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Federal Register

2–16–00 **Wednesday**
Vol. 65 No. 32 **Feb. 16, 2000**
Pages 7709–8012

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Presidential Documents

Title 3—

The President

Proclamation 7272 of February 11, 2000

National Consumer Protection Week, 2000

By the President of the United States of America

A Proclamation

Americans have long enjoyed shopping from the comfort of their homes. Door-to-door sales and mail-order catalogs have given consumers the opportunity to choose from a wide variety of products while saving precious time for family and personal interests. As we move into the digital age, the Internet and other information technologies have made electronic commerce possible, and on-line shopping is opening doors for consumers, established retailers, and small entrepreneurs across the Nation. With these opportunities, however, come certain risks for home shoppers. Advances in telecommunications and marketing technology bring new opportunities for unfair, deceptive, or fraudulent practices that target consumers where they live. It is now easier than ever for perpetrators of fraud to reach shoppers in their homes; consequently, it is more important than ever that consumers know their rights, understand the risks, and know to whom they can turn for recourse.

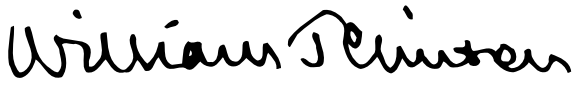
While there are risks to home shopping, including unwanted solicitations, ill-advised purchases, and failure to deliver items purchased, consumers can protect themselves against these dangers by taking basic, commonsense precautions. Home shoppers should ascertain the seller's location and reputation; give out personal information only if they know who is collecting it, why it is being collected, and how it will be used; and report problems that they cannot resolve with the vendor.

In order to protect consumers, the Federal Trade Commission, the Department of Justice, the Consumer Federation of America, the American Association of Retired Persons, the National Association of Consumer Agency Administrators, and the National Association of Attorneys General have joined forces to inform Americans about their rights as home shoppers, about merchant responsibilities, and about how to enjoy safely the benefits of shopping from home. This information is available in writing, by telephone, and on-line, helping to educate consumers about such issues as how to stop unwanted telemarketing or mail-order solicitations and when to provide private information to an on-line business.

I encourage all Americans to take advantage of this opportunity to learn more about safe shopping from home. By becoming wise and well-informed consumers, we can reduce the incidence of fraud and deception in the marketplace.

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 the laws of the United States, do hereby proclaim February 14 through February 20, 2000, as National Consumer Protection Week. I call upon government officials, industry leaders, consumer advocates, and the American people to participate in programs promoting safe and reliable shopping from home and to raise public awareness about the dangers of deceptive and fraudulent practices targeting home shoppers.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of February, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fourth.



[FR Doc. 00–3864
Filed 2–15–00; 8:45 am]
Billing code 3195–01–P

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Federal Register
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV00–959–2 IFR]

Onions Grown in South Texas; Change in Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the container requirements for shipping onions to fresh processors under the South Texas onion marketing order. The marketing order regulates the handling of onions grown in South Texas and is administered locally by the South Texas Onion Committee (Committee). This rule provides handlers additional marketing flexibility by allowing them to ship onions for peeling, chopping, and slicing in bulk trailer loads, 48-inch deep bulk bins, and tote bags. These changes will allow the South Texas onion industry to better meet the needs of fresh processors and allow the industry to compete with other suppliers of onions for fresh processing.

DATES: Effective February 17, 2000; comments received by April 17, 2000 will be considered prior to issuance of a final rule.

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

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525-S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This rule revises the container requirements for onion shipments for peeling, chopping, and slicing currently prescribed under the South Texas onion marketing order. Handlers will be allowed to ship onions for peeling, chopping, and slicing in bulk trailer loads, 48-inch deep bulk bins, and tote bags. Currently, onions for these purposes may only be shipped in 47 inch by 37½ inch by 36 inch deep bulk bins, having a volume of 63,450 cubic inches (hereinafter referred to as the ''36-inch deep bulk bin''), or containers deemed similar by the Committee. A dimension tolerance for the bulk containers is also being added. All handlers shipping onions for peeling, chopping, and slicing will continue to be required to meet grade, size, inspection, and safeguard requirements. The additional method of shipment and containers will allow the South Texas onion industry to better meet the needs of fresh processors and allow the industry to compete with other suppliers of onions for fresh processing.

These changes were first unanimously recommended by the Committee at its meeting on September 16, 1999. At that meeting, the Chairman appointed a subcommittee to review the Committee's recommendations. On October 19, 1999, the Committee met again and unanimously approved the subcommittee's recommendations detailed herein.

Section 959.52 of the South Texas onion marketing order authorizes the establishment of grade, size, quality, maturity, and pack and container regulations for shipments of onions. Section 959.52(c) allows for the modification, suspension, or termination of such regulations when warranted. Section 959.53 authorizes changes to the order's regulations to facilitate the handling of onions for relief, charity, experimental purposes, export, or other purposes recommended by the Committee and approved by the Secretary. Section 959.54 of the order provides authority for the Committee to

establish that onions handled for special purposes are handled only as authorized. Section 959.60 provides that whenever onions are regulated pursuant to § 959.52, such onions must be inspected by the inspection service and certified as meeting the applicable requirements. Section 959.80 of the order authorizes handler reporting requirements.

Section 959.322(f) of the order's rules and regulations provides specific safeguards for certain special purpose shipments of onions. Furthermore, paragraph (f)(3) of § 959.322 provides authority for the shipment of onions for fresh peeling, chopping, and slicing in 36-inch deep bulk bins, or containers deemed similar by the Committee. Such shipments are exempt from the container requirements specified in paragraph (c) of § 959.322, but are required to be handled in accordance with the safeguard provisions of § 959.54, and meet the grade requirements in paragraph (a), the size requirements in paragraph (b), the inspection requirements in paragraph (d), and the safeguard requirements in paragraph (g) of § 959.322.

Currently, § 959.322(f)(3) allows onion shipments for peeling, chopping, and slicing in 36-inch deep bulk bins, or containers deemed similar by the Committee. The Committee recommended that shipments of onions to these outlets be authorized in bulk trailer loads, 48-inch deep bulk bins (with the same length and width dimensions as the 36-inch deep bulk bin), and tote bags, and that the provisions on containers deemed similar be removed because it has caused confusion in the industry. In its place, the Committee recommended implementation of a dimension tolerance.

The market for onions for fresh processing uses has grown dramatically in the last five years. The food service industry is the fastest growing market for onions in the United States. Consumption of onions has increased, especially for onions used in restaurants, salad bars, and cafeterias in fresh peeled, chopped, or sliced form. Fresh process is an increasingly important market for the domestic onion industry, and is expected to continue growing.

Buyers of onions for fresh processing continually demand flexibility in container availability, and the Committee is always looking for ways to strengthen and expand the market for South Texas onions. The Committee believes that South Texas may enhance its ability to take full advantage of available marketing opportunities for fresh peeling, chopping, and slicing onions with the more flexible shipping container requirements. The more flexible containers and method of shipment may allow the South Texas onion industry to better meet the needs of fresh processors and allow the industry to better compete with other suppliers of onions for fresh processing. The changes are expected to open new markets for South Texas and help the industry increase its fresh processed onion market share. The Committee estimates that these changes may help the industry double shipments into these outlets.

Because the demand for fresh processed onions is increasing and Texas has not been able to market more of its crop in the conveyances and containers the trade desires, the trade has been going to other competing areas, that are not restricted by regulations, leaving Texas at a disadvantage. Presently, other onion-growing areas can ship onions in bulk loads for peeling, chopping, and slicing purposes, but the South Texas onion industry cannot do so because the regulations restrict shipments to 36-inch deep bulk bins. Competition from other onion production areas demands that the South Texas onion industry be able to quickly respond to buyer demands for other types of shipments. Also, other onion producing areas not bound by restrictions have the flexibility to ship fresh processing onions as needed by buyers. The added flexibility of these changes will allow handlers to meet the competition from other areas and better meet buyer's needs.

The Committee also recommended adding tightly-woven mesh plastic tote bags 36 inches by 36 inches by 66 inches long with a capacity of approximately 2,000 pounds of onions for shipment to fresh processors. These tote bags are returnable and have four handles that are placed to fit forklifts. Ties are attached to each end of the bags and the onions may be dumped by unfastening the bottom tie. Use of these bags will help speed up the unloading process, saving time and money for the fresh processors.

The total volume specification of 63,450 cubic inches for the 36-inch bulk bin currently included in the regulation does not allow any flexibility in the dimension of the container and the phrase ''or containers deemed similar by the committee'' lacks specificity and could result in confusion. The Committee believes that a more precise tolerance is needed so that there is no room for misinterpretation by the industry. The Committee, therefore, recommended removing the phrase ''and having a volume of 63,450 cubic inches, or containers deemed similar by the committee'' and adding in its place provisions establishing a dimension tolerance of 2 inches for each dimension on all bulk containers used for shipping onions for peeling, chopping, and slicing. The 2-inch tolerance for each dimension on all bulk containers will allow handlers to pack onions for peeling, chopping, and slicing in containers with dimensions slightly different from the sizes specified in the regulation. Identifying a specific dimension tolerance in the regulation will prevent misunderstandings, and provide handlers packing flexibility. The addition of the container dimension tolerance recognizes the difficulty in producing containers with precise measurements all of the time.

The Committee recommended that the regulation specify that only 3-inch and larger onions be shipped for these purposes because smaller onions cannot be processed efficiently using available machinery. However, the provisions under which this action is being implemented do not authorize the establishment of a minimum size different than the 1-inch minimum currently in place for all shipments. Therefore, this recommendation is not being implemented. Lastly, minor changes are being made to the handling regulation for clarity.

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

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

There are approximately 80 producers of South Texas onions in the production area and 37 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Most of the handlers in South Texas are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 1998–99

marketing year, onions produced in the production area were shipped by the industry's 37 handlers with the average and median volume handled being 147,669 and 102,478 fifty-pound bag equivalents, respectively. In terms of production value, total revenues from the 37 handlers were estimated to be $43.7 million, with average and median revenues being $1.1 million, and $820,000, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all the 37 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the $5,000,000 annual receipt threshold. All of the 80 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources are considered, a majority of the producers would not be considered small entities because receipts would exceed $500,000.

This rule revises the container requirements for onion shipments for peeling, chopping, and slicing currently prescribed under the South Texas onion marketing order. Shipments of onions for these purposes will be permitted in bulk loads, 48-inch deep bulk bins, and tote bags, in addition to the currently approved 36-inch deep bulk bin. A dimension tolerance for the bulk containers will also be added. All handlers shipping onions for peeling, chopping, and slicing will continue to be required to meet grade, size, inspection, and safeguard requirements.

This rule change will allow South Texas onion handlers to supply existing markets, may open up new markets to satisfy fresh processor demand, and may allow the industry to be more competitive in the marketplace. Allowing shipments of onions to fresh processors in bulk loads, 48-inch bulk bins, and tote bags, in addition to the current 36-inch deep bulk bin, is expected by the Committee to double the shipments of Texas onions to fresh processed buyers. The increase in shipments is expected because the changes will allow the South Texas onion industry to better meet the needs of fresh processors and allow the industry to compete with other suppliers of onions for fresh processing.

At the meetings, the Committee discussed the impact of these changes on handlers and producers and believed that the benefits of this rule are not expected to be disproportionately greater or less for small handlers or producers than for larger entities. The increased shipping flexibility is expected to be equally beneficial to all shippers regardless of size.

An alternative to this action would be to maintain the status quo, however, the Committee believes that the current regulation does not address the needs of handlers desiring to expand their fresh process onion marketing efforts. The Committee believes that the regulations should be modified to address these needs. The Committee further believes that not allowing different types of bulk shipments for peeling, chopping, and slicing will be detrimental to the South Texas onion industry. Allowing shipments of onions in additional bulk bins and in bulk loads will meet the industry's objective of marketing more onions. These changes should provide the industry with additional marketing opportunities and should allow the industry to be more competitive.

Currently, all handlers making onion shipments for relief, charity, processing, experimental purposes, or peeling, chopping, and slicing are required to apply for and obtain a Certificate of Privilege from the Committee to make such shipments. No additional reporting burden is estimated in making such applications because all 37 of the handlers in the Texas onion industry routinely apply each season for these certificates and this is expected to continue. However, this action will impose additional reporting requirements on the 37 onion handlers. Because this action is expected to foster increased shipments, the handlers are expected to file more Reports of Special Purpose Onion Shipments. This report accompanies each shipment and takes about .083 hours to complete. It is used to verify proper disposition of the onions. Currently, each of the 37 handlers ship approximately 15 loads of onions for special purposes. The Committee estimates that this rule change will double the number of shipments going to these outlets to 30 loads per handler, which will result in an estimated burden to the previously-mentioned 37 handlers of about 92 hours.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and are being assigned OMB No. 0581–0187. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

The Committee's meetings were widely publicized throughout the onion industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the October 19, 1999, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Committee itself is composed of 17 members, of which 10 are producers and 7 are handlers. Also, the Committee has subcommittees to review certain issues and make recommendations to the Committee. The subcommittee met on October 12, 1999, and discussed this issue in detail. The meeting was a public meeting and both large and small entities were able to participate and express their views. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses. A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that AMS has obtained emergency approval for a new information collection request for Onions Grown in South Texas, Marketing Order No. 959.

Title: Onions Grown in South Texas, Marketing Order No. 959.

OMB Number: 0581-New.

Type of Request: New collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables, and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of good quality produce and adequate returns to producers. Under the Act, industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order's operations and issue regulations recommended by a committee of representatives from each commodity industry.

The South Texas onion marketing order, which has been operating since 1961, authorizes the issuance of grade, size, quality, pack, and container requirements. The order also has authority for research and development projects. Regulatory provisions apply to onions shipped within and out of the area of production to any market, except those specifically exempted by the marketing order. Pursuant to section 8e of the Act, import grade and size requirements are implemented on onions imported into the United States.

The order, and rules and regulations issued thereunder, authorize the Committee, the agency responsible for local administration of the order, to require handlers and producers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in marketing decisions. The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the South Texas onion marketing order program.

The Committee has developed forms as a convenience to persons who are required to file information with the Committee that is needed to carry out the requirements of the order, and their use is necessary to fulfill the intent of the Act as expressed in the order, and the rules and regulations issued thereunder. South Texas onions are shipped from March 1 through June 4 and these forms are used accordingly.

The information collected would be used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs regional and headquarter's staff, and authorized employees of the Committee. Authorized Committee employees and the industry are the primary users of the information and AMS is the secondary user.

This collection consists of a requirement for handlers to file a Report of Special Purpose Onion Shipments with the Committee when shipping onions for fresh processing outlets. Shipments of South Texas onions for special purposes are exempt from certain requirements under the order. However, onions for peeling, chopping, and slicing must meet grade, size, inspection, and safeguard requirements of the order. Use of this form is authorized under § 959.322(g)(4). The Report of Special Purpose Onion Shipment would be completed for each load of onions for special purposes, including onions for peeling, chopping, and slicing, by each of the 37 reporting handlers. The estimated annual burden hours is about 92 hours.

The Committee believes that to improve returns to producers and handlers, handlers should be encouraged to develop new outlets. This action is expected to encourage additional onion shipments by allowing handlers to ship onions for fresh processing using different methods of shipping. The information supplied by the applicant handler would provide the Committee with information necessary to ensure that the onions are disposed of as intended.

The information collection burden is as follows:

Estimate of Burden: Public reporting burden for the Report of Special Purpose Onion Shipment form is estimated to average 5 minutes per response.

Respondents: Handlers of onions grown in South Texas.

Estimated Number of Respondents: 37.

Estimated Number of Responses per Respondent: 30 annually.

Estimated Total Annual Burden on Respondents: 92 hours.

Comments: Comments are invited on: (1) Whether the new collection of the information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the new collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0187 and South Texas Onion Marketing Order No. 959, and be sent to the USDA in care of the Docket Clerk at the address above. All comments received will be available for public inspection during regular business hours at the same address.

Because there was not enough time for a normal clearance procedure, AMS has obtained temporary approval from OMB for this new collection for the upcoming shipping season expected to begin in early March 2000. At a later time, the new collection will be added to the collection currently approved for use under OMB Number 0581–0178.

All responses to this notice will be summarized and included in the request for OMB approval of 0581–0178. All comments will also become a matter of public record.

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

This rule invites comments on a revision to the container requirements for shipping onions to fresh processors currently prescribed under the South Texas onion marketing order. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes requirements for shipping onions to fresh processors and provides additional marketing flexibility for the industry to ship onions; (2) this rule needs to be in place for the 2000 season beginning March 1, 2000, so the industry may take advantage of the relaxed requirements; (3) the Committee unanimously recommended these changes at public meetings, and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period, which is considered appropriate in view of this above, and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 959.322, paragraph (f)(3)(i) is redesignated as (f)(3) and revised to read as follows:

§ 959.322 Handling regulation.

* * * * *

(f) * * *

(3) *Peeling, chopping, and slicing.* Upon approval of the committee, onions for peeling, chopping, and slicing may be shipped in bulk loads, bulk bins with inside dimensions of 47 inches × 37½ inches × 36 or 48 inches deep, and tote bags 36 inches by 36 inches by 66 inches long, with a weight capacity of approximately 2,000 pounds. A tolerance of 2 inches for each dimension shall be permitted. Such shipments shall be exempt from paragraph (c) of this section, but shall be handled in accordance with the requirements of paragraphs (a), (b), (d), and (g) of this section.

* * * * *

Dated: February 10, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–3655 Filed 2–15–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 2038–99]

RIN 1115–AF68

Adding Cleveland, Ohio, Ft. Myers, Florida, and San Jose, California to the List of Ports-of-Entry Accepting Applications for Direct Transit Without Visa

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations by adding Cleveland, Ohio, Ft. Myers, Florida, and San Jose, California, to the list of ports-of-entry where, except for transit from one part of foreign contiguous territory to another part of the same territory, an alien must make application for admission to the United States for direct transit without visa. This change is necessary to accommodate the increase in international commerce serving Cleveland, Ohio, Ft. Myers, Florida, and San Jose, California.

DATES: This rule is effective February 16, 2000.

FOR FURTHER INFORMATION CONTACT: Robert F. Hutnick, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW, Room 4064, Washington, DC 20536, telephone number (202) 616–7499.

SUPPLEMENTARY INFORMATION:

What Does This Final Rule Change?

This final rule adds Cleveland, Ohio, Ft. Myers, Florida, and San Jose, California, to 8 CFR 214.2(c)(1) as ports-of-entry where, except for transit from one part of foreign contiguous territory to another part of the same territory, application for direct transit without visa must be made.

Why Is the Service Making This Change?

The Cleveland Hopkins International Airport in Cleveland, Ohio, recently began daily nonstop service between Cleveland and the United Kingdom's London Gatewick Airport. Passengers wishing to travel between Canada and London via Cleveland will benefit from this rule change. The Southwest Florida International Airport in Ft. Myers, Florida, has added additional international passenger service, specifically arrivals transiting between the German Federal Republic and Mexico. In addition, the designation of the airport at San Jose, California, as a transit without visa port-of-entry will allow carriers to accept passengers transiting between the Far East and Latin America. By allowing these airports to accept applications for direct transit without visa, they will be able to accommodate these transit air passengers.

Administrative Procedures Act

Compliance with 5 U.S.C. 553(a)(2) as to notice of proposed rulemaking and delayed effective date is unnecessary as this rule relates to agency management, and accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore the reporting requirement of 5 U.S.C. 801 does not apply.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely allows the Cleveland, Ohio, Ft. Myers, Florida, and San Jose, California, airports to accommodate individual international passengers by providing authority to carriers to accept applications for direct transit without visa.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'' section 1(b), Principles of Regulation. This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by OMB.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Passports, and Visas.

Accordingly, part 214 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; 8 CFR part 2.

§ 214.2 [Amended]

2. In § 214.2, paragraph (c)(1) is amended in the fourth sentence by:

a. Adding ''Cleveland, OH,'' immediately after ''Christiansted, VI,''

b. Adding ''Ft. Myers, FL,'' immediately after ''Fairbanks, AK,'' and by

c. Adding ''San Jose, CA,'' immediately after ''San Francisco, CA,''.

Dated: February 4, 2000.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 00–3584 Filed 2–15–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–37–AD; Amendment 39–11577; AD 2000–03–18]

RIN 2120–AA64

Airworthiness Directives; Partenavia Costruzioni Aeronauticas S.p.A. Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' Airplanes

ACTION: Final rule.

SUMMARY: This document adopts a new airworthiness directive (AD) that applies to all Partenavia Costruzioni Aeronauticas S.p.A. (Partenavia) Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' airplanes that are equipped with pneumatic deicing boots. This AD requires you to revise the Airplane Flight Manual (AFM) to include requirements for activating the airframe pneumatic deicing boots. This AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to assure that flightcrews have the information necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. Without this information, flightcrews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Effective April 7, 2000.

ADDRESSES: You may examine related information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–37-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4121; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

What caused this AD? This AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated.

What is the potential impact if the FAA took no action? The information necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation is critical for flight in icing conditions. If we did not take action to include this information, flight crews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

Has the FAA taken any action to this point? Yes. We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Partenavia Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' airplanes that are equipped with pneumatic deicing boots. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 8, 1999 (64 FR 54808). The NPRM proposed to require revising the Limitations Section of the AFM to include requirements for activating the pneumatic deicing boots at the first indication of ice accumulation on the airplane.

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

What is the FAA's Final Determination on this Issue?: We carefully reviewed all available information related to the subject presented above and determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We determined that these minor corrections:

—Will not change the meaning of the AD; and

—Will not add any additional burden upon the public than was already proposed.

Cost Impact

How many airplanes does this AD impact?: We estimate that 3 airplanes in the U.S. registry will be affected.

