic Development—Research and Evaluation Program; and 11.313 Economic Development—Trade Adjustment Assistance)

Funding Availability

Funds in the amount of $77,300,000 have been appropriated for this program. The average funding level for a grant last year was $1,300,000.

Up to $2.5 million of defense adjustment funds will be available for projects that demonstrate innovative credit enhancement of debt financing for base-reuse infrastructure. In 1998, EDA published the results of its funded research project entitled Defense Adjustment Infrastructure Bonds: Credit Enhancement Grants Make Affordable Capital Available. During FY 2000, EDA encourages projects that apply the concepts explained in the study which is available on EDA's website at www.doc.gov/eda. EDA will give priority to projects that: (1) Fund financial studies to determine whether a base-reuse capital improvement financing scheme requires credit enhancement, and if so, to determine the most appropriate form(s) of credit enhancement (note that proposed credit enhancement schemes need not identify EDA as a funding source in order to be competitive); or (2) fund the credit enhancement of a bond for construction activities targeted to new or renovated infrastructure and/or buildings located on former military base property. Factors that will be considered in selecting projects under this demonstration will include: the economic distress of the community affected by the base closure; the projected economic development benefits, e.g., job creation and private sector investment, that will result from the construction of improvements that will be funded by the bond; and the degree to which the resulting activities can serve as a prototype for other areas facing major base conversion needs.

XI. Program: Research and Evaluation

(Catalog of Federal Domestic Assistance: 11.312 Economic Development—Research and Evaluation Program)

Funding Availability

Funds in the amount of $500,000 have been appropriated for this program. The average funding level for a grant last fiscal year was $41,000.

A separate FR Notice will set forth the specific funding priorities, application

process, and time frames for certain research and evaluation projects. For further information, contact: John McNamee, National Technical Assistance and Research Division, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 482–2309.

XII. Program: Trade Adjustment Assistance

(Catalog of Federal Domestic Assistance: 11.313 Economic Development—Trade Adjustment Assistance)

Funding Availability

Funds in the amount of $10,500,000 have been appropriated for this program. The typical funding level for a grant last year was $791,000. For further information on this program contact: Anthony J. Meyer, Coordinator, Trade Adjustment and Technical Assistance, Planning and Development Assistance Division, Economic Development Administration, Room 7317, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 482–2127.

EDA REGIONAL OFFICES AND ECONOMIC DEVELOPMENT REPRESENTATIVES EDA REGIONAL OFFICES:

Economic Development Representatives	States Covered
William J. Day, Jr., Regional Director, Atlanta Regional Office, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, Georgia 30308–3510, Telephone: (404) 730–3002, Fax: (404) 730–3025, Internet Address: wday1@doc.gov	
PATTERSON, Gilbert, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, GA 30308, Telephone: (404) 730–3000, Internet Address: gpatters@doc.gov.	Mississippi. Georgia.
HUNTER, Bobby D., 771 Corporate Drive, Suite 200, Lexington, KY 40503–5477, Telephone: (606) 224–7426, Internet Address: bhunter@doc.gov.	Kentucky. North Carolina (Western).
DIXON, Patricia M., U.S. Department of Commerce-EDA, P. O. Box 1707, Lugoff, SC 29078, Telephone: (803) 408–2513, Internet Address: pdixon@doc.gov.	South Carolina. North Carolina (Eastern).
DENNIS, Bobby, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, GA 30308–3510, Telephone: (404) 730–3020, Internet Address: bdennis@doc.gov.	Alabama.
TAYLOR, Willie C., 401 West Peachtree Street, N.W., Suite 1820, Atlanta, GA 30308–3510, Telephone: (404) 730–3032, Internet Address: wtaylor5@doc.gov.	Florida.
REED, Tonia, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, Georgia 30308–3510, Telephone: (404) 730–3026, Internet Address: treed@doc.gov.	Tennessee.
Pedro R. Garza, Regional Director, Austin Regional Office, 327 Congress Avenue, Suite 200, Austin, Texas 78701–4037, Telephone: (512) 381–8144, Fax: (512) 381–8177, Internet Address: pgarza1@doc.gov	
Area Directors	
JACOB, Larry, Austin Regional Office 327 Congress Avenue, Suite 200 Austin, TX 78701–4037, Telephone: (512) 381–8157, Internet Address: ljacob@doc.gov.	New Mexico Oklahoma Texas (Northwest).
FRERKING, Sharon T., Austin Regional Office 327 Congress Avenue, Suite 200, Austin, Texas 78701–4037, Telephone: (512) 381–8154, Internet Address: sfrerking@doc.gov.	Arkansas Louisiana Texas (Southeast).
SPEARMAN, Sam, 700 West Capital, Room 2509, Little Rock, AR 72201, Telephone: (501) 324–5637, Internet Address: sspearma@doc.gov.	
DAVIDSON-EHLERS, Pamela 501 Magazine Street, Room 1025, New Orleans, LA 70130, Telephone: (504) 589–4179, Internet Address: pdavidso@doc.gov.	
C. Robert Sawyer, Regional Director, Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, IL 60606, Telephone: (312) 353–7706, Fax: (312) 353–8575, Internet Address: rsawyer@doc.gov	
ARNOLD, John B. III, 104 Federal Building, 515 West First Street, Duluth, MN 55802, Telephone: (1–888) 865–5719 (Illinois), (218) 720–5326 (Minnesota), Internet Address: jarnold@doc.gov.	Illinois. Minnesota.
HICKEY, Robert F., Federal Building, Room 740, 200 North High Street, Columbus, Ohio 43215, Telephone: (1–800) 686–2603 (Indiana), (614) 469–7314 (Ohio), Internet Address: rhickey@doc.gov.	Ohio. Indiana.
PECK, John E., P.O. Box 517, Acme, Michigan 49610–0517, Telephone: (616) 938–1712 (Michigan), (1–888) 249–7597 (Wisconsin), Internet Address: jpeck@doc.gov.	Michigan. Wisconsin.
Anthony J. Preite, Regional Director, Denver Regional Office, 1244 Speer Boulevard, Room 670, Denver, Colorado 80204, Telephone: (303) 844–4715, Fax: (303) 844–3968, Internet Address: jwoodwa2@doc.gov	
ZENDER, John P., 1244 Speer Boulevard, Room 632, Denver, CO 80204, Telephone: (303) 844–4902, Internet Address: jzender@doc.gov.	Colorado. Kansas.
CECIL, Robert, Federal Building, Room 823, 2l0 Walnut Street, Des Moines, IA 50309, Telephone: (515) 284–4746, Internet Address: bcecil@doc.gov.	Iowa. Nebraska.
HILDEBRANDT, Paul, Federal Building, Room B–2, 608 East Cherry Street, Columbia, MO 65201, Telephone: (573) 442–8084, Internet Address: phildeb1@doc.gov.	Missouri.
ROGERS, John C., Federal Building, Room 196, 301 South Park Ave., Drawer 10074, Helena, MT 59626, Telephone: (406) 441–1175, Internet Address: jrogers6@doc.gov.	Montana. Wyoming.
JUNGBERG, Cip, Post Office/Courthouse, 102 4th Ave., Room 216, P.O. Box 190, Aberdeen, South Dakota 57401, Telephone: (605) 226–7315, Internet Address: cjungberg@doc.gov.	South Dakota. North Dakota.
TURNER, Robert, Chief, Operations Management, 1244 Speer Boulevard, Room 670, Denver, Colorado 80204, Telephone: (303) 844–4474, Internet Address: rturner@doc.gov.	Utah.
Paul M. Raetsch, Regional Director, Philadelphia Regional Office, Curtis Center, Independence Square West, Suite 140 South, Philadelphia, PA 19106, Telephone: (215) 597–4603, Fax: (215) 597–6669, Internet Address: Praetsch@doc.gov	
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EDA REGIONAL OFFICES AND ECONOMIC DEVELOPMENT REPRESENTATIVES EDA REGIONAL OFFICES:—Continued