What is the cost impact of the affected airplanes on the U.S. Register?: There is no dollar cost impact. We estimate that to accomplish the AFM revision it will take you less than 1 workhour. You can accomplish this action if you hold at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7). You must make an entry into the aircraft records that shows compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of this AD is the time it will take you to insert the information into the AFM.

Regulatory Impact

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.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA has prepared a final evaluation and placed it in the Rules Docket. You can get a copy of this evaluation at the location listed 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 (AD) to read as follows:

2000–03–18—Partenavia Costruzioni Aeronautics S.P.A.:

Amendment 39–11577; Docket No. 99–CE–37–AD.

(a) *What airplanes are affected by this AD?*: Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' airplanes, all serial numbers, that are:

(1) Equipped with pneumatic deicing boots; and

(2) Certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register. The AD does not apply to your airplane if it is not equipped with pneumatic deicing boots.

(c) *What problem does this AD address?* The information necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation is critical for flight in icing conditions. If we did not take action to include this information, flight crews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

(d) *What must I do to address this problem?* To address this problem, you must revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. You must accomplish this action within the next 10 calendar days after the effective date of this AD, unless already accomplished. You may insert a copy of this AD in the AFM to accomplish this action:

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

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

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

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

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

(e) *Can the pilot accomplish the action?* Yes. Anyone who holds at least a private pilot certificate, as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), may incorporate the AFM revisions required by this AD. You must make an entry into the aircraft records that shows compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(f) *Can I comply with this AD in any other way?* Yes.

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager.

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

(g) *Where can I get information about any already-approved alternative methods of compliance?* Contact the Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4121; facsimile: (816) 329–4091.

(h) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(i) *When does this amendment become effective?* This amendment becomes effective on April 7, 2000.

Issued in Kansas City, Missouri, on February 8, 2000.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–3624 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–34–AD; Amendment 39–11578; AD 2000–03–19]

RIN 2120–AA64

Airworthiness Directives; Industrie Aeronautiche e Meccaniche Model Piaggio P–180 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new airworthiness directive (AD) that applies to all Industrie Aeronautiche e Meccaniche (I.A.M.) Model Piaggio P–180 airplanes that are equipped with pneumatic deicing boots. This AD requires you to revise the Airplane Flight Manual (AFM) to include requirements for activating the airframe pneumatic deicing boots. This AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to assure that flightcrews have the information necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. Without this information, flightcrews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Effective April 7, 2000.

ADDRESSES: You may examine related information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–34–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4121; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

What caused this AD? This AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated.

What is the potential impact if the FAA took no action? The information

necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation is critical for flight in icing conditions. If we did not take action to include this information, flight crews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

Has the FAA taken any action to this point? Yes. We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all I.A.M. Model Piaggio P–180 airplanes that are equipped with pneumatic deicing boots. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 8, 1999 (64 FR 54815). The NPRM proposed to require revising the Limitations Section of the AFM to include requirements for activating the pneumatic deicing boots at the first indication of ice accumulation on the airplane.

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

What is the FAA's Final Determination on this Issue? We carefully reviewed all available information related to the subject presented above and determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We determined that these minor corrections:

—Will not change the meaning of the AD; and

—Will not add any additional burden upon the public than was already proposed.

Cost Impact

How many airplanes does this AD impact? We estimate that 5 airplanes in the U.S. registry will be affected.

What is the cost impact of the affected airplanes on the U.S. Register? There is no dollar cost impact. We estimate that to accomplish the AFM revision it will take you less than 1 workhour. You can accomplish this action if you hold at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7). You must make an entry into the aircraft records that shows compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of this AD is the time it will take you to insert the information into the AFM.

Regulatory Impact

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.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA has prepared a final evaluation and placed it in the Rules Docket. You can get a copy of this evaluation at the location listed 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 (AD) to read as follows:

2000–03–19 Industrie Aeronautiche E Meccaniche: Amendment 39–11578; Docket No. 99–CE–34–AD.

(a) *What airplanes are affected by this AD?* Model Piaggio P–180 airplanes, all serial numbers, that are:

(1) equipped with pneumatic deicing boots; and

(2) certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register. The AD does not apply to your airplane if it is not equipped with pneumatic deicing boots.

(c) *What problem does this AD address?* The information necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation is critical for flight in icing conditions. If we did not take action to include this information, flight crews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

(d) *What must I do to address this problem?* To address this problem, you must revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. You must accomplish this action within the next 10 calendar days after the effective date of this AD, unless already accomplished. You may insert a copy of this AD in the AFM to accomplish this action:

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

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

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

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

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

(e) *Can the pilot accomplish the action?* Yes. Anyone who holds at least a private pilot certificate, as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), may incorporate the AFM revisions required by this AD. You must make an entry into the aircraft records that shows compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(f) *Can I comply with this AD in any other way?* Yes.

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager.

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

repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(g) *Where can I get information about any already-approved alternative methods of compliance?* Contact the Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4121; facsimile: (816) 329–4091.

(h) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(i) *When does this amendment become effective?* This amendment becomes effective on April 7, 2000.

Issued in Kansas City, Missouri, on February 8, 2000.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–3622 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–210–AD; Amendment 39–11567; AD 2000–03–08]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–90–30 series airplanes, that requires repetitive fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the main landing gear (MLG) piston, and repair, if necessary. This amendment is prompted by reports of MLG failures during towing of in-service airplanes due to fatigue cracks. The actions specified by this AD are intended to detect and correct fatigue cracking of MLG pistons, which could result in failure of the pistons, and consequent damage to the airplane structure and injury to flight crew, passengers, or ground personnel.

DATES: Effective March 22, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carl Fountain, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5222; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to to certain McDonnell Douglas Model MD–90–30 series airplanes was published in the **Federal Register** on October 27, 1999 (64 FR 57790). That action proposed to require repetitive fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the main landing gear (MLG) piston, and repair, if necessary.

Comments

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

The commenter supports the proposed rule.

Conclusion

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

Interim Action

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

Cost Impact

There are approximately 19 airplanes of the affected design in the worldwide fleet. The FAA estimates that 15 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,800, or $120 per airplane, per inspection cycle.

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

Regulatory Impact

The regulations 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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–03–08 McDonnell Douglas: Amendment 39–11567. Docket 99–NM–210–AD.

Applicability: Model MD–90–30 airplanes, as listed in McDonnell Douglas Service Bulletin MD90–32–012, Revision 01, dated June 2, 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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of main landing gear (MLG) pistons, which could result in failure of the pistons, and consequent damage to the airplane structure and injury to flight crew, passengers, or ground personnel, accomplish the following:

Inspection of MLG Piston Part Number 5935347–509

(a) For MLG pistons, part number (P/N) 5935347–509: Perform fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the MLG pistons, in accordance with McDonnell Douglas Service Bulletin MD90–32–012, dated May 19, 1997; or Revision 01, dated June 2, 1998, at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD. Repeat the inspections thereafter at intervals not to exceed 2,500 landings.

(1) Prior to the accumulation of 4,000 landings; or

(2) Within 2,500 landings or 12 months after the effective date of this AD whichever occurs first.

Inspection of MLG Piston Part Numbers 5935347–511 and –513

(b) For MLG pistons P/N's 5935347–511 and –513: Within 5,000 landings after the effective date of this AD, perform fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the MLG pistons, in accordance with McDonnell Douglas Service Bulletin MD90–32–012, dated May 19, 1997; or Revision 01, dated June 2, 1998. Repeat the inspections thereafter at intervals not to exceed 5,000 landings.

Repair

(c) If any crack is found during any inspection required by this AD: Repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(f) Except as provided by paragraph (c) of this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin MD90–32–012, dated May 19, 1997; or McDonnell Douglas Service Bulletin MD90–32–012, Revision 01, dated June 2, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 22, 2000.

Issued in Renton, Washington, on February 8, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–3396 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–01–AD; Amendment 39–11565; AD 2000–03–07]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211–524H–36 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Rolls-Royce plc RB211–524H–36 series turbofan engines. This action requires, prior to further flight, installing an improved combustion liner with a strengthened head and improved heat shields. This amendment is prompted by a report of burn through of a combustor case that led to burning away of the thrust reverser and translating cowl and subsequent fire damage to the engine pylon. The actions specified in this AD are intended to prevent burn through of the combustor case due to combustion liner cracking, which can result in an engine fire and damage to the aircraft.

DATES: Effective March 2, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 2000.

Comments for inclusion in the Rules Docket must be received on or before April 17, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–01–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Rolls-Royce plc, PO Box 31, Derby, England; telephone: International Access Code 011, Country Code 44, 1332–249428, fax International Access Code 011, Country Code 44, 1332–249223. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at

the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone 781–238–7176, fax 781–238–7199.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Rolls-Royce plc (R–R) RB211–524H–36 series turbofan engines. The CAA received a report of burn through of a combustor case that led to burning away of the thrust reverser and translating cowl and subsequent fire damage to the engine pylon. The investigation revealed that front combustion liner diffuser case bleed struts and front section inner and outer liners demonstrate cracking after extended use. Additionally, combustion liners have exhibited burning of the heat shield inner ramp corners. This condition, if not corrected, could result in burn through of the combustor case due to combustion liner cracking, which can result in an engine fire and damage to the aircraft.

Service Information

R–R has issued Service Bulletin (SB) No. RB.211–72–9764, Revision 3, dated January 16, 1998, that specifies procedures for installing improved combustion liners with a strengthened head and improved heat shields. The CAA classified this SB as mandatory and issued airworthiness directive (AD) 009–01–98 in order to assure the airworthiness of these engines in the UK.

Bilateral Airworthiness Agreement

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

Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, the AD requires, prior to entry into service, installing an improved combustion liner with a strengthened head and improved heat shields. At the present time, there are no affected engines installed on aircraft of U.S. registry. Also, the CAA has advised the FAA that all engines in the active fleet have had the improved combustor liner installed. However, some spare engines may not have had the improved combustion liner installed. The actions would be required to be accomplished in accordance with the SB described previously.

Immediate Adoption

There are currently no domestic operators of this engine model. Accordingly, a situation exists that requires the immediate adoption of this regulation. Notice and opportunity for prior public comment hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NE–01–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–03–07 Rolls-Royce plc: Amendment 39–11565. Docket 2000–NE–01–AD.

Applicability: Rolls-Royce plc (R–R) RB211–524H–36 series turbofan engines

installed on but not limited to Boeing 767 series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent burn through of the combustor case due to combustor liner cracking, which can result in an engine fire and damage to the aircraft, accomplish the following:

Installation of Improved Combustion Liner

(a) Prior to further flight, install an improved combustion liner with a strengthened head and improved heat shields, in accordance with the Accomplishment Instructions of R–R Service Bulletin (SB) No. RB.211–72–9764, Revision 3, dated January 16, 1998.

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

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

No Ferry Flights

(c) Special flight permits will not be issued.

Incorporation by Reference

(d) The actions required by this AD shall be performed in accordance with the following R–R SB:

Document No.	Pages	Revision	Date
RB.211–72–9764.	1	3	Jan. 16, 1998.
	2	Original	Aug. 20, 1993.
	3–6	3	Jan. 16, 1998.
	7–10	Original	Aug. 20, 1993.
	11	3	Jan. 16, 1998.
	12–30	Original	Aug. 20, 1993.
Total pages: 30.			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce plc, PO Box 31, Derby, England; telephone: International Access Code 011, Country Code 44, 1332–249428, fax International Access Code 011, Country Code 44, 1332–249223. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(e) This amendment becomes effective on March 2, 2000.

Issued in Burlington, Massachusetts, on February 7, 2000.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate Aircraft Certification Service.

[FR Doc. 00–3337 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–17]

Establishment of Class E Airspace; Russian Mission, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Russian Mission, AK. The establishment of two Global Positioning System (GPS) instrument approach procedures at Russian Mission Airport made this action necessary. The Russian Mission Airport status changes from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). This rule provides adequate controlled airspace for aircraft flying IFR procedures at Russian Mission, AK.

EFFECTIVE DATES: 0901 UTC, April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Bob Durand, Operations Branch, AAL–531, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On October 5, 1999, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Class E airspace at Russian Mission, AK, was published in the **Federal Register** (64 FR53956). The proposal was necessary due to the establishment of two GPS instrument approaches at Russian Mission, AK. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received; thus, the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9G, *Airspace Designations and Reporting Points,* dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes the Class E airspace at Russian Mission, AK, through the establishment of two GPS instrument approach procedures. The area will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide controlled airspace for IFR operations at Russian Mission, AK.

The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when

promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, *Airspace Designations and Reporting Points,* dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Russian Mission, AK [New]

Russian Mission Airport

(lat. 61° 46′ 47″ N., long. 161° 19′ 10″ W.)

That airspace extending upward from 700 feet above the surface within 6.2-mile radius of the Russian Mission Airport, and that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 62° 10′ 00″ N. long. 162° 45′ 00″ W., to lat. 62° 34′ 00″ N. long. 160° 30′ 00″ W., to lat. 61° 30′ 00″ N. long. 160° 30′ 00″ W., along lat. 61° 30′ 00″ to lat 61° 30′ 00″ N. long. 162° 45′ 00″ W., to the point of beginning.

* * * * *

Issued in Anchorage, AK, on February 9, 2000.

Willis C. Nelson

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 00–3701 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 92

[OJP(OJP)–1205f]

RIN 1121–AA50

Timing of Police Corps Reimbursements of Educational Expenses

AGENCY: Office of Justice Programs, Office of the Police Corps and Law Enforcement Education, Justice.

ACTION: Final rule.

SUMMARY: This final rule adopts without change an interim final rule published by the Office of Justice Programs, Office of the Police Corps and Law Enforcement Education, in the **Federal Register** on June 21, 1999, at 64 FR 33016–33018. The interim final rule altered the timing of reimbursements to Police Corps participants for eligible educational expenses incurred during years of college study completed before acceptance into the Police Corps. It provided that reimbursements would be paid in two equal installments at the start and conclusion of a participant's first year of required service as a police officer or sheriff's deputy. The interim final rule also permitted the Director of the Office of the Police Corps and Law Enforcement Education to advance the date of a participant's first reimbursement payment on a showing of good cause.

EFFECTIVE DATE: This Final Rule is effective on March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Ingrid Sausjord, Training Program Development Specialist, Office of the Police Corps and Law Enforcement Education at 1–888–94CORPS. This is a toll-free number.

SUPPLEMENTARY INFORMATION: The Office of Justice Programs, Office of the Police Corps and Law Enforcement Education (''Office of the Police Corps'') offers, pursuant to the Police Corps Act, 42 U.S.C. 14091 *et seq.*, and through the Police Corps program, financial aid on a competitive basis to college students who agree to undergo rigorous training and serve as police in specially designated areas for at least four years.

Once a participant is accepted into the Police Corps, he or she receives financial aid on a prospective basis through scholarship payments. 42 U.S.C. 14095(a). If a participant completes one or more years of college study before being accepted into the Police Corps, he or she receives reimbursements for educational expenses incurred during the prior years. 42 U.S.C. 14095(b). The Police Corps Act does not specify the timing of these reimbursements, and the reimbursements do not include interest.

Prior to publication of the interim final rule, the relevant implementing regulation provided that reimbursements would be made through four equal payments, one upon completion of each of the four years of required service. The interim final rule changed that provision to accelerate reimbursements. Under the interim rule, participants were to be paid in two equal installments at the start and completion of a participant's first year of required service as a police officer or sheriff's deputy.

The change enabled participants to promptly repay student loans and, by allowing the Director flexibility in dealing with special individual circumstances, enabled participants to have funds available to make loan payments and meet other ongoing financial obligations during the 16 to 24 weeks of required residential training. By reducing the number of payments per participant, the change also eased the administrative burden on both the Office of the Police Corps and state lead agencies.

The interim rule requested that comments concerning the new provisions be submitted to the Office of the Police Corps by September 20, 1999. The Office of the Police Corps did not receive any comments and is therefore adopting the interim rule as final without change.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Office of Justice Programs has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons:

(1) This rule provides the schedule under which eligible participants receive reimbursements for educational expenses under the Act; and

(2) Such reimbursements impose no requirements on small business or on small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete in domestic and export markets.

Paperwork Reduction Act

There are no collection of information requirements contained in this regulation that would require review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 28 CFR Part 92

Colleges and universities, Education, Educational study programs, Educational facilities, Law enforcement officers, Schools, Student aid.

For the reasons set forth in the preamble, the interim final rule revising paragraph (b)(7) of 28 CFR Part 92.5, which was published in the **Federal Register** on June 21, 1999, at 64 FR 33016–33018, is adopted as a final rule without change.

Dated: February 4, 2000.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 00–3388 Filed 2–15–00; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 220

[RIN 0790–AG51]

Collection From Third Party Payers of Reasonable Costs of Healthcare Services

AGENCY: Office of the Assistant Secretary of Defense (Health Affairs), DoD.

ACTION: Final rule.

SUMMARY: This final rule implements several recent statutory changes and makes other revisions to the Third Party Collection Program. The primary matters include: implementation of new statutory authority to include workers' compensation programs under the Third Party Collection Program; the addition of special rules for collections from preferred provider organizations; and other program revisions.

DATES: This final rule is effective March 17, 2000. Section 220.12 is effective from March 17, 2000 through October 1, 2004.

FOR FURTHER INFORMATION CONTACT: Major Rose Layman, Uniform Business Office, Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity, Resource Management, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3206, 703–681–8910.

SUPPLEMENTARY INFORMATION: This final rule implements several recent statutory changes and makes other revisions to the Third Party Collection Program under 10 U.S.C. 1095, as discussed below.

This rule was published as a proposed rule March 10, 1998, 63 FR 11635, for a 60-day comment period. We received one public comment, which was from an association of health insurance organizations that sponsor health plans under the Federal Employees Health Benefits Program. In general, this comment argued that portions of the proposed rule departed from the long-standing foundation of the Third Party Collection Program that payers must treat claims from medical facilities of the Uniformed Services no less favorably or more favorably than claims from non-federal providers, and would instead require payers to give military hospitals ''preferential treatment.''

We strongly disagree. The proposed rule and the final rule reaffirm the Department's enduring interpretation of the statute and understanding of its purpose. The purpose is to prevent health insurers from gaining a windfall at the expense of the federal government and federal taxpayers by collecting full premiums on behalf of insured persons who are also eligible for military care and then avoiding payment for covered services provided by military facilities. This Congressional purpose is especially compelling when the premium payments also come primarily from the federal government and federal taxpayers, as they do in the Federal Employees Health Benefits Program (FEHPB). In this case, the government has paid the FEHBP plan sponsor a premium to cover essentially all the health care needs of the insured person. When that insured person receives care in a military facility, the government pays again in the form of the costs of providing that care. Practices that have the effect of denying or limiting payment based solely on the fact that the care is provided in a MTF is not permissible. This is not ''preferential treatment;'' it is what is required by section 1095 for all third party payers.

We will discuss additional points made in this comment in the following summary of the features of the final rule.

1. Preferred Provider Organizations

Section 713(b)(1) of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103–160, amended the Third Party Collection Program's definition of ''insurance, medical service, or health plan'' to clarify that any ''preferred provider organization'' (PPO) is included in the definition. This amendment codified DoD's previous interpretation. Experience in applying the statutory authority to the context of preferred provider organizations has indicated a need to establish some special rules for plans with PPO provisions or options so that all parties will have a clearer understanding of their obligations and rights under the statute. We do this by amending § 220.12.

It is our interpretation of 10 U.S.C. 1095 that a plan with a PPO provision or option generally has an obligation to pay the United States the reasonable costs of health care services provided through any facility of the Uniformed Services to a Uniformed Services beneficiary who is also a beneficiary under the plan. No provision of any

PPO plan having the effect of excluding from coverage or limiting payment for certain care if that care is provided through a facility of the Uniformed Services shall operate to prevent collection under this part.

10 U.S.C.1095 strikes a careful balance. On the one hand, it disallows third party payer rules that would have the effect of excluding from coverage or limiting payment because the care was provided in a DoD facility. The law renders inoperative numerous administrative procedures and payment rules of third party payers that would defeat the purpose of 10 U.S.C. 1095 or result in a windfall for a third party payer who has collected premiums but then avoided payments. On the other hand, the statute does not require third party payers to make fundamental changes in their own rules in order to accommodate Government providers. This final rule reflects that balance in our special rules for PPOs.

Consistent with the statutory mandate that the operation of the Third Party Collection Program is not dependent upon a participation agreement or similar contractual relationship between military treatment facilities and third party payers, this final rule states that the lack of a PPO agreement or the absence of privity of contract is not a permissible ground for refusing or reducing payment. Based on this and the careful statutory balance, we believe that under the law, the lack of a contractual relationship between the PPO and the facility of the Uniformed Services may not be a basis for the plan to treat the DoD facility as a non-PPO provider for purposes of the PPO's payment amount, if the facility of the Uniformed Services accommodates the PPO's fundamental price and utilization management standards.

Under this final rule, a DoD facility accommodates a PPO's fundamental price standards by accepting, in lieu of the normal Third Party Collection Program rates established under § 220.8, the PPO's prevailing rates of payment paid to preferred providers in the same geographic area for the same or similar aggregate groups of services, if such rates are, in the aggregate, less than the DoD rates. A DoD facility accommodates a PPO's fundamental utilization management by complying with the reasonable pretreatment, concurrent, or retrospective review procedures that are required of all preferred providers under the PPO plan and by accepting denials of requested payment that are consistent with prevailing standards in the geographic area of medical necessity and proper level of care for the services involved. In other words, if DoD rates are not representative of what a PPO perceives to be an optimal efficient practice as demonstrated by the rates of other providers in their network, DoD will accept the prevailing rate as payment in full with the provision that the PPO furnish the required information as stated in § 220.12(d). At the same time, if the DoD rates are lower than or equal to the prevailing PPO rates, then DoD will accept DoD rates as payment in full.