Economic Development Representatives	States Covered
AUBE, Michael W., 48 Highland Avenue, Bangor, ME 04401–4656, Telephone: (207) 945–6985, Internet Address: Maube@doc.gov.	Connecticut. Maine. Rhode Island.
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HUMMEL, Edward, Philadelphia Regional Office, The Curtis Center-Suite 140 South, Independence Square West, Philadelphia, PA 19106, Telephone: (215) 597–6767, Internet Address: ehummel@doc.gov.	New Jersey. New York City (Long Island).
MARSHALL, Harold J. II, 620 Erie Boulevard West, Suite 104, Syracuse, NY 13204–2442, Telephone: (315) 448–0938, Internet Address: hmarshal@doc.gov.	New York. Vermont.
PECONE, Anthony M., 525 North Broad Street, West Hazelton, PA. 18201–1107, Telephone: (570) 459–6861, Internet Address: apecone@doc.gov.	Pennsylvania.
CRUZ, Ernesto L., IBM Building, Room 602, 654 Munoz Rivera Avenue, Hato Rey, PR 00918–1738, Telephone: (787) 766–5187, Internet Address: ecruz@doc.gov.	Puerto Rico. Virgin Islands.
NOYES, Neal E., Room 474, 400 North 8th Street, P.O. Box 10229, Richmond, VA 23240–1001, Telephone: (804) 771–2061, Internet Address: nnoyes@doc.gov.	Virginia. Maryland.
DAVIS, R. Byron, 405 Capital Street, Room 411, Charleston, WV 25301–1727, Telephone: (304) 347–5252, Internet Address: bdavis3@doc.gov.	West Virginia.
A. Leonard Smith, Regional Director, Seattle Regional Office, Jackson Federal Building, Room 1856, 915 Second Avenue, Seattle, Washington 98174, Telephone: (206) 220–7660, Fax: (206) 220–7669, Internet Address: Lsmith7@doc.gov	
RICHERT, Bernhard E. Jr., 550 West 7th Avenue, Suite 1780, Anchorage, AK 99501–7594, Telephone: (907) 271–2272, Internet Address: brichert@doc.gov.	Alaska.
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FUJITA, Gail S., P.O. Box 50264, 300 Ala Moaana Blvd, Federal Building, Room 5180, Honolulu, HI 96850, Telephone: (808) 541–3391, Internet Address: gfugita@doc.gov.	Hawaii. Guam. American Samoa. Marshall Islands. Micronesia. Northern Marianas. Republic of Palau.
AMES, Aldred F., Borah Federal Building, Room 441, 304 North 8th Street, Boise, ID 83702, Telephone: (208) 334–1521 (Idaho), (1–888) 693–1370 (Nevada), Internet Address: aames@doc.gov.	Idaho. Nevada.
BERBLINGER, Anne S., One World Trade Center, 121 S.W. Salmon Street, Suite 244, Portland, OR 97204, Telephone: (503) 326–3078, Internet Address: aberblin@doc.gov.	Oregon. California (Northern).
MARSHALL, Wilfred, 5777 West Centry Blvd., Suite 1675, Los Angeles, CA 90045, Telephone: (310) 348–5386, Internet Address: wmarshall@doc.gov.	California (Southern).
KIRRY, Lloyd P., Seattle Regional Office, Jackson Federal Building, 915 Second Avenue, Room 1856, Seattle, WA 98174, Telephone: (206) 220–7682, Internet Address: lkirry@doc.gov.	Washington.
MACIAS, Jacob (Acting), Seattle Regional Office, Jackson Federal Building, 915 Second Avenue, Room 1856, Seattle, WA 98174, Telephone: (206) 220–7666, Internet Address: jmacias@doc.gov.	Arizona.

For general information on EDA contact the appropriate Regional Office listed above or EDA's Office of Congressional Liaison and Program Research and Evaluation: Economic Development Administration, Room7814A, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 482–2309, EDA website www.doc.gov/eda.

Dated: January 18, 2000.

Chester Straub, Jr.,

Acting Assistant Secretary for Economic Development.

[FR Doc. 00–1627 Filed 1–21–00; 8:45 am]

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Federal Register

Monday,
January 24, 2000

Part IV

Department of Commerce

Economic Development Administration

National Technical Assistance, Training, Research, and Evaluation—Request for Grant Proposals; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 991215337–9337–01]

RIN 0610–ZA13

National Technical Assistance, Training, Research, and Evaluation—Request for Grant Proposals

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Request for Grant Proposals (RFP) Upon Availability of Funds.

SUMMARY: A total of $361,879,000 is available to EDA for all its programs in FY 2000, of which approximately $1,601,000 will be available for National Technical Assistance, Training, Research, and Evaluation. EDA is soliciting proposals for the specific projects described herein: (1) Evaluation of EDA's Planning Program; (2) Evaluation of EDA's Local Technical Assistance Program; (3) Economic Assessment of Sustainable Development Projects; (4) Improving Technology-Led Economic Development Strategies; and (5) Reviews of Economic Development Literature and Practice. These projects will be funded if acceptable proposals are received. Remaining funding, if any, may be used to fund additional projects. EDA issues this Notice to describe the conditions under which eligible applications for these National Technical Assistance, Training, Research, and Evaluation projects under 13 CFR Part 307, Subpart C (64 FR 5347, 5428–5429; 64 FR 69878–879) will be accepted and selected for funding.

DATES: Prospective applicants are advised that EDA will conduct a pre-proposal conference on February 16, 2000, at 10:00 a.m. EDT in the Department of Commerce, Herbert C. Hoover Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, Room 1414, at which time questions on these projects can be answered. Potential applicants are encouraged to provide written questions (See **ADDRESS** section below) by February 14, 2000. Prospective applicants unable to attend this pre-proposal conference may participate by teleconference. Teleconference information may be obtained by calling (202) 482–4085 between 8:30–5:00 EDT on February 15, 2000.

Proposals for funding under this program will be accepted through March 9, 2000, at the address provided below. Proposals received after 5:00 p.m. EDT, on March 9, 2000, will not be considered for funding.

By March 30, 2000, EDA will advise successful proponents to submit full applications. OMB has assigned application forms Control Number 0610–0094.

Completed applications must be submitted to EDA by April 19, 2000, at the address below. EDA anticipates that these projects will be funded about June 15, 2000, but will make the awards no later than September 30, 2000.

ADDRESSES: Send proposals to John J. McNamee, Director, Research and National Technical Assistance Division, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: John J. McNamee (202) 482–4085.

SUPPLEMENTARY INFORMATION:

I. Areas of Special Emphasis

• *Evaluation of EDA's Planning Program*

EDA invites proposals to evaluate the impact of its Economic Development District (EDD) Planning Program.

Background: Under its Planning Program, EDA provides ongoing funding, on an annual basis, to approximately 320 Economic Development Districts (EDD) to help in designing and implementing strategies and to build and maintain local institutional capacity for the economic development of the communities they serve. EDA planning grants fund a number of activities. These include developing and maintaining the Comprehensive Economic Development Strategy (CEDS) process, developing projects, coordinating local and regional economic development efforts in implementing the CEDS, identifying/attracting sources of funding and investment, and providing technical assistance to its member jurisdictions. The EDA grants provide communities with the critical resources to assist in organizing and carrying out long-and short-term strategies tailored to the their particular economic problems and opportunities. However, the fundamental impact of the program should be the sustainable economic development of the areas served.

EDA's Planning Program and the network of local partnerships it has supported have been critical to the effectiveness of economic development efforts at the local and regional level for more than 30 years. In 1998, EDA commissioned an independent evaluation of its regional planning process in order to increase the benefits of the process and enhance economic development capacity at the local level. That evaluation was completed in 1999. The current evaluation will complement this earlier evaluation by measuring the impact of EDA's assistance under the EDD Planning Program.

Scope of Work: The successful applicant will: (1) evaluate the impact of EDA funding of EDDs under its Planning Program, including (a) how well the program helps communities build long-term economic development capacity, (b) whether the strategies developed are realistic and responsive to the specific economic development needs of the areas served, (c) how effective the technical assistance provided by the EDD organization is to the member jurisdictions, and (d) how effectively EDDs implement the CEDS; (2) select a representative sample of EDD grantees, including a rural, urban and regional balance; (3) make site visits as necessary; (4) convene a panel of stakeholders; (5) as appropriate, make recommendations for improving the program; (6) prepare a final report; and (7) conduct briefings and/or training workshops as set forth in IV.E. below.

Cost: The total EDA share of the cost of this project may not exceed $249,000.

Timing: The project should be completed and the final report submitted within one year of project approval.

• *Evaluation of EDA's Local Technical Assistance Program*

Background: EDA's Local Technical Assistance Program provides funding to help communities solve specific economic development problems, respond to development opportunities, and build and expand local organizational capacity in distressed areas. Often, Local Technical Assistance projects consist of feasibility studies, support for other economic development providers, or similar projects necessary to prepare a community for further EDA support. In recent years, funding for the program has been approximately $1.5 million per year, with the average grant size approximately $25,000. The program was last evaluated in 1989.