By accommodating a PPO's fundamental price and utilization management standards, DoD does not seek to compel the third party payer to make fundamental changes in its PPO program in order to conform to the DoD facility's operations. But other rules and procedures of the PPO that would have the effect of denying or limiting payment are not allowed. This final rule includes several examples of such impermissible PPO requirements. Among these is any PPO requirement that would purport to require a facility of the Uniformed Services, in order to effectuate the legislative purpose of 10 U.S.C. 1095, to act in a manner inconsistent with the basic nature of facilities of the Uniformed Services.

The comment we received objected to this portion of the proposed rule on the grounds that, even if the facility of the Uniformed Services accepts the PPO payment rate and utilization management requirements, it exceeds DoD authority to disallow reduced, non-PPO payments (based on higher beneficiary copayments for using non-PPO providers) unless the facility complies with all other rules of the PPO ''to bill for services rendered using forms, codes, etc. as requested by the payer'' and otherwise ''to reduce administrative and benefit costs.'' We disagree. With Congress amending section 1095(h)(2) to specifically cover PPOs, section 1095(b) now clearly commands that no PPO requirement having the effect of limiting payment of charges shall operate to prevent collection under section 1095 for care provided by a facility of the Uniformed Services that does not have a participation agreement with the PPO. We do not believe this can be reasonably interpreted to mean that PPO requirements that would compel military facilities to sign participation agreements to conform to all of the PPO's forms, codes, and procedures shall be given effect. Rather, we read section 1095(a) and (b) together to strike the careful balance described above, accepting fundamental plan elements but dismissing what might be a myriad of other procedures, caveats, forms, codes, and administrative requirements.

The comment also argued that the proposed rule did not adequately accommodate a PPO's fundamental price standards because it continued to base billings on DoD's cost allocation structure, rather than the PPO's payment methodology. Again, we disagree. The billing structure used by DoD, which by necessity is the point of comparison with the PPO's payment rates to determine whether to accept payments less than DoD's calculated costs, is based specifically on the authority contained in section 1095(f). Thus, the rule is entirely consistent with the statute concerning cost calculations.

There may be a suspicion that the DoD rates, as a representative of reasonable costs, indicate inefficient practices. This impression might be created by trying to compare a DoD average all-inclusive rate with that of an itemized rate methodology. The wide variation in these two pricing methodologies leads to misunderstanding of DoD practices. The cost per DoD eligible is in fact far below the average national expenditure per person on healthcare. However, in an effort to move toward civilian industry practices, DoD will issue a proposed rule this year to implement the new rate methodology authorized by section 716 of the National Defense Authorization Act for Fiscal Year 2000. This change will allow DoD to calculate reasonable charges for both inpatient and outpatient services. These reasonable charges will become the standard DoD rates. More specifically, the new law allows Military Treatment Facilities to adopt the rates and rate structure such as that currently used under CHAMPUS/TRICARE. The CHAMPUS/TRICARE payment rates for professional services are essentially the same as the Medicare fee schedule and are equal to significantly discounted rates by procedure code. As such, these rates are extremely competitive with civilian sector pricing. Billing will conform to common methods used by the insurance industry, utilizing standardized procedure codes, and will facilitate easy rate comparisons.

Although we believe the special rules established by § 220.12 are correct and proper interpretations of the statute, we have added in the final rule a sunset provision for this section of the regulation. It states that these special rules will no longer be in effect as of October 1, 2004. This sunset provision is included to permit both the Department of Defense and third party payers to gain experience with these rules and have an assured opportunity to revisit these rules in a subsequent rule making process. It is our intent to

initiate a new rule making process early in fiscal year 2004. By that time, the new rate methodology discussed above will be in effect, permitting easy rate comparisons.

We will also have experience with other aspects of the implementation of this section. During the fiscal year 2004 rule making process, third party payers will have the opportunity to present evidence of any effects of this section the payers believe are unfair. This includes any evidence or data they may have of a cost impact of this section, a change in utilization by plan members, any effects in particular geographical areas, any litigation results, any management consequences, changes in beneficiary satisfaction or enrollment rates, or any other effects, analysis or observations concerning the implementation of this section. The sunset provision is a good faith effort by the Department of Defense to reexamine after a reasonable implementation period the premises and expectations presented above and to consider perspectives and views of all interested parties then informed by experience with this section.

To recap, under the final rule, we will accommodate a PPO's fundamental price and utilization management standards. But we will not give effect to other requirements unnecessary for the achievement of the PPO's fundamental price and utilization management standards, such as requirements to accept PPO beneficiaries not eligible for military health care, to follow certain licensing, certification, or provider selection criteria, or to restrict patient referrals to providers specified by the PPO. Rules of this kind clearly defeat the purpose of section 1095 and contravene congressional policy. After considering attentively the comment, we conclude that the rule, including the new sunset provision, strikes the careful balance of the statute in the context of PPO implementation.

2. Workers' Compensation Programs

Section 735(b)(1) of the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, expanded the definition of ''third party payer'' to include any ''workers'' compensation program or plan.'' The final rule adds § 220.13 and a definition of the statutory term to implement this amendment.

While specific statutory schemes vary from State to State, workers' compensation plans generally provide compensation to employees or their dependents for loss resulting from the injury, disablement, or death of a worker due to an employment related accident, casualty, or disease. The common characteristic of workers' compensation programs is the provision of compensation based upon a fixed statutory scheme without regard to fault. Payment for the costs and provision of medical care are also common elements of workers' compensation programs, whether the program operates on the basis of insurance, a State fund, or other mechanism.

The new § 220.13 states that a workers' compensation program generally has an obligation to pay the United States the reasonable costs of health care services provided in or through any facility of the Uniformed Services to a Uniformed Services beneficiary who is also a beneficiary of the workers' compensation program and whose condition is due to an employment related accident, casualty, or disease. We have added several special rules concerning lump-sum payments and compromise settlements. These special rules are modeled after Medicare Secondary Payer rules applicable to workers' compensation programs, which appear at 42 CFR 411.46–47.

3. Other Program Revisions and Clarifications

This final rule makes several other program revisions and clarifications, including:

An amendment to § 220.2(a) to conform with statutory language making 10 U.S.C. 1095 applicable to services provided in or ''through'' a facility of the Uniformed Services.

An amendment to § 220.2(d) to clarify the obligation of the third party payer to pay under the Third Party Collection Program is not only not dependent upon an assignment of benefits, it is also not dependent upon any other submission by the beneficiary to the third party payer, including any claim or appeal.

An addition of § 220.2(e) to codify in the regulation our interpretation of the preemptive effect of 10 U.S.C. 1095 in relation to any conflicting State laws or regulations.

An addition of § 220.3(c)(5) to record our interpretation of the applicability of 10 U.S.C. 1095 in connection with Medicare carve-out and Medicare secondary payer provisions of third party payer plans (other than Medicare supplemental plans). This is another application of the general rule that third party payers may not treat claims from facilities of the Uniformed Services less favorably than they lawfully treat claims from other providers (in this context, other providers to whom primary payment would not be made by Medicare or a Medicare HMO).

An amendment to § 220.4 to clarify the permissibility of certain third party payer rules, including utilization review practices, and HMO plan restrictions.

An addition of § 220.4(d) to record our requirement for payers to provide us plan information necessary to establish the permissibility of terms and conditions of third party payers' plans.

An amendment to § 220.7 to clarify the United States' remedies concerning collections from third party payers.

An amendment to § 220.8 to change and clarify DoD's actions in categorizing standardized amounts for the DRG-based payment method for inpatient care, in subdividing outpatient billings, and in replacing the ''same day surgery'' category of care with an expanded ''ambulatory procedure visit'' category.

An amendment to § 220.8(h), a special rule for certain ancillary services ordered by outside providers and provided by a facility of the Uniformed Services, to lower the high cost ancillary threshold value from $25 to $0. For this reason, ''high cost ancillary services'' are now referred to as ''ancillary services ordered by an outside provider and provided by a facility of the Uniformed Services.''

An amendment to § 220.8(j), concerning the former Public Health Service hospitals, to conform to the changes to that program directed by Congress in sections 721 to 727 of the National Defense Authorization Act for Fiscal Year 1997.

An amendment to § 220.9(c) which elaborates on the obligations of beneficiaries to cooperate with facilities of the Uniformed Services in implementing these regulations.

Several additions and amendments to § 220.14 to add and change, as necessary, the definitions of terms used in this part.

The single public comment we received objected to several of these provisions. Among these was the change to § 220.2(d) regarding claims and appeals procedures, to which the comment objected on the grounds that this would result in preferential treatment to military facilities over civilian facilities which need an assignment of benefits from the covered beneficiary. We believe the rule is correct. Under section 1095, the right of the health care provider (*i.e.*, the United States government) to collect is not based on a contractual relationship between the provider and the

beneficiary (*i.e.*, assignment of benefits from the beneficiary to the government), but rather on the right of the United States established by section 1095(a) to collect from the third party payer. To condition this right to collect on some permission from the beneficiary would conflict with section 1095.

The comment also dissented from the new § 220.3(c)(5) concerning Medicare carve-out and Medicare secondary payer provisions because it purports ''to specify what benefits third party payers may or may not provide.'' Actually, it does no such thing. It simply provides that for a Medicare carve-out or Medicare secondary payer exclusion to be used permissibly to refuse to make primary payment to a facility of the Uniformed Services, it must expressly apply to all providers to whom payment would not be made under Medicare. This is nothing more than a restatement in the context of Medicare carve-out and Medicare secondary payer provisions of the general rules of section 1095 that a payer may not discriminate against federal facilities. If a payer applies Medicare carve-out or Medicare secondary payer provisions to avoid payments to a facility of the Uniformed Services similar to payments that it would make to non-federal facilities not reimbursed by Medicare Part A, Part B, a Medicare HMO, or a Medicare Plus Choice plan, then it is discriminating against the facility of the Uniformed Services in violation of section 1095.

Finally, the comment expressed objection to the new § 220.7(d), which disallows plans from offsetting payments, without the consent of an authorized government official, to a facility of the Uniformed Service because the payer considers itself due a refund from the facility of the Uniformed Services arising from earlier payments from that third party payer. The comment argued that this is beyond DoD's authority because such offsets are common industry practice. We do not concur. Under section 1095, the United States has a right to collect, consistent with the statutory terms, the reasonable costs of health care services provided from a third party payer. This right is not contingent upon a third party payer's assertions regarding previous alleged overpayments. Moreover, under section 1095(e)(2), the authority to compromise a claim rests with the government, not with the payer. Without the consent of the government, a third party payer cannot compromise a claim premised on some separate disputed transaction. A request for refund must be submitted and adjudicated separately.

4. Other Issues

Under § 220.10(c), we provide notice of our intention to begin, effective April 1, 2000, to collect from Medicare supplemental plans reasonable costs for inpatient and outpatient copayments, other than the inpatient hospital deductible amount, and other services covered by Medicare supplemental plans. Although this authority is currently established in § 220.10(c), we had previously decided to defer implementation.

Executive Order 12866, the Unfunded Mandates Reform Act and Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

This rule has been reviewed in accordance with the provisions of Executive Order of 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and it is not believed to meet the criteria for an economically significant regulatory action. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that maximize net benefits including potential economic, environmental, public health, safety distributive and equity effects. The Unfunded Mandates Reform Act, Public Law 104–4, requires that agencies prepare an assessment of anticipated costs and benefits on any rulemaking that may result in an expenditure by State, local, or tribal government, or by the private sector of $100 million or more in any given year.

Executive Order 12866 requires that all regulations reflect consideration of alternatives, costs, benefits, incentives, equity, and available information. While 32 CFR part 220, Collection From Third Party Payers of Reasonable Costs of Healthcare Services, implements several changes to the Third Party Collection Program, we believe that this final rule should have no significant economic impact. The greatest concern expressed has been by the Office of Personnel Management (OPM) in regards to the addition of special rules for collections from PPOs and financial impact on the Federal Employees Health Benefits Program (FEHBP).

A cost benefit analysis to assess the full financial impact of this final rule is difficult as neither OPM nor DoD have a basis for a solid estimate of a precise number of DoD beneficiaries who have a Preferred Provider Organization plan throughout the industry, or in the FEHBP segment of the industry. In addition, current information systems do not provide an exact accounting of dollars and reasons for denied claims for this one population of patients. Therefore, cost estimates for FEHBP and total PPO denials are based on a limited manual review of claims data from Army Military Treatment Facilities (MTFs). The Army reported the dollar amount billed and the dollar amount denied due to non-PPO status with respect to all health plans. This percentage was then applied to total claims data from all Services.

A review of these results leads to an estimate of $49 million in annual reductions because the MTF provider was considered a non-preferred network provider by the payers. We estimate that FEHBP plans represent approximately 20–25% of all military treatment facility claims to third party payers. This leads to an estimate of annual impact on the FEHBP segment of the industry of $9.8 million to $12.25 million. These are good faith estimates based on very limited data.

Executive Order 13132, Federalism

We have reviewed this rule under the threshold criteria of Executive order 13132 of August 4, 1999, Federalism, published in the **Federal Register** on August 10, 1999 (64 FR 43255). Executive Order 13132 establishes special procedures for final regulations that have federalism implications. We have determined that this rule does not significantly affect the rights, roles, and responsibilities of States.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C., Chapter 35)

Information collection in compliance with this CFR, specifically section 220.9 '' Rights and obligations of beneficiaries'', is currently obtained on the DD form 2569, covered under OMB clearance 0704–032.

List of Subjects in 32 CFR Part 220

Claims, Health care, Health insurance.

For the reasons stated in the preamble, 32 CFR part 220 is amended as follows:

PART 220—COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTH CARE SERVICES

1. The authority citation for 32 CFR part 220 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 1095.

2. Section 220.2 is amended by revising paragraphs (a) and (d) and by adding a new paragraph (e) to read as follows:

§ 220.2 Statutory obligation of third party payer to pay.

(a) *Basic rule.* Pursuant to 10 U.S.C. 1095(a)(1), a third party payer has an obligation to pay the United States the reasonable costs of health care services provided in or through any facility of the Uniformed Services to a Uniformed Services beneficiary who is also a beneficiary under the third party payer's plan. The obligation to pay is to the extent that the beneficiary would be eligible to receive reimbursement of indemnification from the third party payer if the beneficiary were to incur the costs on the beneficiary's own behalf.

* * * * *

(d) *Assignment of benefits or other submission by beneficiary not necessary.* The obligation of the third party payer to pay is not dependent upon the beneficiary executing an assignment of benefits to the United States. Nor is the obligation to pay dependent upon any other submission by the beneficiary to the third party payer, including any claim or appeal. In any case in which a facility of the Uniformed Services makes a claim, appeal, representation, or other filing under the authority of this part, any procedural requirement in any third party payer plan for the beneficiary of such plan to make the claim, appeal, representation, or other filing must be deemed to be satisfied. A copy of the completed and signed DoD insurance declaration form will be provided to payers upon request, in lieu of a claimant's statement or coordination of benefits form.

(e) *Preemption of conflicting State laws.* Any provision of a law or regulation of a State or political subdivision thereof that purports to establish any requirement on a third party payer that would have the effect of excluding from coverage or limiting payment, for any health care services for which payment by the third party payer under 10 U.S.C. 1095 or this part is required, is preempted by 10 U.S.C. 1095 and shall have no force or effect in connection with the third party payer's obligations under 10 U.S.C. 1095 or this part.

3. Section 220.3 is amended by adding a new paragraph (c)(5) to read as follows:

§ 220.3 Exclusions impermissible.

* * * * *

(c) * * *

(5) *Medicare carve-out and Medicare secondary payer provisions.* A provision in a third party payer plan, other than a Medicare supplemental plan under § 220.10, that seeks to make Medicare the primary payer and the plan the secondary payer or that would operate to carve out of the plan's coverage an amount equivalent to the Medicare payment that would be made if the services were provided by a provider to whom payment would be made under Part A or Part B of Medicare is not a permissible ground for refusing or reducing payment as the primary payer to the facility of the Uniformed Services by the third party payer unless the provision:

(i) Expressly disallows payment as the primary payer to all providers to whom payment would not be made under Medicare (including payment under Part A, Part B, a Medicare HMO, or a Medicare+Choice plan); and

(ii) Is otherwise in accordance with applicable law.

4. Section 220.4 is amended by revising paragraphs (b)(2), (c)(2), and (c)(3) and by adding a new paragraph (d) to read as follows:

§ 220.4 Reasonable terms and conditions of health plan permissible.

* * * * *

(b) * * *

(2) Except as provided by 10 U.S.C. 1095, this part, or other applicable law, third party payers are not required to treat claims arising from services provided in or through facilities of the Uniformed Services more favorably than they treat claims arising from services provided in other facilities or by other health care providers.

(c) * * *

(2) *Generally applicable utilization review provisions.* (i) Reasonable and generally applicable provisions of a third party payer's plan requiring pre-admission screening, second surgical opinions, retrospective review or other similar utilization management activities may be permissible grounds to refuse or reduce third party payment if such refusal or reduction is required by the third party payer's plan.

(ii) Such provisions are not permissible if they are applied in a manner that would result in claims arising from services provided by or through facilities of the Uniformed Services being treated less favorably than claims arising from services provided by other hospitals or providers.

(iii) Such provisions are not permissible if they would not affect a third party payer's obligation under this part. For example, concurrent review of an inpatient hospitalization would generally not affect the third party payer's obligation because of the DRG-based, per-admission basis for calculating reasonable costs under § 220.8(a) (except in long stay outlier cases, noted in § 220.8(a)(4)).

(3) *Restrictions in HMO plans.* Generally applicable exclusions in Health Maintenance Organization (HMO) plans of non-emergency or non-urgent services provided outside the HMO (or similar exclusions) are permissible. However, HMOs may not exclude claims or refuse to certify emergent and urgent services provided within the HMO's service area or otherwise covered non-emergency services provided out of the HMO's service area. In addition, opt-out or point-of-service options available under an HMO plan may not exclude services otherwise payable under 10 U.S.C. 1095 or this part.

(d) *Procedures for establishing reasonable terms and conditions.* In order to establish that a term or condition of a third party payer's plan is permissible, the third party payer must provide appropriate documentation to the facility of the Uniformed Services. This includes, when applicable, copies of explanation of benefits (EOBs), remittance advice, or payment to provider forms. It also includes copies of policies, employee certificates, booklets, or handbooks, or other documentation detailing the plan's health care benefits, exclusions, limitations, deductibles, co-insurance, and other pertinent policy or plan coverage and benefit information.

5. Section 220.7 is amended by revising the section heading and paragraph (c) and by adding a new paragraph (d) to read as follows:

§ 220.7 Remedies and procedures.

* * * * *

(c) The authorities provided by 31 U.S.C. 3701, *et seq.*, 28 CFR part 11, and 4 CFR parts 101–104 regarding collection of indebtedness due the United States shall be available to effect collections pursuant to 10 U.S.C. 1095 and this part.

(d) A third party payer may not, without the consent of a U.S. Government official authorized to take action under 10 U.S.C. 1095 and this part, offset or reduce any payment due under 10 U.S.C. 1095 or this part on the grounds that the payer considers itself due a refund from a facility of the Uniformed Services. A request for refund must be submitted and adjudicated separately from any other claims submitted to the third party payer under 10 U.S.C. 1095 or this part.

6. Section 220.8 is amended by revising paragraphs (a)(2), (a)(6), (e)(1), (f), and (h); by redesignating paragraph

(j) as paragraph (j)(1); and by adding a new paragraph (j)(2), to read as follows:

§ 220.8 Reasonable costs.

* * * * *

(a) * * *

(2) *Standardized amount.* The standardized amount shall be determined by dividing the total costs of all inpatient care in all military treatment facilities by the total number of discharges. This will produce a single national standardized amount. The Department of Defense is authorized, but not required by this part, to calculate three standardized amounts, one for large urban, other urban/rural, and overseas areas, utilizing the same distinctions in identifying the first two areas as is used for CHAMPUS under 32 CFR 199.14(a)(1). Using this applicable standardized amount, the Department of Defense may make adjustments for area wage rates and indirect medical education costs (as identified in paragraph (a)(4) of this section), producing for each inpatient facility of the Uniformed Services a facility-specific ''adjusted standardized amount'' (ASA).

* * * * *

(6) *Outpatient billings.* Outpatient billings (including those for ambulatory procedure visits) may, but are not required by this part, to be subdivided into two categories:

(i) Professional charges (which refers to professional services provided by physicians and certain other providers); and

(ii) Outpatient services (which refers to overhead and ancillary, diagnostic and treatment services, other than professional services provided in connection with the outpatient visit).

* * * * *

(e) *Per visit rates.* (1) As authorized by 10 U.S.C. 1095(f)(2), the computation of reasonable costs for purposes of collections for most outpatient services shall be based on a per visit rate for a clinical specialty or subspecialty. The per visit charge shall be equal to the outpatient full reimbursement rate for that clinical specialty or subspecialty and includes all routine ancillary services. A separate charge will be calculated for cases that are considered ambulatory procedure visits. These rates shall be updated and published annually. As with inpatient billing categories, clinical groups representing selected board certified specialties/subspecialties widely accepted by graduate medical accrediting organizations such as the Accreditation Council for Graduate Medical Education (ACGME) or the American Board of Medical Specialties will be used for ambulatory billing categories. Related clinical groups may be combined for purposes of billing categories.

* * * * *

(f) *Ambulatory procedure visit rates.* A separate charge will be calculated for ambulatory procedure visits (APVs). APVs are same day surgery visits and other outpatient visits provided by designated, special treatment units in facilities of the Uniformed Services. APV rates shall be based on the total cost of immediate (day of procedure) pre-procedure; procedure; and immediate post-procedure care performed in the ambulatory procedure unit setting for care requiring less than 24 hours in the facility. An APV is not inpatient care. The Department of Defense is authorized, but not required by this part, to establish multiple ambulatory procedure visit reimbursement categories based on the clinic or subspecialty performing the ambulatory procedure. The average cost of APVs will be published annually.

* * * * *

(h) *Special rule for ancillary services ordered by outside providers and provided by a facility of the Uniformed Services.* If a Uniformed Services facility provides certain ancillary services, prescription drugs or other procedures requested by a source other than a Uniformed Services facility and are not incident to any outpatient visit or inpatient services, the reasonable cost will not be based on the usual Diagnostic Related Group (DRG) or per visit rate. Rather, a separate standard rate shall be established based on the cost of the particular services, drugs, or procedures provided. Effective April 1, 2000, this special rule applies to all services, drugs or procedures ordered by an outside provider and provided by a facility of the Uniformed Services. For such ancillary services provided prior to April 1, 2000, this special rule applies only to services, drugs or procedures having a cost of at least $25. The reasonable cost for the services, drugs or procedures to which this special rule applies shall be calculated and made available to the public annually.

* * * * *

(j) * * *

(2) The special rule set forth in paragraph (j)(1) of this section expires September 30, 1997. Effective October 1, 1997, collections for health care services provided by these facilities are no longer covered by this part, but are covered by 32 CFR 199.8 (CHAMPUS Double Coverage).

7. Section 220.9 is amended by revising paragraph (c) to read as follows:

§ 220.9. Rights and obligations of beneficiaries.

* * * * *

(c) *Obligation to disclose information and cooperate with collection efforts.* (1) Uniformed Services beneficiaries are required to provide correct information to the facility of the Uniformed Services regarding whether the beneficiary is covered by a third party payer's plan. Such beneficiaries are also required to provide correct information regarding whether particular health care services might be covered by a third party payer's plan, including services arising from an accident or workplace injury or illness. In the event a third party payer's plan might be applicable, a beneficiary has an obligation to provide such information as may be necessary to carry out 10 U.S.C. 1095 and this part, including identification of policy numbers, claim numbers, involved parties and their representatives, and other relevant information.

(2) Uniformed Services beneficiaries are required to take other reasonable steps to cooperate with the efforts of the facility of the Uniformed Services to make collections under 10 U.S.C. 1095 and this part, such as submitting to the third party payer (or other entity involved in adjudicating a claim) any requests or documentation that might be required by the third party payer (or other entity), if consistent with this part, to facilitate payment under this part.

(3) Intentionally providing false information or willfully failing to satisfy a beneficiary's obligations are grounds for disqualification for health care services from facilities of the Uniformed Services.

8. Section 220.12 in redesignated as § 220.14 and new §§ 220.12 and 220.13 are added to read as follows:

§ 220.12 Special rules for preferred provider organizations.

(a) *Statutory requirement.* (1) Pursuant to the general duty of third party payers to pay under 10 U.S.C. 1095(a)(1) and the definitions of 10 U.S.C. 1095(h), a plan with a preferred provider organization (PPO) provision or option generally has an obligation to pay the United States the reasonable costs of health care services provided through any facility of the Uniformed Services to a Uniformed Services beneficiary who is also a beneficiary under the plan.

(2) This section provides specific rules for applying 10 U.S.C. 1095 and this part in the context of plans with a PPO provision or option.

(b) *PPO plan exclusions and limitations impermissible.* Under 10 U.S.C. 1095(b), no provision of any plan

with a PPO provision or option having the effect of excluding from coverage or limiting payment for certain care if that care is provided through a facility of the Uniformed Services shall operate to prevent collection under this part.

(c) *PPO agreement not required.* The lack of a PPO agreement or the absence of privity of contract between a plan with a preferred provider organization provision or option and a facility of the Uniformed Services is not a permissible ground for refusing or reducing payment by the plan. The lack of a contractual relationship between the plan and the facility of the Uniformed Services may not be a basis for the plan to treat a facility of the Uniformed Services as a non-PPO provider for purposes of the plan's PPO payment amount, if the facility of the Uniformed Services accommodates the plan's fundamental price and utilization management standards for its PPO provision or option, as provided in this section.

(d) *Accommodation of PPO's fundamental price and utilization review standards.* A plan's duty to pay under this section is premised on the accommodation by the facility of the Uniformed Services of the plan's fundamental price and utilization review standards for its PPO provision or option, as provided in this paragraph.

(1) A facility of the Uniformed Services accommodates a plan's fundamental PPO price standards by accepting, in lieu of the rates established under § 220.8, the plan's demonstrated PPO prevailing rates of payment paid to preferred providers in the same geographic area for the same or similar aggregate groups of services, if such rates are, in the aggregate, less than the rates established under § 220.8. The determination of the plan's PPO prevailing rates shall be based on a review of all rates, including the professional and technical components, contained in all valid contractual arrangements with facilities and providers in the PPO network for the year in which the services were rendered. The rates for any specific ancillary procedure must include both professional and technical components.

(2) A facility of the Uniformed Services accommodates a plan's fundamental PPO utilization review standards by complying with the reasonable pretreatment, concurrent, or retrospective review procedures that are required of all preferred providers under the plan and by accepting denials or reductions of requested payment that are consistent with prevailing standards in the geographic area for medical necessity and proper level of care for the services involved.

(e) *Examples of impermissible PPO requirements.* PPO requirements unnecessary for the achievement of the PPO's fundamental price and utilization review standards and would have the effect of excluding or limiting payment to a facility of the Uniformed Services are impermissible. Examples of such impermissible PPO requirements follow:

(1) A requirement that a PPO provider accept all beneficiaries of the PPO's plan. A facility of the Uniformed Services may provide health care services only to persons with eligibility established pursuant to 10 U.S.C. Chapter 55.

(2) A requirement that a PPO provider meet particular credentialing, licensing, certification, or other provider selection requirements intended to promote good quality of care. Facilities of the Uniformed Services comply with federal quality standards and a comprehensive system of provider credentialing and quality assurance.

(3) A requirement that PPO providers restrict patient referrals to particular providers in the PPO network or order ancillary services only from particular providers. Facilities of the Uniformed Services carry out patient referrals and the ordering of ancillary services in accordance with applicable Department of Defense rules and procedures.

(4) Any other PPO requirement that would purport to require a facility of the Uniformed Services, in order to effectuate the legislative purpose of 10 U.S.C. 1095, to act in a manner inconsistent with the basic nature of facilities of the Uniformed Services.

(f) *Sunset of section.* The special rules established by this § 220.12 shall no longer be in effect as of October 1. 2004.

§ 220.13 Special rules for workers' compensation programs.

(a) *Basic rule.* Pursuant to the general duty of third party payers under 10 U.S.C. 1095(a)(1) and the definitions of 10 U.S.C. 1095(h), a workers' compensation program or plan generally has an obligation to pay the United States the reasonable costs of health care services provided in or through any facility of the Uniformed Services to a Uniformed Services beneficiary who is also a beneficiary under a workers' compensation program due to an employment related injury, illness, or disease. Except to the extent modified or supplemented by this section, all provisions of this part are applicable to any workers' compensation program or plan in the same manner as they are applicable to any other third party payer.

(b) *Special rules for lump-sum settlements.* In cases in which a lump-sum workers' compensation settlement is made, the special rules established in this paragraph (b) shall apply for purposes of compliance with this section.

(1) *Lump-sum commutation of future benefits.* If a lump-sum worker's compensation award stipulates that the amount paid is intended to compensate the individual for all future medical expenses required because of the work-related injury, illness, or disease, the Uniformed Service health care facility is entitled to reimbursement for injury, illness, or disease related, future health care services or items rendered or provided to the individual up to the amount of the lump-sum payment.

(2) *Lump-sum compromise settlement.* (i) A lump sum compromise settlement, unless otherwise stipulated by an official authorized to take action under 10 U.S.C. 1095 and this part, is deemed to be a workers' compensation payment for the purpose of reimbursement to the facility of the Uniformed Services for services and items provided, even if the settlement agreement stipulates that there is no liability under the workers' compensation law, program, or plan.

(ii) If a settlement appears to represent an attempt to shift to the facility of the Uniformed Services the responsibility of providing uncompensated services or items for the treatment of the work-related condition, the settlement will not be recognized and reimbursement to the uniformed health care facility will be required. For example, if the parties to a settlement attempt to maximize the amount of disability benefits paid under workers' compensation by releasing the employer or workers' compensation carrier from liability for medical expenses for a particular condition even though the facts show that the condition is work-related, the facility of the Uniformed Services must be reimbursed.

(iii) Except as specified in paragraph (b)(2)(iv) of this section, if a lump-sum compromise settlement forecloses the possibility of future payment or workers' compensation benefits, medical expenses incurred by a facility of the Uniformed Services after the date of the settlement are not reimbursable under this section.

(iv) As an exception to the rule of paragraph (b)(2)(iii) of this section, if the settlement agreement allocates certain amounts for specific future medical services, the facility of the Uniformed Services is entitled to reimbursement for those specific services and items provided resulting from the work-related injury, illness, or disease up to the amount of the lump-sum settlement allocated to future expenses.

(3) *Apportionment of a lump-sum compromise settlement of a workers' compensation claim.* If a compromise settlement allocates a portion of the payment for medical expenses and also gives reasonable recognition to the income replacement element, that apportionment may be accepted as a basis for determining the payment obligation of a workers' compensation program or plan under this section to a facility of the Uniformed Services. If the settlement does not give reasonable recognition to both elements of a workers' compensation award or does not apportion the sum granted, the portion to be considered as payment for medical expenses is computed as follows: determine the ratio of the amount awarded (less the reasonable and necessary costs incurred in procuring the settlement) to the total amount that would have been payable under workers' compensation if the claim had not been compromised; multiply that ratio by the total medical expenses incurred as a result of the injury or disease up to the date of settlement. The product is the amount of workers' compensation settlement to be considered as payment or reimbursement for medical expenses.

9. Newly redesignated § 220.14 is amended by removing paragraph designations (a) through (l), by revising the definitions of ''insurance, medical service or health plan,'' ''Medicare supplemental insurance plan,'' ''third party payer,'' and ''third party payer plan,'' and by adding in alphabetical order new definitions of ''ambulatory procedure visit,'' ''Assistant Secretary of Defense (Health Affairs),'' ''covered beneficiaries,'' ''preferred provider organization,'' and ''workers' compensation program or plan,'' to read as follows:

§ 220.14 Definitions.

Ambulatory procedure visit. An ambulatory procedure visit is a type of outpatient visit in which immediate (day of procedure) pre-procedure and immediate post-procedure care require an unusual degree of intensity and are provided in an ambulatory procedure unit (APU) of the facility of the Uniformed Services. Care is required in the facility for less than 24 hours. An APU is specially designated and is accounted for separately from any outpatient clinic.

Assistant Secretary of Defense (Health Affairs). This term includes any authorized designee of the Assistant Secretary of Defense (Health Affairs).

* * * * * * * * * *

Covered beneficiaries. Covered beneficiaries are all health care beneficiaries under chapter 55 of title 10, United States Code, except members of the Uniformed Services on active duty.

* * * * ** * * * *

Insurance, medical service or health plan. Any plan (including any plan, policy, program, contract, or liability arrangement) that provides compensation, coverage, or indemnification for expenses incurred by a beneficiary for health or medical services, items, products, and supplies. It includes but is not limited to:

(1) Any plan offered by an insurer, re-insurer, employer, corporation, organization, trust, organized health care group or other entity.

(2) Any plan for which the beneficiary pays a premium to an issuing agent as well as any plan to which the beneficiary is entitled as a result of employment or membership in or association with an organization or group.

(3) Any Employee Retirement Income and Security Act (ERISA) plan.

(4) Any Multiple Employer Trust (MET).

(5) Any Multiple Employer Welfare Arrangement (MEWA).

(6) Any Health Maintenance Organization (HMO) plan, including any such plan with a point-of-service provision or option.

(7) Any individual practice association (IPA) plan.

(8) Any exclusive provider organization (EPO) plan.

(9) Any physician hospital organization (PHO) plan.

(10) Any integrated delivery system (IDS) plan.

(11) Any management service organization (MSO) plan.

(12) Any group or individual medical services account.

(13) Any preferred provider organization (PPO) plan or any PPO provision or option of any third party payer plan.

(14) Any Medicare supplemental insurance plan.

(15) Any automobile liability insurance plan.

(16) Any no fault insurance plan, including any personal injury protection plan or medical payments benefit plan for personal injuries arising from the operation of a motor vehicle.

* * * * *

Medicare supplemental insurance plan. A Medicare supplemental insurance plan is an insurance, medical service or health plan primarily for the purpose of supplementing an eligible person's benefit under Medicare. The term has the same meaning as ''Medicare supplemental policy'' in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss) and 42 CFR part 403, subpart B.

* * * * *

Preferred provider organization. A preferred provider organization (PPO) is any arrangement in a third party payer plan under which coverage is limited to services provided by a select group of providers who are members of the PPO or incentives (for example, reduced copayments) are provided for beneficiaries under the plan to receive health care services from the members of the PPO rather than from other providers who, although authorized to be paid, are not included in the PPO. However, a PPO does not include any organization that is recognized as a health maintenance organization.

Third party payer. A third party payer is an entity that provides an insurance, medical service, or health plan by contract or agreement. It includes but is not limited to:

(1) State and local governments that provide such plans other than Medicaid.

(2) Insurance underwriters or carriers.

(3) Private employers or employer groups offering self-insured or partially self-insured medical service or health plans.

(4) Automobile liability insurance underwriter or carrier.

(5) No fault insurance underwriter or carrier.

(6) Workers' compensation program or plan sponsor, underwriter, carrier, or self-insurer.

Third party payer plan. A third party payer plan is any plan or program provided by a third party payer, but not including an income or wage supplemental plan.

* * * * *

Workers' compensation program or plan. A workers' compensation program or plan is any program or plan that provides compensation for loss, to employees or their dependents, resulting from the injury, disablement, or death of an employee due to an employment related accident, casualty or disease. The common characteristic of such a plan or program is the provision of compensation regardless of fault, in accordance with a delineated schedule based upon loss or impairment of the worker's wage earning capacity, as well as indemnification or compensation for medical expenses relating to the employment related injury or disease. A workers' compensation program or plan includes any such program or plan:

(1) Operated by or under the authority of any law of any State (or the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands).

(2) Operated through an insurance arrangement or on a self-insured basis by an employer.

(3) Operated under the authority of the Federal Employees Compensation Act or the Longshoremen's and Harbor Workers' Compensation Act.

Dated: February 8, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–3352 Filed 2–15–00; 8:45 am]

BILLING CODE 5001–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

Department of Defense Privacy Program

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is updating policies and responsibilities for the Defense Privacy Program which implements the Privacy Act of 1974, by adding rules of conduct and the composition and responsibilities of the Defense Privacy Board, the Defense Privacy Board Legal Committee, and the DoD Data Integrity Board to DoD Directive 5400.11, DoD Privacy Program for the effective administration of the program.

DATES: This regulation is effective December 13, 1999. Comments must be received by April 17, 2000.

ADDRESSES: Forward comments to the Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Moushegian, Jr., at (703) 607–2943 or DSN 327–2943.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

It has been determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act

It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act

It has been determined that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

List of Subjects in 32 CFR Part 310

Privacy.

Accordingly, 32 CFR part 310, is amended as follows:

1. The authority citation for 32 CFR part 310 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a)

2. 32 CFR part 310, subpart A, is revised to read as follows:

Subpart A—DoD Policy

Sec.

310.1 Reissuance
310.2 Purpose.
310.3 Applicability and scope.
310.4 Definitions.
310.5 Policy.
310.6 Responsibilities.
310.7 Information requirements.
310.8 Rules of conduct.
310.9 Privacy boards and office composition and responsibilities.

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a)

Subpart A—DoD Policy

§ 310.1 Reissuance.

This part is reissued to consolidate into a single document (32 CFR part 310) Department of Defense (DoD) policies and procedures for implementing the Privacy Act of 1974, as amended (5 U.S.C. 522a) by authorizing the development, publication and maintenance of the DoD Privacy Program set forth by DoD Directive 5400.11 [1], December 13, 1999, and 5400.11–R [2], August 31, 1983, both entitled: ''DoD Privacy Program.''

§ 310.2 Purpose.

This part:

(a) Updates policies and responsibilities of the DoD Privacy Program under 5 U.S.C. 552a, and under OMB Circular A–130.[3]

(b) Authorizes the Defense Privacy Board, the Defense Privacy Board Legal Committee and the Defense Data Integrity Board.

(c) Continues to authorize the publication of DoD 5400.11–R.

(d) Continues to delegate authorities and responsibilities for the effective administration of the DoD Privacy Program.

§ 310.3 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense (IG, DoD), the Uniformed Services University of the Health Sciences, the Defense agencies, and the DoD Field Activities (hereafter referred to collectively as ''the DoD Components''). This part is mandatory for use by all DoD Components. Heads of DoD Components may issue supplementary instructions only when necessary to provide for unique requirements within their Components. Such instructions will not conflict with the provisions of this part.

(b) Shall be made applicable to DoD contractors who are operating a system of records on behalf of a DoD Component, to include any of the activities, such as collecting and disseminating records, associated with maintaining a system of records.

(c) This part does not apply to:

(1) Requests for information from systems of records controlled by the Office of Personnel Management (OPM), although maintained by a DoD Component. These are processed in accordance with OPM's 'Privacy Procedures for Personnel Records' (5 CFR part 297).

(2) Requests for personal information from the General Accounting Office (GAO). These are processed in accordance with DoD Directive 7650.1,[4] ''General Accounting Office Access to Records,'' September 11, 1997.

(3) Requests for personal information from Congress. These are processed in

[1] Copies may be obtained: http://web7.whs.osd.mil/corres.htm.

[2] See footnote 1 to § 310.1.

[3] Copies may be obtained: EOP Publications, NEOB, 725 17th Street, NW Washington, DC 20503.

[4] See footnote 1 to § 310.1.

accordance with DoD Directive 5400.4,[5] ''Provisions of Information to Congress,'' January 30, 1978, except for those specific provisions in Subpart E—Disclosure of Personal Information to Other Agencies and Third Parties.

(4) Requests for information made under the Freedom of Information Act (5 U.S.C. 552). These are processed in accordance with ''DoD Freedom of Information Act Program Regulation'' (32 CFR part 286).

§ 310.4 Definitions.

Access. The review of a record or a copy of a record or parts thereof in a system of records by any individual.

Agency. For the purposes of disclosing records subject to the Privacy Act among DoD Components, the Department of Defense is considered a single agency. For all other purposes to include applications for access and amendment, denial of access or amendment, appeals from denials, and record keeping as regards release to non-DoD agencies; each DoD Component is considered an agency within the meaning of the Privacy Act.

Confidential source. A person or organization who has furnished information to the federal government under an express promise that the person's or the organization's identity will be held in confidence or under an implied promise of such confidentiality if this implied promise was made before September 27, 1975.

Disclosure. The transfer of any personal information from a system of records by any means of communication (such as oral, written, electronic, mechanical, or actual review) to any person, private entity, or government agency, other than the subject of the record, the subject's designated agent or the subject's legal guardian.

Individual. A living person who is a citizen of the United States or an alien lawfully admitted for permanent residence. The parent of a minor or the legal guardian of any individual also may act on behalf of an individual. Corporations, partnerships, sole proprietorships, professional groups, businesses, whether incorporated or unincorporated, and other commercial entities are not ''individuals.''

Law enforcement activity. Any activity engaged in the enforcement of criminal laws, including efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities.

Maintain. Includes maintain, collect, use or disseminate.

Official use. Within the context of this part, this term is used when officials and employees of a DoD Component have a demonstrated need for the use of any record or the information contained therein in the performance of their official duties, subject to DoD 5200.1–R[6] ''DoD Information Security Program Regulation.''

Personal information. Information about an individual that identifies, relates or is unique to, or describes him or her; *e.g.,* a social security number, age, military rank, civilian grade, marital status, race, salary, home/office phone numbers, etc.

Privacy Act request. A request from an individual for notification as to the existence of, access to, or amendment of records pertaining to that individual. These records must be maintained in a system of records.

Member of the public. Any individual or party acting in a private capacity to include federal employees or military personnel.

Record. Any item, collection, or grouping of information, whatever the storage media (*e.g.,* paper, electronic, etc.), about an individual that is maintained by a DoD Component, including but not limited to, his or her education, financial transactions, medical history, criminal or employment history and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

Risk assessment. An analysis considering information sensitivity, vulnerabilities, and the cost to a computer facility or word processing activity in safeguarding personal information processed or stored in the facility or activity.

Routine use. The disclosure of a record outside the Department of Defense for a use that is compatible with the purpose for which the information was collected and maintained by the Department of Defense. The routine use must be included in the published system notice for the system of records involved.

Statistical record. A record maintained only for statistical research or reporting purposes and not used in whole or in part in making determinations about specific individuals.

System manager. The DoD Component official who is responsible for the operation and management of a system of records.

System of records. A group of records under the control of a DoD Component from which personal information is retrieved by the individual's name or by some identifying number, symbol, or other identifying particular assigned to an individual.

Word processing system. A combination of equipment employing automated technology, systematic procedures, and trained personnel for the primary purpose of manipulating human thoughts and verbal or written or graphic presentations intended to communicate verbally or visually with another individual.

Word processing equipment. Any combination of electronic hardware and computer software integrated in a variety of forms (firmware, programable software, handwiring, or similar equipment) that permits the processing of textual data. Generally, the equipment contains a device to receive information, a computer-like processor with various capabilities to manipulate the information, a storage medium, and an output device.

§ 310.5 Policy.

It is DoD policy that:

(a) The personal privacy of an individual shall be respected and protected.