Scope of Work: The successful applicant will: (1) examine selected projects funded in FY's 1996-1997, provided they have been completed no later than September 30, 1999, to identify common and variable features of representative projects; (2) where appropriate, make site visits to obtain more detailed project information; (3) evaluate the effectiveness of the Local Technical Assistance Program; (4) make recommendations as needed for improving the program; and (5) conduct briefings and/or training workshops as set forth in IV.E. below. In evaluating

program effectiveness, relevant questions include (but are not restricted to):

• Has the program influenced the design, implementation, or timing of local economic development projects?

• Has the program helped distressed communities undertake or eliminate specific economic development projects from their overall strategy?

• Has the program helped distressed communities build and expand local organizational economic development capacity?

• Has the program supported innovative economic development approaches and/or given local officials needed technical expertise?

• To what extent have the projects and/or the program targeted distressed areas?

• Were projects completed in a timely and cost-effective fashion?

• Were there common features that contributed to project success or failure?

• Could specific outcomes be tracked back to the completed Local Technical Assistance projects?

Cost: The total EDA share of the cost of this project may not exceed $149,000.

Timing: The project should be completed and the final report submitted within one year of project approval.

• *Economic Assessment of Sustainable Development Projects*

EDA invites proposals to assess the economic impacts of sustainable development projects in distressed communities.

Background: In recent years, EDA has funded many local projects to support sustainable development, including brownfields redevelopment, eco-industrial parks, aquaculture, and projects to support diversification of natural resource based economies (e.g., timber, fisheries, etc.). The agency also has funded several national studies of sustainable economic development strategies and collections of case studies describing strategies available to practitioners at the state and local level. This cumulative experience suggests that a significant barrier to sustainable economic development is the inability of prospective projects to demonstrate economic viability to potential investors and funding agencies.

This project is designed to assist individuals and organization that are undertaking sustainable development activities to collect data and develop methods for assessing the economic benefits and costs of their projects. EDA is primarily interested in assessments of direct economic impacts. Simulations that assess secondary, indirect, and induced impacts without generating original research of direct benefits and costs will not be considered. Utility of the research to economic development practitioners is essential. EDA seeks economic impact assessments that are replicable in other contexts, in order to help future sustainable development efforts. Impacts considered may be either on the supply side or the demand side of the market. However, the economic impacts described must be quantifiable and derived from real economic development projects. It is not necessary to assess all economic impacts for a given sustainable development activity, but those impacts that are considered should be researched as completely as possible. Given the time frame of this study, EDA anticipates that most proposals will relate to projects already underway. EDA is especially interested in studies that assess impacts that have not previously been described well (e.g., product quality impacts, equity impacts, etc.), studies that improve existing assessment methods, and/or studies that utilize new assessment methods.

Scope of Work: The successful applicant will: (1) quantitative describe the anticipated economic benefits and costs of one or more sustainable development project(s); (2) review prior economic assessments and literature relevant to assessing those impacts; (3) assess the direct economic benefits and costs of the project(s) as completely as possible, using methods deemed sound by mainstream professional economists; (4) place those economic benefits and costs in the context of the community the project is designed to serve; (5) prepare a final report that summarizes the research findings; and (6) conduct briefings and/or training workshops as set forth in IV.E. below.

Cost: EDA may provide funding up to $145,000 for all projects funded under this RFP. EDA anticipates making multiple awards from this total funding available.

Timing: The projects should be completed and the final reports submitted within nine months of project approval.

Improving Technology-Led Economic Development Strategies

EDA seeks proposals to improve the technology-led strategies for economic development in distressed communities.

Background: The current era of rapid technological change offers both promise and challenges to America's distressed communities. On the one hand, new technologies can help these communities enter and succeed in the economic mainstream by allowing them to engage in activities such as e-commerce, telemedicine, distance learning, and modernization of manufacturing. On the other hand, the speed of technological advance and the scale of investment and training needed threatens to leave behind those communities that lack a diverse economic base and solid infrastructure.