(b) Personal information shall be collected, maintained, used or disclosed to ensure that:

(1) It shall be relevant and necessary to accomplish a lawful DoD purpose required to be accomplished by statute or Executive Order.

(2) It shall be collected to the greatest extent practicable directly from the individual.

(3) The individual shall be informed as to why the information is being collected, the authority for collection, what uses will be made of it, whether disclosure is mandatory or voluntary, and the consequences of not providing that information.

(4) It shall be relevant, timely, complete and accurate for its intended use; and

(5) Appropriate administrative, technical, and physical safeguards shall be established, based on the media (*e.g.,* paper, electronic, etc.) involved, to ensure the security of the records and to prevent compromise or misuse during storage or transfer.

(c) No record shall be maintained on how an individual exercises rights guaranteed by the First Amendment to the Constitution, except as follows:

(1) Specifically authorized by statute.

(2) Expressly authorized by the individual on whom the record is maintained; or

[5] See footnote 1 to § 310.1.

[6] See footnote 1 to § 310.1.

(3) When the record is pertinent to and within the scope of an authorized law enforcement activity.

(d) Notices shall be published in the **Federal Register** and reports shall be submitted to Congress and the Office of Management and Budget, in accordance with, and as required by, 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, as to the existence and character of any system of records being established or revised by the DoD Components. Information shall not be collected, maintained, used, or disseminated until the required publication/review requirements, as set forth in 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, are satisfied.

(e) Individuals shall be permitted, to the extent authorized by 5 U.S.C. 552a and DoD 5400.11–R, to:

(1) Determine what records pertaining to them are contained in a system of records.

(2) Gain access to such records and to obtain a copy of those records or a part thereof.

(3) Correct or amend such records on a showing that the records are not accurate, relevant, timely or complete.

(4) Appeal a denial of access or a request for amendment.

(f) Disclosure of records pertaining to an individual from a system of records shall be prohibited except with the consent of the individual or as otherwise authorized by 5 U.S.C. 552a, DoD 5400.11–R, and DoD 5400.7–R.[7] When disclosures are made, the individual shall be permitted, to the extent authorized by 5 U.S.C. and DoD 5400.11–R, to seek an accounting of such disclosures from the DoD Component making the release.

(g) Disclosure of records pertaining to personnel of the National Security Agency, the Defense Intelligence Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency shall be prohibited to the extent authorized by Pub. L. 86–36 (1959) and 10 U.S.C. 424.

(h) Computer matching programs between the DoD Components and the Federal, State, or local governmental agencies shall be conducted in accordance with the requirements of 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(i) DoD personnel and system managers shall conduct themselves, consistent with § 310.8 so that personal information to be stored in a system of records only shall be collected, maintained, used, and disseminated as is authorized by this part, 5 U.S.C. 552a, and DoD 5400.11–R.

[7] See footnote 1 to § 310.1.

§ 310.6 Responsibilities.

(a) The Director of Administration and Management, Office of the Secretary of Defense, shall:

(1) Serve as the Senior Privacy Official for the Department of Defense.

(2) Provide policy guidance for, and coordinate and oversee administration of, the DoD Privacy Program to ensure compliance with policies and procedures in 5 U.S.C. 552a and OMB A–130.

(3) Publish DoD 5400.11–R and other guidance, to include Defense Privacy Board Advisory Opinions, to ensure timely and uniform implementation of the DoD Privacy Program.

(4) Serve as the Chair to the Defense Privacy Board and the Defense Data Integrity Board (§ 310.7).

(b) The Director of Washington Headquarters Services shall supervise and oversee the activities of the Defense Privacy Office (§ 310.7).

(c) The General Counsel of the Department of Defense shall:

(1) Provide advice and assistance on all legal matters arising out of, or incident to, the administration of the DoD Privacy Program.

(2) Review and be the final approval authority on all advisory opinions issued by the Defense Privacy Board or the Defense Privacy Board Legal Committee.

(3) Serve as a member of the Defense Privacy Board, the Defense Data Integrity Board, and the Defense Privacy Board Legal Committee (§ 310.7).

(d) The Secretaries of the Military Departments and the Heads of the Other DoD Components shall:

(1) Provide adequate funding and personnel to establish and support an effective DoD Privacy Program, to include the appointment of a senior official to serve as the principal point of contact (POC) for DoD Privacy Program matters.

(2) Establish procedures, as well as rules of conduct, necessary to implement this part and DoD 5400.11–R so as to ensure compliance with the requirements of 5 U.S.C. 552a and OMB Circular A–130.

(3) Conduct training, consistent with the requirements of DoD 5400.11–R, on the provisions of this part, 5 U.S.C. 552a, and OMB Circular A–130, and DoD 5400.11–R, for assigned and employed personnel and for those individuals having primary responsibility for implementing the DoD Privacy Program.

(4) Ensure that the DoD Privacy Program periodically shall be reviewed by the Inspectors General or other officials, who shall have specialized knowledge of the DoD Privacy Program.

(5) Submit reports, consistent with the requirements of DoD 5400.11–R, as mandated by 5 U.S.C. 552a and Chapter 8, OMB Circular A–130, and 32 CFR part 275, and as otherwise directed by the Defense Privacy Office.

(e) The Secretaries of the Military Departments shall provide support to the Combatant Commands, as identified in DoD Directive 5100.3,[8] in the administration of the DoD Privacy Program.

§ 310.7 Information requirements.

The reporting requirements in § 310.6(d)(5) are assigned Report Control Symbol DD–DA&M(A)1379.

§ 310.8 Rules of conduct.

(a) DoD personnel shall:

(1) Take such actions, as considered appropriate, to ensure that personal information contained in a system of records, to which they have access to or are using incident to the conduct of official business, shall be protected so that the security and confidentiality of the information shall be preserved.

(2) Not disclose any personal information contained in any system of records except as authorized by DoD 5400.11–R or other applicable law or regulation. Personnel willfully making such a disclosure when knowing that disclosure is prohibited are subject to possible criminal penalties and/or administrative sanctions.

(3) Report any unauthorized disclosures of personal information from a system of records or the maintenance of any system of records that are not authorized by this part to the applicable Privacy POC for his or her DoD Component.

(b) DoD system managers for each system of records shall:

(1) Ensure that all personnel who either shall have access to the system of records or who shall develop or supervise procedures for handling records in the system of records shall be aware of their responsibilities for protecting personal information being collected and maintained under the DoD Privacy Program.

(2) Prepare promptly any required new, amended, or altered system notices for the system of records and submit them through their DoD Component Privacy POC to the Defense Privacy Office for publication in the **Federal Register**.

(3) Not maintain any official files on individuals that are retrieved by name or other personal identifier without first ensuring that a notice for the system of records shall have been published in the

[8] See footnote 1 to § 310.1.

Federal Register. Any official who willfully maintains a system of records without meeting the publication requirements, as prescribed by 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, is subject to possible criminal penalties and/or administrative sanctions.

§ 310.9 Privacy boards and office composition and responsibilities.

(a) *The Defense Privacy Board.*—(1) *Membership.* The Board shall consist of the Director of Administration and Management, OSD (DA&M), who shall serve as the Chair; the Director of the Defense Privacy Office, Washington Headquarters Services (WHS), who shall serve as the Executive Secretary and as a member; the representatives designated by the Secretaries of the Military Departments; and the following officials or their designees: the Deputy Under Secretary of Defense for Program Integration (DUSD(PI)); the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C31)); the Director, Freedom of Information and Security Review, WHS; the General Counsel of the Department of Defense (GC, DoD); and the Director for Information Operations and Reports, WHS (DIO&R). The designees also may be the principal POC for the DoD Component for privacy matters.

(2) *Responsibilities.* (i) The Board shall have oversight responsibility for implementation of the DoD Privacy Program. It shall ensure that the policies, practices, and procedures of that Program are premised on the requirements of 5 U.S.C. 552a and OMB Circular A–130, as well as other pertinent authority, and that the Privacy Programs of the DoD Component are consistent with, and in furtherance of, the DoD Privacy Program.

(ii) The Board shall serve as the primary DoD policy forum for matters involving the DoD Privacy Program, meeting as necessary, to address issues of common concern so as to ensure that uniform and consistent policy shall be adopted and followed by the DoD Components. The Board shall issue advisory opinions as necessary on the DoD Privacy Program so as to promote uniform and consistent application of 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(iii) Perform such other duties as determined by the Chair or the Board.

(b) *The Defense Data Integrity Board.*—(1) *Membership.* The Board shall consist of the DA&M, OSD, who shall serve as the Chair; the Director of the Defense Privacy Office, WHS, who shall serve as the Executive Secretary; and the following officials or their designees: the representatives designated by the Secretaries of the Military Departments; the DUSD (PI); the ASD(C3I); the GC, DoD; the IG, DoD; the DIOR (WHS); and the Director, Defense Manpower Data Center. The designees also may be the principal POC for the DoD Component for privacy matters.

(2) *Responsibilities.* (i) The Board shall oversee and coordinate, consistent with the requirements of 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, all computer matching programs involving personal records contained in system of records maintained by the DoD Components.

(ii) The Board shall review and approve all computer matching agreements between the Department of Defense and the other Federal, State or local governmental agencies, as well as memoranda of understanding when the match is internal to the Department of Defense, to ensure that, under 5 U.S.C. 552a, and OMB Circular A–130 and DoD 5400.11–R, appropriate procedural and due process requirements shall have been established before engaging in computer matching activities.

(c) *The Defense Privacy Board Legal Committee.*—(1) *Membership.* The Committee shall consist of the Director, Defense Privacy Office, WHS, who shall serve as the Chair and the Executive Secretary; the GC, DoD, or designee; and civilian and/or military counsel from each of the DoD Components. The General Counsels (GCs) and The Judge Advocates General of the Military Departments shall determine who shall provide representation for their respective Department to the Committee. That does not preclude representation from each office. The GCs of the other DoD Components shall provide legal representation to the Committee. Other DoD civilian or military counsel may be appointed by the Executive Secretary, after coordination with the DoD Component concerned, to serve on the Committee on those occasions when specialized knowledge or expertise shall be required.

(2) *Responsibilities.* (i) The Committee shall serve as the primary legal forum for addressing and resolving all legal issues arising out of or incident to the operation of the DoD Privacy Program.

(ii) The Committee shall consider legal questions regarding the applicability of 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R and questions arising out of or as a result of other statutory and regulatory authority, to include the impact of judicial decisions, on the DoD Privacy Program. The Committee shall provide advisory opinions to the Defense Privacy Board and, on request, to the DoD Components.

(c) *The Defense Privacy Office.*—(1) *Membership.* It shall consist of a Director and a staff. The Director also shall serve as the Executive Secretary and a member of the Defense Privacy Board; as the Executive Secretary to the Defense Data Integrity Board; and as the Chair and the Executive Secretary to the Defense Privacy Board Legal Committee.

(2) *Responsibilities.* (i) Manage activities in support of the Privacy Program oversight responsibilities of the DA&M.

(ii) Provide operational and administrative support to the Defense Privacy Board, the Defense Data Integrity Board, and the Defense Privacy Board Legal Committee.

(iii) Direct the day-to-day activities of the DoD Privacy Program.

(iv) Provide guidance and assistance to the DoD Components in their implementation and execution of the DoD Privacy Program.

(v) Review proposed new, altered, and amended systems of records, to include submission of required notices for publication in the **Federal Register** and, when required, providing advance notification to the Office of Management and Budget (OMB) and the Congress, consistent with 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(vi) Review proposed DoD Component privacy rulemaking, to include submission of the rule to the Office of the Federal Register for publication and providing to the OMB and the Congress reports, consistent with 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, and to the Office of the Comptroller General of the United States, consistent with 5 U.S.C. Chapter 8.

(vii) Develop, coordinate, and maintain all DoD computer matching agreements, to include submission of required match notices for publication in the ''**Federal Register**'' and advance notification to the OMB and the Congress of the proposed matches, consistent with 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(viii) Provide advice and support to the DoD Components to ensure that:

(A) All information requirements developed to collect or maintain personal data conform to DoD Privacy Program standards.

(B) Appropriate procedures and safeguards shall be developed, implemented, and maintained to protect personal information when it is stored in either a manual and/or automated system of records or transferred by electronic on non-electronic means; and

(C) Specific procedures and safeguards shall be developed and implemented when personal data is collected and maintained for research purposes.

(ix) Serve as the principal POC for coordination of privacy and related matters with the OMB and other Federal, State, and local governmental agencies.

(x) Compile and submit the ''Biennial 'Privacy Act' Report'' and the ''Biennial Matching Activity Report'' to the OMB as required by OMB Circular A–130 and DoD 5400.11–R

(xi) Update and maintain this part and DoD 5400.11–R.

Dated: February 8, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–3353 Filed 2–15–00; 8:45 am]

BILLING CODE 5001–10–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 59

[AD–FRL–6539–2]

RIN 2060–AE55

National Volatile Organic Compound Emission Standards for Architectural Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On September 11, 1998, EPA published the ''National Volatile Organic Compound Emission Standards for Architectural Coatings'' under the authority of section 183(e) of the Clean Air Act. In this action, we're changing the address to which exceedance fee payments must be mailed and clarifying the entity to whom payments should be made payable. This action won't change the volatile organic compound (VOC) content limits for architectural coatings or the level of emission reduction that the rule requires.

EFFECTIVE DATE: February 16, 2000.

ADDRESSES: Docket No. A–92–18 contains information considered by EPA in developing the promulgated standards and this action. You can inspect the docket and copy materials from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington, DC 20460; telephone (202) 260–7548 or fax (202) 260–4400. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Herring at (919) 541–5358, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711 (herring.linda@epa.gov). Any correspondence related to compliance with this rule must be submitted to the appropriate EPA Regional Office listed in § 59.409(a) of 40 CFR part 59.

SUPPLEMENTARY INFORMATION: Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because these corrections and clarifications are not controversial and do not substantively change the requirements of the architectural coatings rule. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

Regulated Entities. You may be affected by these rule amendments if you fall into one of the categories in the following table.

Category	NAICS code	SIC code	Examples of regulated entities
Industry	32551 325510	2851	Manufacturers (which includes packagers and repackagers) and importers of architectural coatings that are manufactured for sale or distribution in the U.S., including all U.S. territories.
State/local/tribal governments			State Departments of Transportation that manufacture their own coatings.

Architectural coatings are coatings that are recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs.

Use this table only as a guide because this action may also regulate other entities. To determine if it regulates your facility, business, or organization, carefully examine the applicability criteria in § 59.400 of 40 CFR part 59. If you have questions about how it applies, contact Linda Herring (see **FOR FURTHER INFORMATION CONTACT** section of this preamble).

I. Technical Corrections

The EPA published in the **Federal Register** of September 11, 1998 (63 FR 48848), the final rule regulating VOC emissions from architectural coatings. The address in the rule to which exceedance fee payments must be submitted has changed and, therefore, needs to be updated. In addition, the rule did not specify the entity to whom exceedance fee payments should be made payable. Thus, we're correcting and clarifying the rule as follows:

1. We are changing § 59.403(d) to indicate that the address to which exceedance fee payments must be mailed is located in § 59.409(b) of the rule. This change is necessary to implement the exceedance fee receipt and processing procedures that EPA recently established for this rule.

2. We are removing the word ''Regional'' from the title of § 59.409 to reflect that the section includes more than just the addresses of the EPA Regional Offices.

3. We are amending § 59.409 by designating the existing text as paragraph (a) and modifying it so that exceedance fee payments are deleted from the list of items that are sent to the EPA Regional Offices. This change is necessary due to the change in the address for exceedance fee payments.

4. We are amending § 59.409 by adding paragraph (b) that provides the correct address to which exceedance fee payments must be submitted. This change is necessary to specify that exceedance fees should be mailed to: U.S. Environmental Protection Agency, AIM Exceedance Fees, Post Office Box

371293M, Pittsburgh, PA 15251. In addition, paragraph (b) of § 59.409 contains a sentence specifying that the exceedance fee payments should be by check or money order made payable to ''U.S. Environmental Protection Agency'' or ''US EPA.''

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. Because EPA has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see section I.A of this preamble), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This 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 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). The EPA's compliance with these statutes and executive orders for the underlying rule is discussed in the September 11, 1998 (63 FR 48848) **Federal Register** document.

The Congressional Review Act (CRA) (5 U.S.C. 801, *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated in section I.A of this preamble, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of February 16, 2000. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 59

Environmental protection, Air pollution control, Architectural coatings, Consumer and commercial products, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 10, 2000

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, subpart D of part 59 of title 40 of the Code of Federal Regulations is amended as follows:

PART 59—[AMENDED]

1. The authority citation for part 59 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings

2. Amend § 59.403 by revising paragraph (d) to read as follows:

§ 59.403 Exceedance fees.

(d) The exceedance fee shall be submitted to EPA by March 1 following the calendar year in which the coatings are manufactured or imported and shall be sent to the address provided in § 59.409(b).

3. Amend § 59.409 by revising the section heading; designating the existing paragraph as paragraph (a) and revising the first sentence of the paragraph; and adding a new paragraph (b) to read as follows:

§ 59.409 Addresses of EPA Offices.

(a) Except for exceedance fee payments, each manufacturer and importer of any architectural coating subject to the provisions of this subpart shall submit all requests, reports, submittals, and other communications to the Administrator pursuant to this regulation to the Regional Office of the U.S. Environmental Protection Agency that serves the State or Territory in which the corporate headquarters of the manufacturer or importer resides. * * *

(b) Each manufacturer and importer who uses the exceedance fee provisions of § 59.403 shall submit the exceedance fee payment required by § 59.408(d) to the following address: Environmental Protection Agency, AIM Exceedance Fees, Post Office Box 371293M, Pittsburgh, PA 15251. This address is for the fee payment only; the exceedance fee report required by § 59.408(d) is to be submitted to the appropriate EPA Regional Office listed in paragraph (a) of this section. The exceedance fee payment in the form of a check or money order must be made payable to ''U.S. Environmental Protection Agency'' or ''US EPA.''

[FR Doc. 00–3828 Filed 2–15–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300969; FRL–6490–5]

RIN 2070–AB78

Imidacloprid; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of imidacloprid and its metabolites containing the 6–chloropyridinyl moiety, all expressed as parent in or on sweet corn grain, sweet corn forage and sweet corn fodder. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on sweet corn seed. This regulation establishes a maximum permissible level for residues of imidacloprid in this food commodity. The tolerance will expire and is revoked on December 31, 2001.

DATES: This regulation is effective February 16, 2000. Objections and requests for hearings, identified by docket control number OPP–300969, must be received by EPA on or before April 17, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300969 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9367; and e-mail address: ertman.andrew@EPA.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS 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 OPP–300969. 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 (CM 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 and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for combined residues of the insecticide imidacloprid and its metabolites containing the 6–chloropyridinyl moiety, all expressed as parent, in or on sweet corn grain at 0.05 ppm, sweet corn forage at 0.1 ppm, and sweet corn fodder at 0.2 ppm. These tolerances will expire and are revoked on December 31, 2001. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of the FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Imidacloprid on Sweet Corn Seed and FFDCA Tolerances

The applicants requested this use of imidacloprid to control flea beetles on sweet corn due to both the direct damage caused by the flea beetles

feeding on the corn (severely damged or killed corn seedlings) and the more important problem of the flea beetles vectoring the bacterium *Erwinia stewartii*, which causes Stewart's bacterial wilt disease in sweet corn. Without the use of imidacloprid, sweet corn growers would experience severe yield and economic losses. EPA has authorized under FIFRA section 18 the use of imidacloprid on sweet corn seed in Minnesota and Idaho. The corn seed will be authorized to planted in States where the corn flea beetle is creating an emergency situation. After having reviewed the submission, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of imidacloprid in or on sweet corn grain, forage, and fodder. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on sweet corn grain, forage, and fodder after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether imidacloprid meets EPA's registration requirements for use on sweet corn seed or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of imidacloprid by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Minnesota and Idaho to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for imidacloprid, contact the Agency's Registration Division at the address provided under ''FOR FURTHER INFORMATION CONTACT.''

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of imidacloprid and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of imidacloprid and its metabolites containing the 6–chloropyridinyl moiety, all expressed as parent on sweet corn grain at 0.05 part per million (ppm), sweet corn forage at 0.1 ppm, and sweet corn fodder at 0.2 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by imidacloprid are discussed in this unit.

B. Toxicological Endpoint

Only acute and chronic dietary endpoints were defined. The 10X FQPA factor was reduced to 3X for acute and chronic exposure, and applies to all population subgroups.

1. *Acute toxicity*. The acute Reference Dose (RfD) is 0.42 milligrams/kilograms/body weight/day (mg/kg bwt/day) based on a lowest observed adverse effect level (LOAEL) of 42 mg/kg bwt/day based on decreased motor activity in female rats. An additional 3X FQPA factor was incorporated for all population subgroups to account for neurotoxicity, structure-activity concerns and lack of a no observed adverse effect level (NOAEL). The acute population adjusted dose (aPAD), which is the RfD/3 was calculated to be 0.14 mg/kg bwt/day. Acceptable acute dietary exposure (food plus water) of 100% or less of the aPAD is required for all population subgroups.

2. *Short- and intermediate-term toxicity.* Dermal and inhalation short- and intermediate-term risk assessments are not required for imidacloprid as dermal and inhalation exposure endpoints were not identified due to the demonstrated absence of toxicity, however, because imidacloprid is registered for use on turf, home gardens and pets, EPA has identified potential short-term oral exposures to children for these uses.

A short-term oral endpoint was not identified for imidacloprid. According to current OPP policy, if an oral endpoint is needed for short-term risk assessment (for incorporation of food, water, or oral hand-to-mouth type exposures into an aggregate risk assessment), the acute oral endpoint (LOAEL = 42 mg/kg bwt/day) will be used to incorporate the oral component into aggregate risk.