EDA assists distressed communities to design and implement their own technology-led economic development strategies. The agency also funds research to support its investment strategy by identifying areas where further investment is most needed, methods to improve the effectiveness of the agency's investments, and ways to leverage available funding, EDA research also assists local economic development practitioners by disseminating lessons learned by others in the field. To give some examples, EDA is presently funding an assessment of the technology infrastructure needs of America's distressed communities, and recently completed a similar needs assessment in Native communities. EDA is also funding the preparation of a handbook to help local practitioners prepare technology strategic plans. Other recent EDA research projects in this area include a collection of best practices in technology transfer and commercialization (underway); a review of state science and technology strategic plans (1997); and a comprehensive guide to business incubators (1996).

This project is designed to support EDA investments in technology-led economic development in distressed areas. Examples of acceptable projects include (but are not limited to):

• Assessments of past and current EDA technology investments;

• Research that identifies, describes, and evaluates specific strategies for technology-led economic development;

• Research that identifies national investment needs to support specific types of technology-led economic development; and

• Exploration of methods to enhance the effectiveness of existing technology-led strategies, including ways to expand available funding in a responsible fashion.

Projects must have significance to practitioners nationally. Local feasibility studies, needs assessments, and project implementation will generally not be funded unless the projects have compelling demonstration value and include a careful assessment of the strategy's replicability elsewhere. Likewise, purely theoretical research will not be funded without a convincing demonstration of its utility to practitioners.

Scope of Work: The successful applicant will: (1) describe specific strategies, needs, and/or methods to promote economically-important technological advance in distressed areas; (2) critically review relevant literature from academics, practitioners, and other sources and describe the contribution of the project to that field of knowledge; (3) evaluate the significance of the strategy to technology-led economic development, using methodologies generally accepted by scholars and experts in the field; (4) prepare a final written report of findings designed to improve economic development efforts by EDA and state and local practitioners; and (5) conduct briefings and/or training workshops as set forth in IV.E. below.

Cost: EDA may provide funding up to $145,000 for all projects funded under this RFP. EDA may make multiple awards from this total funding available.

Timing: The project should be completed and the final report submitted within one year of project approval.

• *Reviews of Economic Development Literature and Practice*

EDA invites proposals to review the literature and practical experience regarding issues of critical importance to economic development practitioners nationally.

Background: One of EDA's main functions is to disseminate high quality information about economic development policies, issues, strategies, and techniques to practitioners. EDA fulfills this function by a number of means, including newsletters, conferences, use of the Internet, and targeted research. This project would help present important and emerging theoretical issues to practitioners and policy makers.

EDA is especially interested in reviews supporting EDA's core programs and initiatives. Examples include: technology-led economic development; productivity enhancement through infrastructure investment; e-commerce; strategies and policies for dealing with sprawl; strategies that promote regional growth; counter-cyclical spending strategies; microenterprise development; economic development in Native communities; and support for regions harmed by international trade. EDA, however, welcomes other topics of importance to domestic economic development. Completed reviews must be analytical, and should identify important policy implications. They must also be prepared for practitioners rather than an academic audience.

EDA expects researchers to demonstrate familiarity with the proposed topic and ability to conduct a timely, thorough, and objective review. EDA welcomes strong graduate student participation in these projects, contingent on the student's ability to demonstrate expertise in the field of study. Where a student is to be a primary participant in the research, a faculty letter in support of the student's participation may be included in the proposal. This letter, not to exceed two pages, shall not be subject to the other page limits specified in Part III. B. EDA anticipates making multiple awards, but will not make multiple awards to any individual researcher. Authors are encouraged to submit the final review paper for publication.

Scope of Work: Successful applicants will:

(1) Prepare a review paper that: a) describes and analyzes critically key debates in the literature, analytical techniques of broad importance to practitioners; and/or the range of experience with specific economic development strategies; b) identifies important policy implications of the research; c) represents original research not previously submitted for publication elsewhere; d) is of length and quality suitable for publication in a peer reviewed journal; and e) is written in a style appropriate for practitioners.

(2) Conduct up to three presentations as described in IV.E below.

Cost: EDA may provide funding up to $72,500 for all reviews funded under this RFP. The total EDA share of the cost for any single review may not exceed $20,000. EDA anticipates that most proposals will be in the range of $10,000 to $15,000.

Timing: EDA anticipates that most reviews will take 6 months or less, but recognizes that this will vary with the nature of the research. Presentations may take place up to one year after the paper is submitted. All projects should be completed within nine months of project approval.

II. How To Apply

A. Eligible Applicants

See EDA's interim final rule at 13 CFR § 300.2 (64 F.R. 5347). Eligible applicants are as follows: institutions of higher education, consortiums of institutions of higher education; public or private nonprofit organizations or associations acting in cooperation with officials of a political subdivision of a state, for-profit organizations, and private individuals; areas meeting requirements under 13 CFR 301.2; Economic Development Districts; Indian tribes; consortiums of Indian Tribes; states, cities or other political subdivisions of a state; consortiums of political subdivisions of states.

B. Proposal Submission Procedures

Proposals submitted should include: (1) a description of how the researcher(s) intend(s) to carry out the scope of work (not to exceed 10 pages in length); (2) a proposed budget and accompanying explanation; (3) resumes/qualifications of key staff (not to exceed two pages per individual or organization), and (4) a proposed time line for completion of the project. EDA will not accept proposals submitted by FAX or email. Proposals received after 5:00 p.m. EST on March 9, 2000, at the address provided above, will not be considered.

III. Selection Process and Evaluation Criteria

All proposals must meet EDA's statutory and regulatory requirements. Proposals will receive initial review by EDA to assure that they meet all requirements of this announcement and 13 CFR Chapter III (64 FR 5347), including eligibility and relevance to the specified project as described herein. EDA's general selection process and criteria are set out in 13 CFR §§ 304.1 and 304.2 (64 FR 5347–5348; 64 FR 69874–69875). Proposals that meet these requirements will then be evaluated by a review panel composed of at least three members. EDA will carry out its selection of proposals to be funded under the specific projects described in this RFP using the following criteria:

• The quality of a proposal's response to the scope of work proposed; and

• The ability of the prospective applicant to successfully carry out the proposed activities.

If a proposal is selected, EDA will provide the proponent with an Application for Federal Assistance (OMB Control Number 0610–0094). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

IV. Additional Information and Requirements

A. Authority

The Public Works and Economic Development Act of 1965, as amended (Pub. L. 89–136, 42 U.S.C. 3121 *et seq.*),

including the comprehensive amendments by the Economic Development Administration Reform Act of 1998 (Pub.L. 105–393) (PWEDA) authorizes EDA to make grants for training, research, and technical assistance, including grants for program evaluation and project impact analyses, that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment (42 U.S.C. 3147, § 207). This RFP is dependent upon the availability of funds in FY 2000 for this program. Public Law 106–113 makes funds available for this program.

B. Catalog of Federal Domestic Assistance

11.303 Economic Development Technical Assistance.
11.312 Research and Evaluation

C. Program Description

For a description of this program see PWEDA and 13 CFR Chapter III, Part 307 (64 FR 5347).

EDA assistance is focused on areas experiencing significant economic distress, defined principally as per capita income of 80 percent or less of the national average, or an unemployment rate that is, for the most recent 24-month period for which data are available, at least one percent greater than the national average.

D. Costs

Ordinarily, the applicant is expected to provide a 50 percent non-federal share of project costs. However, the Assistant Secretary may waive the required 50 percent matching share of the total project costs, provided the applicant can demonstrate: (1) the project is not feasible without, and the project merits such a waiver, or (2) the project is addressing major causes of distress in the area serviced and requires the unique characteristics of the applicant, which will not participate if it must provide all or part of a 50 percent non-federal share, or (3) the project is for the benefit of local, state, regional, or national economic development efforts, and will be of no or only incidental benefit to the recipient (See 13 CFR § 307.9; 64 FR 5429).

E. Briefings and Reports

Unless otherwise noted, each award includes a requirement that the applicant conduct a total of up to seven briefings and/or training workshops for individuals and organizations interested in the results of this project. Potential applicants should be aware that the completion dates set forth above are for completion of the project and submission of the final written report. Briefings/workshops will take place no later than one year after submission of the final report. Locations and dates of the briefings/workshops are at EDA's discretion. Usually, these consist of at least one briefing in Washington, DC, with the other briefings/workshops held in conjunction with one or more of EDA's regional conferences.

Unless otherwise noted, each award includes a requirement that the applicant submit an electronic version and 200 hard copies of the final report in formats acceptable to EDA.

F. Website

See 64 FR 9221–9226, Part II for additional information and requirements (available on the Internet at http://www.doc.gov/eda/html/notice.htm, under the heading ''Economic Development Assistance Programs-Availability of Funds'').

Dated: January 18, 2000.