3. *Chronic toxicity*. EPA has established the RfD for imidacloprid at 0.057 mg/kg/day. This RfD is based on increased number of thyroid lesions at the LOAEL of 16.9/24.9 mg/kg bwt/day (males & females, respectively). An additional 3X FQPA factor was used for all population subgroups. The chronic population adjusted dose (cPAD), which is the RfD/3 was calculated to be 0.019 mg/kg bwt/day. Acceptable chronic dietary exposure (food plus water) of 100% or less of the cPAD is required for all population subgroups.

4. *Carcinogenicity*. Imidacloprid has been classified by the Agency as a Group E chemical, no evidence of carcinogenicity for humans, thus, a cancer risk assessment is not required.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances, some time-limited, are currently established (40 CFR 180.472) for the combined residues of the insecticide imidacloprid and its metabolites containing the 6–chloropyridinyl moiety, all expressed as parent, in or on a variety of raw agricultural and animal commodities at levels ranging from 0.02 ppm in eggs to 15 ppm in raisins, waste. Risk assessments were conducted by EPA to

assess dietary exposures and risks from imidacloprid as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

In conducting the acute dietary (food) risk assessment, EPA used the Theoretical Maximum Residue Contribution (TMRC) which assumes tolerance level residues and 100% crop-treated (Tier 1). The analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989 through 1992. The model accumulates exposure to the chemical for each commodity and expresses risk as a function of dietary exposure. Resulting exposure values (at the 95th percentile) and percentage of aPAD utilized ranged from 22% for the United States (U.S.) population to 44% for children 1–6 years old.

ii. *Chronic exposure and risk.* In conducting the chronic dietary (food only) risk assessment, EPA used: (1) Tolerance level residues for imidacloprid; and, (2) percent crop-treated (PCT) information for some of these crops. The analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989 through 1992. The percentages of cPAD consumed for the general population and subgroups of interest ranged from 9.2% for nursing infants 1 year old to 48.5% for children 1–6 years old.

Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimated. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which imidacloprid may be applied in a particular area.

2. *From drinking water.* There is no established Maximum Contaminant Level for residues of imidacloprid in drinking water. No health advisory levels for imidacloprid in drinking water have been established.

Imidacloprid is persistent, water soluble, and fairly mobile. Thus, residues of imidacloprid may be transported to both surface and ground waters. As a condition of registration, the Agency is requiring the submission of the results of two prospective ground water monitoring studies. Results from these studies are not yet available.

i. *Acute exposure and risk.* Estimated concentrations of imidacloprid in surface and ground water used for the acute exposure analysis were 4.1 and 1.1 µg/L (ppb), respectively. These estimated concentrations of imidacloprid in surface and ground water were based upon an application rate of 0.5 lbs ai/A/year.

For purposes of risk assessment, the estimated maximum concentration for imidacloprid in surface and ground waters (which is 4.1 µg/L) should be used for comparison to the back-calculated human health drinking water levels of concern (DWLOCs) for the acute endpoint. The DWLOCs ranged from 780 µg/L for children 1–6 years old to 3,900 µg/L for the U.S. population. These figures are well above the drinking water estimate concentration (DWEC) of 4.1 µg/L.

ii. *Chronic exposure and risk.* Estimated concentrations of imidacloprid in surface and ground water for chronic exposure analysis were 0.1 and 1.1 µg/L (ppb), respectively. These estimated concentrations of imidacloprid in surface and ground water were based upon an application rate of 0.5 lbs ai/A/year.

For purposes of chronic risk assessment, the estimated maximum concentration for imidacloprid in ground waters (which is 1.1 µg/L) should be used for comparison to the back-calculated human health DWLOCs for the chronic (non-cancer) endpoint. The DWLOCs ranged from 98 µg/L for children 1–6 years old to 490 µg/L for Non-hispanic males (other than black or white). These figures are well above the DWEC of 1.1 µg/L.

3. *From non-dietary exposure.* Imidacloprid is currently registered for use on the following residential non-food sites: ornamentals (e.g., flowering and foliage plants, ground covers, turf,

lawns, et al.), tobacco, golf courses, walkways, recreational areas, household or domestic dwellings (indoor/outdoor), and cats/dogs.

i. *Acute exposure and risk.* Occupational/residential exposure risk assessments (namely, short-term dermal, intermediate-term dermal, long-term dermal, and inhalation) are not required owing to the demonstrated absence of dermal and inhalation toxicity.

ii. *Chronic exposure and risk.* Occupational/residential exposure risk assessments (namely, short-term dermal, intermediate-term dermal, long-term dermal, and inhalation) are not required owing to the demonstrated absence of dermal and inhalation toxicity.

iii. *Short- and intermediate-term exposure and risk.* Short- and intermediate-term oral exposure are not expected for adult population subgroups. However, since imidacloprid is registered for use on turf, home gardens and pets, EPA has identified potential short-term oral exposures to children for these uses. Thus, a residential short-term risk assessment via the oral route is required. See section III(E)(4) for a full discussion of this exposure and risk.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether imidacloprid has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, imidacloprid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that imidacloprid has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* EPA has determined that the acute exposure to imidacloprid from food will utilize 22% of the aPAD (95th percentile) for the most highly exposed population subgroup (U.S. population - all seasons). Despite the potential for exposure to imidacloprid in drinking water, the Agency does not expect the aggregate exposure to exceed 100% of the aPAD. The DWLOC calculated for the U.S. population was 3900 µg/L, which is well above the DWEC of 4.1 µg/L.

2. *Chronic risk.* In conducting the chronic dietary (food only) risk assessment, EPA used: (1) tolerance level residues for imidacloprid; and, (2) PCT information for some of these crops. The analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989 through 1992. The percentage of cPAD consumed for the U.S. population was 22%. The major identifiable subgroup with the highest aggregate exposure is discussed below. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to imidacloprid in drinking water, the Agency does not expect the aggregate exposure to exceed 100% of the cPAD. The DWLOC calculated for the U.S. population was well above the DWEC of 1.1 µg/L.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

Dermal and inhalation short- and intermediate term risk assessments are not required for imidacloprid as dermal and inhalation exposure endpoints were not identified due to the demonstrated absence of toxicity. Short- and intermediate-term oral exposure are not expected for adult population subgroups. A discussion of short and intermediate term oral exposure and risk for children 1–6 can be found in section III(E)(4).

4. *Aggregate cancer risk for U.S. population.* Imidacloprid has been classified as a Group E chemical, no evidence of carcinogenicity for humans, thus, a cancer risk assessment is not required.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to imidacloprid residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children—* i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of imidacloprid, EPA considered data from developmental toxicity studies in the rat and 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 maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined interspecies and intraspecies variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies.* In a developmental toxicity study with Sprague-Dawley rats, groups of pregnant animals (25/group) received oral administration of imidacloprid (94.2%) at 0, 10, 30, or 100 mg/kg bwt/day during gestation days 6 through 16. Maternal toxicity was manifested as decreased body weight gain at all dose levels and reduced food consumption at 100 mg/kg bwt/day. No treatment-related effects were seen in any of the reproductive parameters (i.e., Cesarean section evaluation). At 100 mg/kg bwt/day, developmental toxicity manifested as wavy ribs (fetus =7/149 in treated vs. 2/158 in controls and litters, 4/25 vs. 1/25). For maternal toxicity, the LOAEL was 10 mg/kg bwt/day lowest dose tested (LDT) based on decreased body weight gain; a NOAEL was not

established. For developmental toxicity, the NOAEL was 30 mg/kg bwt/day and the LOAEL was 100 mg/kg bwt/day based on increased wavy ribs.

In a developmental toxicity study with Chinchilla rabbits, groups of 16 pregnant does were given oral doses of imidacloprid (94.2%) at 0, 8, 24 or 72 mg/kg bwt/day during gestation days 6 through 18. For maternal toxicity, the NOAEL was 24 mg/kg bwt/day and the LOAEL was 72 mg/kg bwt/day based on mortality, decreased body weight gain, increased resorptions, and increased abortions. For developmental toxicity, the NOAEL was 24 mg/kg bwt/day and the LOAEL was 72 mg/kg bwt/day based on decreased fetal body weight, increased resorptions, and increased skeletal abnormalities.

iii. *Reproductive toxicity study*. In a 2–generation reproductive toxicity study, imidacloprid (95.3%) was administered to Wistar/Han rats at dietary levels of 0, 100, 250, or 700 ppm (0, 7.3, 18.3, or 52.0 mg/kg bwt/day for males and 0, 8.0, 20.5, or 57.4 mg/kg bwt/day for females). For parental/systemic/reproductive toxicity, the NOAEL was 250 ppm (18.3 mg/kg bwt/day) and the LOAEL was 750 ppm (52 mg/kg bwt/day), based on decreases in body weight in both sexes in both generations. Based on these factors, the Agency determined that the review be revised to indicate the parental/systemic/reproductive NOAEL and LOAEL to be 250 and 700 ppm, respectively, based upon the body weight decrements observed in both sexes in both generations.

iv. *Prenatal and postnatal sensitivity*. The developmental toxicity data demonstrated no increased sensitivity of rats or rabbits to in utero exposure to imidacloprid. In addition, the multi-generation reproductive toxicity study data did not identify any increased sensitivity of rats to in utero or postnatal exposure. Parental NOAELs were lower or equivalent to developmental or offspring NOAELs.

v. *Conclusion*. There is a need for a developmental neurotoxicity study for assessment of potential alterations of functional development. However, the Agency has determined that this data gap does not preclude the establishment/continuance of tolerances. The 10X safety factor to account for enhanced sensitivity of infants and children (as required by FQPA) was reduced to 3X and the factor applies to all population subgroups.

2. *Acute risk*. Using the conservative TMRC exposure assumptions described above, and taking into account the completeness and reliability of the toxicity data, EPA has estimated the acute exposure to imidacloprid from food for the most highly exposed population subgroup (Children 1–6 years) will utilize 44% of the aPAD. It was determined that an acceptable acute dietary exposure (food plus water) of 100% or less of the aPAD is needed to protect the safety of all population subgroups. Despite the potential for exposure to imidacloprid in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD for children 1–6 years old. The maximum concentration of imidacloprid in surface and ground water for acute exposure is very small (4.1 µg/L) compared to the DWEC of 780 µg/L.

3. *Chronic risk*. Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to imidacloprid from food will utilize 48% of the cPAD for infants and children. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to imidacloprid in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD for children 1–6 years old. The maximum concentration of imidacloprid in surface and ground water for acute exposure is very small (1.1 µg/L) compared to the DWEC of 98 µg/L.

4. *Short- or intermediate-term risk*. As noted earlier in this document, dermal and inhalation short- and intermediate term risk assessments are not required for imidacloprid as dermal and inhalation exposure endpoints were not identified due to the demonstrated absence of toxicity. Short- and intermediate-term oral exposure are not expected for adult population subgroups. However, since imidacloprid is registered for use on turf, home gardens and pets, EPA has identified potential short-term oral exposures to children for these uses.

A short-term oral endpoint was not identified for imidacloprid. According to current OPP policy, if an oral endpoint is needed for short-term risk assessment (for incorporation of food, water, or oral hand-to-mouth type exposures into an aggregate risk assessment), the acute oral endpoint (LOAEL = 42 mg/kg bwt/day) will be used to incorporate the oral component into aggregate risk.

The margin of exposure for chronic dietary exposure (food only) and residential exposure (hand-to-mouth from turf, garden, and pet uses) for children age 1–6 was calculated to be 302. The safe level for imidacloprid is 300.

Potential short-term exposure from drinking water is at a level below the Agency's level of concern with the DWLOC (10 µg/L) being greater than the DWEC of 1.1 µg/L.

The Agency concludes the short-term aggregate risk to the highest exposed population subgroup (children, 1 to 6 years old) from home garden, turf, and pet uses of imidacloprid does not exceed EPA's level of concern.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to imidacloprid residues.

V. Other Considerations

A. Metabolism in Plants and Animals

The nature of imidacloprid residues in plants and in animals is adequately understood. The residue of concern is imidacloprid and its metabolites containing the 6–chloropyridinyl moiety, all expressed as parent, as specified in 40 CFR 180.472.

B. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@EPA.gov.

C. Magnitude of Residues

Crop field trials on field corn seed treatment (with the same use rate as on sweet corn seeds) have been submitted), and residues of imidacloprid are not expected to exceed 0.05 ppm in corn grain, 0.1 ppm in forage, and 0.2 ppm in fodder. The Agency has translated these residue results to sweet corn, and thus, residues of imidacloprid are not expected to exceed 0.05 ppm in sweet corn grain, 0.1 ppm in forage, and 0.2 ppm in fodder with its use on sweet corn seed.

D. International Residue Limits

There are no CODEX, Canadian, or Mexican Maximum Residue Limits (MRL) for imidacloprid on sweet corn. Thus, harmonization is not an issue for these time limited tolerances.

E. Rotational Crop Restrictions

The rotational crop restrictions follow the original section 3 labels.

VI. Conclusion

Therefore, the tolerance is established for the combined residues of imidacloprid and its metabolites containing the 6–chloropyridinyl moiety, all expressed as parent on sweet corn grain at 0.05 ppm, sweet corn forage at 0.1 ppm, and sweet corn fodder at 0.2 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300969 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before April 17, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@EPA.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–300969, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@EPA.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes time limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23,

1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: February 8, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. In § 180.472, by alphabetically adding the following commodities to the table in paragraph (b) to read as follows:

§ 180.472 Imidacloprid; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/ revocation date
* * *	* * *	*
Sweet corn, fodder	0.2	12/31/01
Sweet corn, forage	0.1	12/31/01
Sweet corn, grain	0.05	12/31/01
* * *	* * *	*

* * * * *

[FR Doc. 00–3493 Filed 2–15–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

Tolerances and Exemptions from Tolerances for Pesticide Chemicals in Food

CFR Correction

In Title 40 of the Code of Federal Regulations, parts 150-189, revised as of July 1, 1999, page 434, § 180.438(a) table is corrected by adding ''0.4'' under the heading ''parts per million'' for the entry ''Brassica, head and stem subgroup''.

[FR Doc. 00–55504 Filed 2–15–00; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket Nos. 98–147, 98–11, 98–26, 98–32, 98–78, 98–91, FCC 99–413]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, we determine that US West may not avoid the obligations placed on incumbent LECs under section 251(c) of the Act in connection with the provision of advanced services. We find that when xDSL-based advanced services both originate and terminate ''within a telephone exchange,'' and provide subscribers with the capability of communicating with other subscribers in that same exchange, they are properly classified as ''telephone exchange service.'' We also find that xDSL-based advanced services constitute ''exchange access'' when they provide subscribers with the ability to communicate across exchange boundaries for the purposes of originating or terminating telephone toll services.

DATES: Effective December 23, 1999.

FOR FURTHER INFORMATION CONTACT: Christopher Libertelli, Attorney Advisor, Common Carrier Bureau, Policy and Program Planning Division, 202–418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the *Order on Remand* in CC Docket 98–147, 98–11, 98–26, 98–78, 98–91, FCC 99–413, adopted on December 23, 1999 and released on December 23, 1999. The complete text of the *Order on Remand* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, D.C. and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS Inc.), CY–B400, 445 12th Street, S.W., Washington, D.C.

Synopsis of the Order on Remand

I. Introduction

1. We conclude that advanced services are telecommunications services. The Commission has repeatedly held that specific packet-switched services are ''basic services,'' that is to say, pure transmission services. xDSL and packet switching are simply transmission technologies. We

find that ''information access service'' is not a category separate and distinct from telephone service and exchange access. We also affirm our initial view in the *Advanced Services Memorandum Opinion and Order,* 63 FR 45140, August 24, 1998, that xDSL-based advanced services are either telephone exchange service or exchange access. We clarify that whether xDSL-based advanced services constitute telephone exchange service or exchange access depends on how such technology is used.

2. We first address whether a service that employs xDSL technology may be classified as telephone exchange service within the meaning of the Act. The 1996 Act provides two alternative definitions for the term ''telephone exchange service.'' The first definition, which is codified in section 3(47)(A), provides that telephone exchange service includes ''service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge.'' The second definition, which is codified in section 3(47)(B), provides that the term also includes ''comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.'' In the *Advanced Services Memorandum Opinion and Order,* we noted that section 3(47)(B) was added to ensure that the definition of telephone exchange service was not limited to traditional voice telephony, but included non-traditional ''means of communicating information within a local area.''

3. We conclude that xDSL-based advanced services, when used to permit communications among subscribers within an exchange, or within a connected system of exchanges, constitute telephone exchange services within the meaning of section 3(47)(A) of the Act. Consistent with this, the Commission has expressly made the rules governing basic telephone exchange service equally applicable to LEC provision of data and voice services. The parties have not persuaded us that we should depart from this long-standing practice. Indeed, in this era of converging technologies, limiting the telephone exchange service definition to voice-based communications would undermine a central goal of the 1996 Act—opening local markets to competition to all telecommunications services. We thus conclude, consistent with past practice, that the term ''telephone exchange service'' encompasses voice and data services.

4. We recognize that, in the *GTE ADSL Tariffing Order,* CC Docket 98–79, FCC 98–292, May 29, 1998, the Commission noted that a dedicated connection between an end-user and an Internet service provider's point of presence is similar to private line service. We do not find, however, that such an observation is relevant with respect to determining whether services that employ xDSL technology may constitute telephone exchange service within the meaning of the Act. Rather, the key criterion for determining whether a service falls within the scope of the telephone exchange service definition is whether it permits ''intercommunication.'' As noted above, in this regard, xDSL-based advanced service and private line service are distinguishable in that xDSL-based services permit intercommunication and private line services do not.

5. The final requirement in section 3(47)(A) is that telephone exchange services be covered by ''the exchange service charge.'' Although this term is not defined in the Act or the Commission's rules we glean its meaning from the context in which the phrase is used. We agree with those commenters who argue that the phrase implies that an end-user obtains the ability to communicate within the equivalent of an exchange area as a result of entering into a service and payment agreement with a provider of a telephone exchange service. We thus find that any charges that a LEC assesses for originating and terminating xDSL-based advanced services within the equivalent of an exchange area would be covered by the ''exchange service charge.''

6. We thus reject the contention that, because the price of xDSL-based services is not included within the price of basic local telephone service, such services are not covered by ''the exchange service charge.'' Indeed, we note that, in a competitive environment, where there are multiple local service providers and multiple services, there will be no single ''exchange service charge.'' We further note that, if a service otherwise satisfies the telephone exchange service definition, a LEC has the option of including the price of that service within the price it charges consumers for basic local telephone service.

7. We conclude that a service falls within the scope of section 3(47)(B) if it permits intercommunication within the equivalent of a local exchange area and is covered by the exchange service charge. In setting forth the types of services that may fall within the scope of section 3(47)(B), Congress determined, as an initial matter, that such services must be ''comparable'' to the services described in section 3(47)(A). Although the term ''comparable'' is not defined in the Act, it is generally understood to mean ''having enough like characteristics and qualities to make comparison appropriate.''

8. The xDSL-based advanced services at issue here, when they originate and terminate within an exchange area, satisfy the statutory definition of telephone exchange service under clause (B) of section 3(47) as well, and that clause provides an alternative basis for our conclusion that these services may constitute telephone exchange services. We note that neither the statutory text nor the legislative history accompanying section 3(47)(B) provides guidance on which characteristics and qualities must be present in order for a service to fall within the scope of section 3(47)(B). In these circumstances, we presume that Congress sought to provide the Commission with discretion in determining whether a particular telecommunications service is sufficiently ''comparable'' to the services described in section 3(47)(A) to constitute telephone exchange service within the meaning of the Act.

9. Because we find that the term ''comparable'' means that the services retain the key characteristics and qualities of the telephone exchange service definition under subparagraph (A), we reject the argument that subparagraph (B) eliminates the requirement that telephone exchange service permit ''intercommunication'' among subscribers within a local exchange area. As prior Commission precedent indicates, a key component of telephone exchange service is ''intercommunication'' among subscribers within a local exchange area.

10. The next question we address is whether, and under what circumstances, xDSL-based advanced services may be classified as exchange access under the Act. As we have previously found, xDSL-based advanced services that are used to connect ISPs with their subscribers to facilitate Internet bound traffic typically constitute exchange access service because the call initiated by the subscriber terminates at Internet websites located in other exchanges, states, or foreign countries.

11. The issue we address here is whether xDSL-based services may

constitute exchange access under the Act. This question arises primarily in the context of services provided to ISPs to facilitate their provision of Internet access services. Applying the definitions contained in section 3 of the Act, we conclude that the service provided by the local exchange carrier to the ISP is ordinarily exchange access service because it enables the ISP to transport the communication initiated by the end-user subscriber located in one exchange to its ultimate destination in another exchange, using both the services of the local exchange carrier and in the typical case the telephone toll service of the telecommunications carrier responsible for the interexchange transport.

12. We evaluate two relevant definitions contained in the Act. Section 3(16), a new provision of the Act, defines ''exchange access'' as the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll service.'' (emphasis added) Section 3(48), which was in the original Act, in turn defines ''telephone toll service'' as ''telephone service between stations in different exchanges for which there is made a separate charge.'' We conclude that because the local exchange carrier provides access permitting the ISP to complete the transmission from its subscriber's location to a destination in another exchange using the toll service it typically has purchased from the interexchange carrier, the access service provided by the local exchange carrier is for the ''origination or termination of telephone toll service'' within the meaning of the statutory definition. In reaching this conclusion, we further find that the interexchange carrier that provides the interexchange telecommunications to the ISP charges the ISP for those telecommunications and that charge is separate from the exchange service charge that the ISP or end user pays to the LEC. As a result, the ''separate charge'' requirement of section 3(48) is satisfied with respect to the underlying interexchange telecommunications.