Chester J. Straub, Jr.,

Acting Assistant Secretary for Economic Development.

[FR Doc. 00–1628 Filed 1–21–00; 8:45 am]

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Federal Register

Monday,
January 24, 2000

Part V

The President

Proclamation 7269—National Biotechnology Month, 2000

Federal Register
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Monday, January 24, 2000

Presidential Documents

Title 3—

The President

Proclamation 7269 of January 19, 2000

National Biotechnology Month, 2000

By the President of the United States of America

A Proclamation

As we stand at the dawn of a new century, we recognize the enormous potential that biotechnology holds for improving the quality of life here in the United States and around the world. These technologies, which draw on our understanding of the life sciences to develop products and solve problems, are progressing at an exponential rate and promise to make unprecedented contributions to public health and safety, a cleaner environment, and economic prosperity.

Today, a third of all new medicines in development are based on biotechnology. Designed to attack the underlying cause of an illness, not just its symptoms, these medicines have tremendous potential to provide not only more effective treatments, but also cures. With improved understanding of cellular and genetic processes, scientists have opened exciting new avenues of research into treatments for devastating diseases—like Parkinson's and Alzheimer's, diabetes, heart disease, AIDS, and cancer—that affect millions of Americans. Biotechnology has also given us several new vaccines, including one for rotavirus, now being tested clinically, that could eradicate an illness responsible for the deaths of more than 800,000 infants and children each year.

The impact of biotechnology is far-reaching. Bioremediation technologies are cleaning our environment by removing toxic substances from contaminated soils and ground water. Agricultural biotechnology reduces our dependence on pesticides. Manufacturing processes based on biotechnology make it possible to produce paper and chemicals with less energy, less pollution, and less waste. Forensic technologies based on our growing knowledge of DNA help us exonerate the innocent and bring criminals to justice.

The biotechnology industry is also improving lives through its substantial economic impact. Biotechnology has stimulated the creation and growth of small businesses, generated new jobs, and encouraged agricultural and industrial innovation. The industry currently employs more than 150,000 people and invests nearly $10 billion a year on research and development.

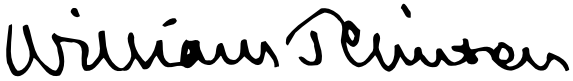
Recognizing the extraordinary promise and benefits of this enterprise, my Administration has pursued policies to foster biotechnology innovations as expeditiously and prudently as possible. We have supported steady increases in funding for basic scientific research at the National Institutes of Health and other science agencies; accelerated the process for approving new medicines to make them available as quickly and safely as possible; encouraged private-sector research investment and small business development through tax incentives and the Small Business Innovation Research program; promoted intellectual property protection and open international markets for biotechnology inventions and products; and developed public databases that enable scientists to coordinate their efforts in an enterprise that has become one of the world's finest examples of partnership among university-based researchers, government, and private industry.

Remarkable as its achievements have been, the biotechnology enterprise is still in its infancy. We will reap even greater benefits as long as we

sustain the intellectual partnership and public confidence that have moved biotechnology forward thus far. We must strengthen our efforts to improve science education for all Americans and preserve and promote the freedom of scientific inquiry. We must protect patients from the misuse or abuse of sensitive medical information and provide Federal regulatory agencies with sufficient resources to maintain sound, science-based review and regulation of biotechnology products. And we must strive to ensure that science-based regulatory programs worldwide promote public safety, earn public confidence, and guarantee fair and open international markets.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 2000 as National Biotechnology Month. I call upon the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of January, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fourth.



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AGRICULTURE DEPARTMENT

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A Cumulative List of Public Laws for the first session of the 106th Congress will be published in the **Federal Register** on December 30, 1999.

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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400–429	(869–034–00163–2)	44.00	Oct. 1, 1999
430–End	(869–038–00164–1)	54.00	Oct. 1, 1999
43 Parts:			
1–999	(869–034–00164–5)	30.00	Oct. 1, 1998
1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–038–00167–5)	28.00	Oct. 1, 1999
45 Parts:			
1–199	(869–038–00168–3)	33.00	Oct. 1, 1999
200–499	(869–038–00169–1)	16.00	Oct. 1, 1999
500–1199	(869–034–00170–5)	30.00	Oct. 1, 1999
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
*1–40	(869–038–00172–1)	27.00	Oct. 1, 1999
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.