13. We recognize that this analysis with respect to ''exchange access'' does not by its terms cover traffic jointly carried by an incumbent LEC and a competitive LEC to an ISP where the ISP self-provides the transport component of its internet service. We leave for another day the question of whether the LEC-provided portion of such traffic (which we believe to be rare) falls within the definition of ''exchange access'' in section 3(16) and whether, as a result, the incumbent LEC would be subject to the interconnection obligations of section 251(c)(2) with respect to such traffic. We find, however, that even if such traffic traveling over the facilities of an incumbent LEC and a competitive LEC to an ISP falls outside the scope of section 3(16) and is not covered by section 251(c)(2), the ILEC would nevertheless be subject to interconnection obligations imposed by section 251(a) and (to the extent that the service is interstate) section 201(a). Moreover, we note that, to the extent that the LEC-provided portion of such traffic may not fall within the definition of ''exchange access,'' the predominantly inter-exchange end-to-end nature of such traffic nevertheless renders it largely non-local for purposes of reciprocal compensation obligations of section 251(b)(5). In light of our authority to require interconnection under sections 201(a) and 251(a) even in the ISP self-provisioning context, we expect incumbent LECs to continue providing interconnection to competitive LECs without imposing tariff, certification or other requirements on competitive LECs requesting interconnection. We encourage parties alleging the imposition of such requirements to file complaints pursuant to section 208 of the Act.

14 We recognize that we did hold, in the *Non-Accounting Safeguards Order,* 62 FR 02991, January 21, 1997, that ISPs do not receive ''exchange access services in connection with their provision of unregulated information services because of their status as non-carriers.'' However, that Order constitutes a departure from other Commission precedent on this matter. In a contemporaneous Commission decision, the *Local Competition Order,* 61 FR 22008, May 13, 1996, we specifically stated that, although ''[t]he vast majority'' of exchange access service purchasers are telecommunications carriers, non-carriers ''do occasionally purchase'' such services. In fact, when the *Non-Accounting Safeguard Order* was issued, the question of whether an xDSL-based service offering directed at ISPs could be ''exchange access'' or ''telephone exchange service'' was not before the Commission. Indeed, such service was first offered more than a year after release of that Order.

15. On a more complete record in this proceeding, we correct the inconsistency in our prior orders and overrule the determination made in the *Non-Accounting Safeguards Order* that non-carriers may not use exchange access and affirm our determination in the *Local Competition Order* that non-carriers may be purchasers of those services. We find that this conclusion is consistent with the Commission's longstanding characterization of the service that LECs offer to enhanced services providers (which include ISPs) as exchange access. In *MTS and WATS Markets Structure Order,* 48 FR 33667, August 22, 1983, the Commission held that ''[a]mong the variety of users of access service are * * * enhanced service providers.'' As recognized in that case, the Commission has always required LECs to offer access services to parties that may not be common carriers. Similarly, we note that enhanced service providers use ''exchange access service.'' More recently, in the *GTE ADSL Tariffing Order,* we noted that ''[t]he Commission traditionally has characterized the link from an end user to an ESP as an interstate access service.''

16. These holdings comport with the conclusion in the *Local Competition Order* that non-carriers may purchase exchange access services. This historical treatment properly serves as a lens through which to view Congress' intent in codifying a definition of ''exchange access'' in the 1996 Act. Nothing in the new definition of the Act or in its history suggests that Congress intended to narrow, for the first time, the availability of exchange access service to certain telecommunications service providers. For these reasons, we overrule our statements in the *Non-Accounting Safeguards Order* that non-carriers may not use exchange access, which we find to be inconsistent with our own precedent, and with the structure of the Act.

17. We find that, with respect to access to the local network for the purpose of originating or terminating an interexchange communication, any service that otherwise constitutes ''special access'' also falls within the definition of ''exchange access.'' We note that ''special access'' refers to a dedicated path between an end-user and a service provider's point of presence. We agree that special access, which provides access to the exchange through dedicated facilities, is different than switched access, which provides access to the exchange using switches. Both forms of access, however, provide access to exchange facilities, which is the pertinent point under the statutory definition of ''exchange access.''

18. We also reject the contention that an incumbent LEC is not subject to section 251(c) for its provision of advanced services because such services are neither ''telephone exchange services,'' nor ''exchange access services.'' To the extent that it offers

advanced services, U S West contends, it is not acting as a ''local exchange carrier'' or ''incumbent local exchange carrier,'' and the obligations imposed by section 251(c) on incumbent local exchange carriers do not apply. Because we have determined that advanced services offered by incumbent LECs are telephone exchange service or exchange access, we not and do not address the section 251 (c) obligations of an incumbent local exchange carrier offering services other than telephone exchange service or exchange access.

List of Subjects in 47 CFR Part 51

Communications, Common carrier, Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–3644 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–158; MM Docket No. 99–10; RM–9435, RM–9688]

Radio Broadcasting Services; Walton and Livingston Manor, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of AM Communications, allots Channel 296A to Livingston Manor, NY, as the community's first local aural service, and denies the request of Dana Puopolo to allot Channel 296A to Walton, NY, as the community's second local FM and third local aural service. *See* 64 FR 5626, February 4, 1999. Canadian concurrence in the allotment has been received since Livingston Manor is located within 320 kilometers (200 miles) of the U.S.-Canadian border. A filing window for Channel 296A Livingston Manor, NY, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATE: Effective March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–10, adopted January 19, 2000, and released February 1, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Livingston Manor, Channel 296A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3632 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–120; MM Docket No. 99–44; RM–9469]

Radio Broadcasting Services; Stanfield, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document grants the petition for reconsideration filed by Luella Hoskins against our action in the *Report and Order,* 64 FR 41899, August 2, 1999, which dismissed her petition to allot Channel 241C3 to Stanfield, OR, for failure to file a statement of continuing interest. This document also allots Channel 241C3 to Stanfield, OR, as the community's first local aural service. Channel 241C3 can be allotted to Stanfield in compliance with the Commission's minimum distance separation requirements with a site restriction of 17.3 kilometers (10.7 miles) southwest, at coordinates 45–40–40 NL; 119–23–01 WL, to avoid a short-spacing to Station KNLT, Channel 239C, Walla Walla, WA, and to Station KRCW, Channel 242C2, Royal City, WA. A filing window for Channel 241C3 at Stanfield, OR, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 99–44, adopted January 12, 2000, and released February 1, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Stanfield, Channel 241C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3636 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–187; MM Docket No. 99–305; RM–9537]

Radio Broadcasting Services; Alberton, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document rescinds the *Report and Order* in MM Docket No.

99–305 which allotted Channel 294C3 to Alberton, Montana, in response to a petition for rule making filed by Mountain West Broadcasting. *See* 65 FR 3152, January 20, 2000. Comments filed by petitioner withdrawing its proposal for Alberton were inadvertently overlooked at the time the Report and Order was adopted. Since Mountain West Broadcasting has withdrawn its interest and no supporting comments were received at the Commission we are withdrawing the *Report and Order* which allotted Channel 294C3 at Alberton, Montana. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 16, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in MM Docket No. 99–305, adopted February 1, 2000, and released February 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 294C3 at Alberton.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3637 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–3041; MM Docket No. 99–306; RM–9729]

Radio Broadcasting Services; Inglis, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 257A at Inglis, Florida, in response to a petition filed by Levy County Broadcasting. *See* 64 FR 57837, October 27, 1999. The coordinates for Channel 257A at Inglis are 29–07–49 NL and 82–41–19 WL. There is a site restriction 11.1 kilometers (6.9 miles) north of the community. With this action, this proceeding is terminated. A filing window for Channel 257A at Inglis will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–306, adopted December 29, 1999 and released January 7, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Channel 257A at Inglis.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3638 Filed 2–14–00; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–143; MM Docket No. 98–176; RM–9363]

Radio Broadcasting Services; Cedar Park and Killeen, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 227C from Killeen, Texas, to Cedar Park, Texas, and modifies the license for Station KLNCFM), Killeen, to specify operation at Cedar Park, in response to a petition filed by LBJS Broadcasting Company, LP. *See* 63 FR 53008, October 2, 1998. The coordinates for Channel 227C at Cedar Park are 30–43–34 NL and 97–59–23 WL. With this action, this proceeding is terminated.

DATES: Effective March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–176, adopted January 19, 2000, and released February 2, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, D.C. 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 227C at Killeen and adding Cedar Park, Channel 227C.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3643 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcast Services

CFR Correction

In Title 47 of the Code of Federal Regulations, parts 70 to 79, revised as of Oct. 1, 1999, on page 217, second column, § 73.682 is corrected in paragraph (c)(9) by removing in the second line the text following ''75 kHz'' to the end of the paragraph and also by removing paragraph (1) following (c)(9).

[FR Doc. 00–55503 Filed 2–15–00; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–210; MM Docket No. 96–11, RM–8742]

Television Broadcasting Services; (Waverly, New York and Altoona, PA)

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition of reconsideration.

SUMMARY: This document dismisses the petition for reconsideration filed by WSKG Public Television Council and denies the petition for reconsideration filed by Renard Communications of the action taken in our *Report and Order*, 61 FR 53644 (1996) allotting Channel *57- to Waverly, New York as a noncommercial channel. In light of action taken in the DTV allotment proceedings petitioners' arguments were either speculative and unsupported or moot. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 96–11, adopted January 27, 2000 and released February 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), at its headquarters, 445 12th Street, S.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, N.W., Washington, D.C. 20036.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 00–3639 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 93–144; FCC 99–399]

Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rule: deadline requirement.

SUMMARY: In this document, the Commission addresses the construction requirements imposed on incumbent licensees in the 800 MHz Specialized Mobile Radio (SMR) service that have received authorizations to construct wide-area systems. This action is taken pursuant to the order issued by the United States Court of Appeals for the District of Columbia Circuit in *Fresno Mobile Radio, Inc., et al.* v. *Federal Communications Commission (Fresno)*, 165 F.3d 965 (D.C. Cir. 1999). The court remanded for further consideration the Commission's prior decision maintaining the requirement that incumbent wide-area Specialized Mobile Radio (SMR) licensees, licensees who had received ''extended implementation'' authorizations, must construct and operate all sites and all frequencies by the construction deadline. Upon further reconsideration, the Commission will allow incumbent wide-area 800 MHz SMR licensees who were within their construction periods at the time *Fresno* was decided to satisfy construction requirements similar to those given to Economic Area licensees in the 800 MHz band.

DATES: Effective February 16, 2000. Written comments by the public on the modified information collections are due March 17, 2000. Written comments must be submitted by OMB on the information collections on or before April 17, 2000.

FOR FURTHER INFORMATION CONTACT: William Kunze, Wireless Telecommunications Bureau, at (202) 418–0620; for additional information concerning the information collections contained in this document contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This *Memorandum Opinion & Order on Remand (MO&O on Remand)* in PR Docket No. 93–144, adopted December 17, 1999, and released December 23, 1999, is available for inspection and copying during normal business hours in the FCC Reference Center, 445 Twelfth Street, SW, Washington DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington DC 20036 (202) 857–3800. The document is also available via the internet at *http://www.fcc.gov/Bureaus/Wireless/Orders/1999/index2.html*.

Synopsis of Memorandum Opinion and Order on Remand

I. Introduction

This action is taken pursuant to the order issued by the United States Court of Appeals for the District of Columbia Circuit in *Fresno Mobile Radio, Inc., et al.* v. *Federal Communications Commission (Fresno)*, 165 F.3d 965 (D.C. Cir. 1999). Upon further reconsideration, the Commission will allow incumbent wide-area licensees who were within their construction periods at the time *Fresno* was decided to satisfy construction requirements similar to those given to Economic Area licensees in the 800 MHz band. Incumbent wide-area licensees must file certifications of construction within fifteen (15) days after the licensee's applicable construction deadline or April 17, 2000, whichever is later.

II. Summary of the Remand Order

A. Background

Prior to December 1995, when the Commission amended its 800 MHz SMR rules to provide for geographic area licensing, 800 MHz SMR licenses were awarded on a site-by-site, channel-by-channel basis. If an SMR licensee failed to construct and begin operation on all

authorized frequencies at a particular site, the unconstructed frequencies would automatically cancel. In 1991, the Commission began granting some SMR licensees extended implementation (EI) authority to construct their systems, whereby the licensee would have up to five years to construct all of the facilities within the wide-area ''footprint'' established by its licenses. At the end of the EI period, any frequency licensed at a specific site within the footprint that was not fully constructed and in operation would cancel automatically.

In December 1995, in the *800 MHz Order*, 61 FR 6212 (Feb. 16, 1996) the Commission adopted a new wide-area licensing scheme by creating geographic-based licenses (Economic Area, or EA, licenses) for the upper 200 channels of the 800 MHz SMR band. As part of the new licensing scheme, the Commission adopted construction and coverage requirements for EA licensees similar to those required of broadband PCS and 900 MHz SMR licensees. In addition to creating rules for the new EA licensees, the Commission also concluded that continuation of the prior site-based extended implementation licensing process would be contrary to the new wide-area licensing plan.

The Commission decided to stop accepting new applications for extended implementation authority and dismissed all pending applications. The Commission also required licensees who had previously obtained EI authorizations to rejustify their authorizations by demonstrating that continuing to maintain their extended time to construct their facilities was warranted and in the public interest. If a wide-area licensee's rejustification of EI authority was found sufficient, the Commission would give the licensee two years from the decision to construct and begin operation, or maintain its original construction deadline, whichever was earlier. If the rejustification was not approved, the licensee's EI authorization would be terminated, and the licensee would be given six months from the termination date to complete construction of its site-based facilities. In May and November 1997, the Wireless Telecommunications Bureau (Bureau) acted on the rejustification submissions filed by thirty-seven wide-area licensees. Of the thirty-seven submissions, the Bureau approved thirty-one, including the rejustification submission of Southern Company, one of the petitioners in Fresno. The Bureau rejected the remaining six rejustification submissions because these licensees had not constructed any facilities during the period of extended implementation.

In the *800 MHz Reconsideration Order*, 62 FR 41190 (July 31, 1997), the Commission also affirmed its decision that rejustified EI licensees would receive a maximum of two years to complete construction of their facilities. Any site-specific license within a licensee's wide-area ''footprint'' that was not constructed by the two-year deadline would be automatically cancelled, with the unconstructed frequencies reverting to the EA licensee. The Commission rejected the claim made by Southern that the two-year construction requirement for site-based EI licensees, which required full construction of all facilities, was unfairly discriminatory in comparison to the five-year build-out period for EA licensees, which required only partial coverage of the EA licensing area.

On September 26, 1997, Southern petitioned the United States Court of Appeals for the District of Columbia for review of the Commission's decision in the 800 MHz Reconsideration Order not to give incumbent wide-area SMR licensees the same construction requirements given to EA licensees. On February 5, 1999, the United States Court of Appeals for the District of Columbia held that the Commission had not adequately explained why incumbent wide-area SMR licensees were not allowed to apply the same coverage requirements as EA licensees, cellular licensees, or PCS licensees, given that they are substantially similar CMRS providers. The court rejected the Commission's argument that EA licensees who must pay for their licenses at auction have a greater incentive to construct than incumbent licensees who acquired their licenses for free, like the EI licensees. The court found the Commission had not fully considered whether incumbent wide-area licensees are sufficiently different from 800 MHz EA licensees, cellular licensees and PCS licensees to justify the different requirements, and therefore, remanded the matter to the Commission to reconsider the issue. In the interim, the court ordered that Southern Company should not be denied the benefit of the more liberal construction requirements applicable to EA licensees.

In light of the *Fresno* decision, the Bureau temporarily suspended the construction timetable for incumbent 800 MHz licensees whose EI rejustifications were approved by the Bureau in 1997. The Bureau then sought comment on whether the Commission should retain existing EI construction requirements, adopt new construction requirements for EI licensees that would be comparable to EA licensees' requirements, or consider some other alternative.

None of the comments received in response to the Bureau's Public Notice support the Commission's decision in the 800 MHz Reconsideration Order to maintain the existing construction requirements for incumbent wide-area SMR licensees (*i.e.*, requiring build-out of all authorized sites on all frequencies).

B. Discussion

The Commission concludes that SMR licensees granted extended implementation authority are sufficiently similar to EA licensees that they should have similar flexibility with respect to construction requirements. The record on remand demonstrates that incumbent wide-area SMR licensees such as Southern do provide service that is similar, if not identical, to that provided by EA licensees and other CMRS providers. Recognizing that these licensees may have constructed their systems in accordance with the requirements in place at the time (*i.e.*, site-by-site, frequency-by-frequency), we will give eligible wide-area SMR licensees the option of complying with the terms of their EI authorizations or applying the EA construction requirements to their wide-area systems. We believe that giving incumbent wide-area SMR licensees the choice between applying the site- and frequency-specific requirements and the EA coverage requirements establishes reasonable parity between incumbent wide-area SMR licensees and EA licensees.

Construction Period. When an eligible wide-area licensee elects to apply the EA construction requirements to its system, the five-year construction period shall begin from the grant date of its extended implementation authority (''EI grant'') because that date is most analogous to the initial grant date of an EA license. Because the current EI incumbents have already had several years to build out their systems, we believe that adding five more years to their build-out periods on a cumulative basis would give incumbent wide-area SMR licensees an inequitable advantage over EA licensees. Moreover, eligible EI licensees will not be harmed by having the five years run from the date of EI grant because this alternative is still more flexible than the rules they have been operating under, which required them to construct all sites on all frequencies. Under the more flexible EA requirements, an eligible EI licensee will now be able to leave certain sites

and frequencies unconstructed for potential future use. Finally, starting the EA construction period from the grant of EI authority provides a degree of certainty for EA licensees in the upper 200 channels that will soon be coming on their own three-year benchmark (which must be met regardless of the level of incumbency) and for bidders in the future auction of EA licenses in the lower 230 channels. Therefore, we will start the construction period for those eligible licensees who choose the EA construction requirements from the date of EI grant.

We will not require EI licensees to meet the interim three-year coverage requirement. Therefore, an eligible wide-area SMR licensee in the upper 200 channels, which elects to apply the EA construction requirements must have constructed and placed into operation a sufficient number of base stations to provide coverage to at least two-thirds of the population of its wide-area system within five years of EI grant plus the tolling period described below. A wide-area licensee exercising this option must demonstrate that it has constructed fifty percent of its total authorized upper 200 channels within its wide-area system. An incumbent wide-area licensee that is authorized for frequencies in the lower 230 channels and chooses the EA requirements may elect to demonstrate that it is providing substantial service within five years of EI grant, in lieu of the specific population coverage requirements, for those frequencies.

Effect of Tolling on Construction Deadline. By this *MO&O on Remand*, we hereby terminate the temporary suspension of the construction timetable for incumbent wide-area 800 MHz SMR licensees that was instituted by the Bureau's Public Notice. For all licensees entitled to relief under this decision, we will add 321 days to their construction periods, representing the amount of time between the Fresno decision and the release of this order. Therefore, the applicable construction deadline for any eligible incumbent wide-area SMR licensee that elects to apply the EA coverage requirements shall be five years from the date of EI grant plus 321 days. Likewise, the applicable construction deadline for incumbent wide-area SMR licensees that do not elect the EA requirements shall be 321 days after the EI deadline established in the *800 MHz Rejustification Order* (rel. May 20, 1997).

Certification Filing. An incumbent wide-area 800 MHz SMR licensee that was within its construction period at the time of the Fresno decision must certify in a filing with the Bureau that it either met the EA construction requirements, as set out herein, or complied with the terms of its EI authorization. In addition to the certification, if a licensee chooses to meet the EA requirements for frequencies in the lower 230 channels using the substantial service option, it must demonstrate in the same filing with the Bureau how it is providing substantial service. All filings must be made within fifteen (15) days after the licensee's applicable construction deadline or April 17, 2000, whichever is later.

Class of Licensees Affected. The Fresno court ordered that the petitioner in the case, Southern Company, not be denied the benefit of EA-type construction requirements while the matter is pending before the Commission. The court did not, however, indicate what, if any, class of similar licensees should be accorded interim coverage requirements if the Commission reversed its decision. We extend the relief contained in this order to all 800 MHz licensees, such as Southern, who were granted extended implementation authority and were within their construction period at the time of the Fresno decision.

Two of the commenters, Chadmoore and Mobile Relays urge the Commission to apply EA-type construction requirements to either an expanded or a narrower class of licensees. Chadmoore argues that the Commission should extend the new construction requirements retroactively to any 800 MHz SMR incumbent licensee that has ever sought EI authority, whether or not it was granted. Chadmoore urges the Commission to reinstate these licenses and allow the licensees to demonstrate that they have met the interim coverage requirements. Mobile Relays urges the Commission to limit EA-type construction requirements to 800 MHz SMR frequencies held by wide-area licensees that have requested wide-area authorizations as part of a plan to convert and upgrade existing, analog SMR systems.

We conclude that all 800 MHz SMR licensees that have been granted extended implementation and were within their construction periods at the time of the Fresno decision should be given the opportunity to apply EA-type requirements. We decline to apply the EA-type construction requirements retroactively, as Chadmoore suggests. This would require reinstating licenses that have previously reached the expiration of their construction periods and been cancelled for failure to construct, in most cases over two years ago. We do not believe that reinstating these licenses would be in the public

We agree with Mobile Relays's suggestion that the relief in Fresno apply only to SMR frequencies. The Fresno court's decision specifically involves SMR frequencies, and the construction status of non-SMR frequencies, including Business and Industrial/Land Transportation frequencies converted under inter-category sharing for SMR use, is beyond the scope of this proceeding. However, we disagree with Mobile Relays's argument that relief should be limited only to EI licensees who are converting from analog to digital systems.

Area of Coverage. When determining if an eligible wide-area SMR licensee has met a specific coverage requirement (*i.e.*, covering one-third or two-thirds of the population), the population should be measured using the licensee's wide-area ''footprint'' as established in the licensee's rejustification submission. A wide-area licensee may compute population covered within its footprint on a county basis using 1990 U.S. Census information. In cases where the footprint does not align with county boundaries, a wide-area licensee should include the entire population of the county if the licensee covers any portion of it.

Minimum Number of Frequencies. An EA licensee in the upper 200 channels of the 800 MHz band must construct and operate fifty percent of the total channels included in its spectrum block in at least one location in its respective EA-based service area within three years of initial license grant and retain such channel usage for the remainder of the five-year construction period (''channel use requirement''). We will require that wide-area licensees that elect to apply the EA construction requirements also meet such a requirement for those frequencies within their extended implementation authority that are in the upper 200 channels. We note that commenters generally disfavor imposing the channel use requirement for incumbent wide-area licensees. However, we interpret the channel use requirement for EA licensees in the upper 200 channels differently than the comments suggest. Instead of requiring fifty percent of the licensee's authorized channels to be constructed and in operation at one site, we interpret the requirement to mean that a licensee must construct and operate fifty percent of the channels throughout its licensed area, so that the aggregate number of channels in use is fifty percent of those authorized. The licensee may choose to meet the channel use requirement at one site, but may also choose to use any number of sites (but at least one site). Based on this interpretation, we believe

that incumbent wide-area licensees are capable of meeting this requirement. Therefore, those incumbent wide-area licensees that do elect to apply EA construction requirements must also meet the same channel use requirement for their upper 200 channel frequencies that EA licensees in the upper 200 channels must meet.

In addition to the channel use requirement imposed on upper 200 channel EA licensees, Mobile Relays recommends that the Commission require that incumbent wide-area licensees demonstrate service by a minimum of two frequencies at each site. There is no justification for the two-frequency minimum, and that it would not provide regulatory parity between wide-area and EA licensees. Incumbent wide-area licensees, therefore, need only demonstrate coverage by constructing and operating one frequency at each site, with the exception, of the channel use requirement for frequencies in the upper 200 channels.

Any incumbent wide-area 800 MHz licensee that was still in its construction period as of the date of that decision may choose to apply either the existing site-by-site, frequency-by-frequency construction requirements or the EA construction requirements. Those licensees who choose the latter must certify in a filing with the Commission their compliance with the requirements within the later of fifteen days from their applicable construction benchmarks or April 17, 2000, whichever is later. Such a certification should include compliance with the channel use requirement, if applicable, and a demonstration of substantial service, if elected.

IV. Procedural Matters

A. Paperwork Reduction Act of 1995 Analysis

Supplementary Information: This *MO&O on Remand* contains a modified information collection, which has been submitted to the Office of Management and Budget for approval. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on the information collection contained in this *MO&O on Remand*, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public comments should be submitted to OMB and the Commission, and are due thirty days from date of publication of this *MO&O on Remand* in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0307.

Title: Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 35.

Estimated Time Per Response: 2 hours.

Total Annual Burden: 70 hours.

Frequency of Response: Single response.

Total Annual Estimated Costs: $14,000. This cost includes an estimate that 100% of the respondents will hire an outside consultant at $200 per hour to prepare the information.

Needs and Uses: The Commission will use this information to determine whether wide-area SMR licensees have complied with the Commission's 800 MHz construction requirements for their respective systems.

Address: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov; and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, NW, Washington, DC 20503 or via the Internet to fain—t@al.eop.gov.

B. Regulatory Flexibility Act

To assist the public in determining the possible impact on small entities of the requirements adopted in this *MO&O on Remand*, the Commission has prepared a Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA). The Office of Media Relations, Reference Operations Division, will send a copy of the *MO&O on Remand*, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

1. Need for, and Objectives of, the *MO&O on Remand*

This *MO&O on Remand* was initiated by order of the United States Court of Appeals for the District of Columbia in the case of Fresno Mobile Relays, Inc. v. Federal Communications Commission (Fresno). This *MO&O on Remand* allows incumbent wide-area 800 MHz SMR licensees who were within their construction periods at the time of the *Fresno* decision to choose between complying with the terms of their EI authorizations or applying construction requirements similar to those given to EA licensees. Therefore, this *MO&O on Remand* (1) gives the incumbent licensees greater flexibility to leave certain sites and frequencies unconstructed (for potential future use), (2) establishes reasonable regulatory parity between incumbent wide-area licensees and EA licensees in the 800 MHz SMR service, without prejudicing the interests of either, and (3) provides the 800 MHz SMR service with a degree of certainty for both current and future EA licensees.

(2) Summary of Significant Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis

This *MO&O on Remand* was initiated by order of the United States Court of Appeals for the District of Columbia. Therefore, there was no Initial Regulatory Flexibility Analysis.

(3) Description and Estimate of the Number of Small Entities to Which Rules Will Apply

The Regulatory Flexibility Act (RFA) directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by our rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The provisions adopted in this *MO&O on Remand* will apply to approximately 30—35 current incumbent 800 MHz SMR operators, most of which may be considered small entities.

(4) Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This *MO&O on Remand* gives eligible wide-area 800 MHz SMR licensees the option of complying with the terms of their EI authorizations or applying EA-type construction requirements to their wide area footprints. If a licensee chooses the former, it need only comply with the requirements already imposed by the Commission's rules.

(5) Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The action taken by this *MO&O on Remand* not only gives eligible incumbent wide-area 800 MHz SMR licensees greater flexibility to leave certain sites and frequencies unconstructed (for potential future use), but also establishes reasonable parity between incumbent wide-area licensees and EA licensees in the 800 MHz SMR service. Eligible incumbent licensees need only report their compliance with the construction requirements in the same fashion that EA 800 MHz licensees do (i.e., in a certification and, if the substantial service option is elected, a demonstration).

(6) Report to Congress

The Commission shall send a copy of this Supplemental Final Regulatory Flexibility Analysis, along with this *MO&O on Remand*, in a report to Congress pursuant to the Small Business Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A).

V. ORDERING CLAUSES

Accordingly, it is ordered that incumbent wide-area 800 MHz SMR licensees eligible for relief as described herein must comply with the terms of their extended implementation authorizations or apply the alternative construction requirements described herein. This action is taken pursuant to the authority of section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i).

It is further ordered that incumbent wide-area 800 MHz SMR licensees eligible for relief as described herein must certify in a filing with the Wireless Telecommunications Bureau their compliance with the construction requirements as described herein within the later of fifteen days after the licensee's applicable construction deadline or April 17, 2000.

It is further ordered that the temporary suspension of the construction timetable for incumbent wide-area SMR licensees as set forth in Public Notice DA 99–698 released April 15, 1999, is terminated.

It is further ordered that the Commission's Consumer Information Bureau, the Reference Information Center, SHALL SEND a copy of this *MO&O on Remand*, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–3784 Filed 2–14–00; 11:53 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 386

[Docket No. FMCSA–99–6438 (Formerly FHWA Docket No. FHWA–97–2299; MC–96–18)]

RIN 2126–AA49

Rules of Practice for Motor Carrier Proceedings; Violations of Commercial Regulations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The FMCSA is amending its rules of practice for motor carrier administrative proceedings to include proceedings arising under the ICC Termination Act of 1995 (ICCTA). These proceedings formerly fell within the jurisdiction of the Interstate Commerce Commission (ICC) and were implemented and administered under ICC regulations. The ICCTA transferred much of the ICC's motor carrier jurisdiction to the Secretary of Transportation (Secretary), who delegated it to the Federal Highway Administration (FHWA), effective January 1, 1996, and redelegated it to the Office of Motor Carrier Safety (OMCS), effective October 9, 1999. This jurisdiction was again redelegated to the FMCSA, effective January 1, 2000. However, the FMCSA's rules of practice for motor carrier administrative proceedings apply only to proceedings involving violations of the Federal Motor Carrier Safety and Hazardous Materials regulations. This final rule ensures that all civil forfeiture and investigation proceedings instituted by the FMCSA are governed by uniform and consistent procedures. The FMCSA is also making technical amendments to reflect recent organizational changes, remove obsolete statutory citations, and incorporate recent statutory changes affecting the civil penalty schedule.

EFFECTIVE DATE: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Neill Thomas, Office of Bus and Truck Standards and Operations, (202) 366–2983, Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; and Mr. Michael J. Falk, Office of the Chief Counsel, HCC–20, (202) 366–1384, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Creation of New Agency

In October 1999, the Secretary of Transportation rescinded the authority previously delegated to the Federal Highway Administrator to perform the motor carrier functions and operations, and to carry out the duties and powers related to motor carrier safety, that are statutorily vested in the Secretary. That authority was redelegated to the Director of the Office of Motor Carrier Safety (OMCS), a new office within the Department (see, 64 FR 56270, October 19, 1999, and 64 FR 58356, October 29, 1999). The OMCS had previously been the FHWA's Office of Motor Carriers (OMC).

The Motor Carrier Safety Improvement Act of 1999 established the Federal Motor Carrier Safety Administration as a new operating administration within the Department of Transportation, effective January 1, 2000 (Pub. L. 106–159, 113 Stat. 1748,

December 9, 1999). Under 49 U.S.C. 113(f), the Administrator of the FMCSA is delegated authority to carry out the duties and powers vested in the Secretary by chapters 5, 51, 55, 57, 59, 133 through 149, 311, 315 and 317 of title 49, United States Code, as well as additional duties. Effective January 1, 2000, the Secretary rescinded the authority delegated to the Director of the OMCS and redelegated it to the Administrator of the FMCSA (65 FR 220, January 4, 2000).

The staff previously assigned to the FHWA's OMC, and then to the OMCS, are now assigned to the FMCSA. The motor carrier functions of the FHWA's Resource Centers and Division (i.e., State) Offices have been transferred without change to the FMCSA Resource Centers and FMCSA Division Offices, respectively. For the time being, all phone numbers and addresses are unchanged. Similarly, rulemaking activities begun under the auspices of the FHWA and continued under the OMCS will be completed by the FMCSA.

Background

On April 29, 1996, the FHWA published a notice of proposed rulemaking (NPRM) proposing to amend its rules of practice for motor carrier administrative proceedings arising under the Federal Motor Carrier Safety and Hazardous Materials regulations (61 FR 18866). This proposal envisioned a comprehensive revision and reorganization of the rules of practice and motor carrier safety rating procedures, replacing 49 CFR parts 385 and 386 with new parts 361 through 364. On October 21, 1996, the FHWA published a supplemental notice of proposed rulemaking (SNPRM) which proposed making the revised rules of practice also applicable to proceedings arising under the ICCTA (Pub. L. 104–88, 109 Stat. 803) by inserting in the regulatory text references to the ICCTA and regulations implementing that statute (designated the commercial regulations) (61 FR 54601). The SNPRM also proposed to amend the rules of practice by incorporating the civil penalties provided in the ICCTA.

Following publication of the NPRM and the SNPRM, it was decided to incorporate revised rules of practice into the FHWA-initiated zero-base rulemaking proceeding, a comprehensive reorganization and redrafting of the Federal Motor Carrier Safety Regulations (FMCSRs) in a more reader-friendly format. Accordingly, the FMCSA plans to supersede the NPRM with a new proposal to be published in connection with the zero-base proceeding. As a result, final implementation of revised rules of practice will be delayed for an indefinite period of time.

The FMCSA believes, however, that it is necessary to implement the proposed expansion of the rules of practice to include ICCTA-related administrative proceedings without further delay. As stated in the SNPRM, civil penalty procedures for safety and hazardous materials violations are governed by part 386, while violations of the ICCTA and the commercial regulations are subject to 49 CFR part 1021, the old ICC civil penalty procedures. These two parts have significant differences. For example, part 386 requires recipients of civil forfeiture claim letters to reply within a specified time with prescribed information in order to administratively resolve the claim. Failure to respond may result in the entry of an administratively final agency order enforceable in court. On the other hand, part 1021 does not require responses to claim letters or establish specific procedures for resolving claims. Failure to respond does not result in an agency order. If an FMCSA investigation or compliance review discloses violations of both the safety and commercial regulations, the FMCSA would have to issue two separate claim letters and apply different administrative procedures in resolving the claim. The confusion and inefficiency engendered by these procedural dissimilarities would be eliminated by adopting uniform procedures for all FMCSA civil penalty proceedings.

The FHWA received no public comments in response to the October 1996 SNPRM. Because the proposal to apply the rules of practice to commercial violations is uncontroversial and can be accomplished by making relatively minor changes to the regulatory text of part 386, we are implementing this proposal immediately by amending part 386 rather than waiting for final implementation of revised rules of practice in connection with the zero-base rulemaking proceeding.

Summary of Changes

References to the ICCTA are added to § 386.1, which delineates the scope of the rules, and to the definition of ''civil forfeiture proceedings'' in § 386.2. A definition of ''commercial regulations'' is added to § 386.2 and that term is inserted in §§ 386.11 and 386.21. Section 386.81 is amended to reflect the fact that many of the penalties provided under the ICCTA are stated in terms of minimum, rather than maximum, amounts. This section is also amended to incorporate the ICCTA requirement that civil penalties related to the transportation of household goods be based on the degree of harm caused to the shipper and whether the shipper has been adequately compensated before institution of the civil penalty proceeding. The penalty schedule for part 386 (Appendix B) is amended to include the penalties prescribed in the ICCTA, as well as reflect changes to statutory penalties enacted in the MCSIA and the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107 (1998)). Prior to TEA–21, non-recordkeeping violations of the FMCSRs were classified as either Serious Patterns of Safety violations or Substantial Health or Safety violations. The TEA–21 eliminated these classifications, established a uniform maximum civil penalty of $10,000 for non-recordkeeping offenses, eliminated the ''reckless disregard'' and ''gross negligence'' liability standard for assessing civil penalties against employees, and raised the maximum penalty for employees to $2,500. The TEA–21 also reestablished a $500 penalty for recordkeeping violations and increased the maximum amount assessable for all offenses related to any single violation to $5,000. The penalty schedule, which had increased the penalty per violation to $550 in accordance with the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321–358), is adjusted accordingly.

Technical amendments have been made to part 386 to reflect organizational changes brought about by the MCSIA. The responsibilities formerly exercised by the FHWA's Associate Administrator for Motor Carriers have been assumed by the FMCSA's Acting Deputy Administrator and Acting Chief Safety Officer, effective January 1, 2000. The responsibilities of the former FHWA's Office of Motor Carrier Safety Field Operations have been assumed by the new FMCSA's Office of Motor Carrier Enforcement. The FHWA restructuring also eliminated the FHWA's regional offices and transferred many of the responsibilities formerly held by the Regional Directors of Motor Carriers to the State Directors of Motor Carriers, who are now part of the FMCSA. Obsolete titles and organizational references have been removed and replaced by their current organizational equivalents.

Part 386 contains numerous statutory citations which have become obsolete as a result of recodification or repeal.

These citations are updated to reflect the revised codification.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. The rulemaking merely amends provisions of the rules of practice for motor carrier safety and hazardous materials proceedings by making technical changes and expanding their application to proceedings arising under the ICC Termination Act of 1995. Because the DOT acquired new statutory responsibilities under the ICCTA, this action establishes one set of procedures and thereby reduces duplicative regulation. A regulatory evaluation is not required because of the ministerial nature of such action.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FMCSA has evaluated the effects of this rule on small entities. No economic impacts are foreseen as the rule imposes no additional substantive burdens that are not already required by the statutes and regulations to which these procedural rules apply. Accordingly, the FMCSA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose a Federal mandate resulting in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. (2 U.S.C. 1531 *et seq.*).

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined this action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 386

Administrative procedures, Commercial motor vehicle safety, Highway safety, Motor carriers.

Issued on: February 9, 2000.

Julie Anna Cirillo,

Acting Deputy Administrator.

In consideration of the foregoing and under the authority of section 103 of the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803, and 49 CFR 1.73, the FMCSA amends title 49, chapter III, as follows:

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER PROCEEDINGS

1. The authority citation for Part 386 is revised to read as follows:

Authority: 49 U.S.C. 113, Chapters 5, 51, 59, 131–141, 145–149, 311, 313, and 315; and 49 CFR 1.45 and 1.73.

2. Revise the part heading to read as shown above.

3. In part 386, revise all references to ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration'' and ''FHWA'' to read ''FMCSA''.

4. In part 386, revise all references to ''Associate Administrator'' to read ''Assistant Administrator'' and ''Associate Administrator's'' to read ''Assistant Administrator's''.

5. Revise § 386.1 to read as follows:

§ 386.1 Scope of rules in this part.

The rules in this part govern procedures in proceedings before the Assistant Administrator authorized by the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Chapter 313); the Motor Carrier Safety Act of 1984 (49 U.S.C. Chapter 311, Subchapter III); the recodification of title 49, United States Code, Transportation (49 U.S.C. 104(c)(2), 501 *et seq.*, 3101 *et seq.*); the Hazardous Materials Transportation Act of 1975, as amended (49 U.S.C. Chapter 51); section 18 of the Bus Regulatory Reform Act of 1982 (49 U.S.C. 31138); section 30 of the Motor Carrier Act of 1980 (49 U.S.C. 31139); and the ICC Termination Act of 1995 (49 U.S.C. Chapters 131–149). The purpose of the proceedings is to enable the Assistant Administrator to determine whether motor carriers, property brokers or freight forwarders, their agents, employees, or any other person subject to the jurisdiction of the FMCSA under any of the above-mentioned Acts has failed to comply with any provision or requirement of these statutes and the regulations issued under them and, if such a violation is found, to issue an appropriate order to compel compliance with the statute or regulation, assess a civil penalty, or both.

6. Amend § 386.2 by removing the definition of ''Associate Administrator''; by revising the definitions of ''Administration'', ''civil forfeiture

proceedings'' and ''motor carrier'' and by adding the definitions of ''Assistant Administrator'' and ''commercial regulations'' to read as follows:

§ 386.2 Definitions.

* * * * *

Administration means the Federal Motor Carrier Safety Administration.

* * * * *

Assistant Administrator means the Assistant Administrator of the Federal Motor Carrier Safety Administration and Chief Safety Officer, or his/her authorized delegate.

Civil forfeiture proceedings means proceedings to collect civil penalties for violations under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Chapter 313); the Hazardous Materials Transportation Act of 1975, as amended (49 U.S.C. Chapter 51); the Motor Carrier Safety Act of 1984 (49 U.S.C. Chapter 311, Subchapter III); section 18 of the Bus Regulatory Reform Act of 1982 (49 U.S.C. 31138); section 30 of the Motor Carrier Act of 1980 (49 U.S.C. 31139); and the ICC Termination Act of 1995 (49 U.S.C. Chapters 131–149).

* * * * *

Commercial regulations means statutes and regulations that apply to persons providing or arranging transportation for compensation subject to the Secretary's jurisdiction under 49 U.S.C. Chapter 135. The statutes are codified in Part B of Subtitle IV, Title 49, U.S.C. (49 U.S.C. 13101 through 14913). The regulations include those issued by the Federal Motor Carrier Safety Administration or its predecessors under authority provided in 49 U.S.C. 13301 or a predecessor statute.

* * * * *

Motor carrier means a motor carrier, motor private carrier, or motor carrier of migrant workers as defined in 49 U.S.C. 13102 and 31501.

* * * * *

7. Amend § 386.11 by removing the words ''Motor Carrier Standards'' and adding ''Truck and Bus Standards and Operations'' in paragraph (a); by revising the first sentence of the introductory text of paragraph (c); and by revising paragraph (c)(1)(ii) to read as follows:

§ 386.11 Commencement of proceedings.

* * * * *

(c) *Notice of Investigation.* This is a notice to respondent that the FMCSA has discovered violations of the Federal Motor Carrier Safety Regulations, Hazardous Materials Regulations, or Commercial Regulations under circumstances which may require a compliance order and/or monetary penalties. * * *

* * * * *

(c) * * *

(1) The name and address of each motor carrier, broker, or freight forwarder against whom relief is sought;

* * * * *

8. Revise § 386.21(b)(7) to read as follows:

§ 386.21 Compliance order.

* * * * *

(b) * * *

(7) A statement that the order constitutes final agency action, subject to review as provided in 49 U.S.C. 521(b)(8) for violations of regulations issued under the authority of 49 U.S.C. 31502, the Motor Carrier Safety Act of 1984 or sections 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986; or as provided in 5 U.S.C. 701 *et seq.*, for violations of regulations issued under the authority of 49 U.S.C. 5123 (hazardous materials proceedings) or 49 U.S.C. 31138–31139 (financial responsibility proceedings) or violations of the commercial regulations.

* * * * *

9. Revise § 386.23(a)(5) to read as follows:

§ 386.23 Content of consent order.

(a) * * *

(5) Provisions that the order has the same force and effect, becomes final, and may be modified, altered, or set aside in the same manner as other orders issued under 49 U.S.C. Chapters 5, 131–149, 311 and 315.

* * * * *

§ 386.48 [Amended]

10. Amend § 386.48 by removing the words ''Motor Carrier Standards'' and adding ''Truck and Bus Standards and Operations''.

§ 386.71 [Amended]

11. Amend § 386.71 by removing the words ''section 3102'' and adding ''section 13502''; by removing the words ''Federal Highway Administrator'' and adding ''Federal Motor Carrier Safety Administrator'; and by removing the figure ''1810'' and adding ''5122''.

§ 386.72 [Amended]

12. Amend § 386.72 by removing the figure ''1810'' and adding ''5122'' in paragraph (a); by removing the words ''49 U.S.C. 3102'' and adding ''49 U.S.C. 13502'' in paragraph (b)(1); by removing the words ''Motor Carrier Safety Field Operations'' and adding ''Office of Enforcement and Compliance'' in paragraph (b)(1); and by moving the words ''Regional Director of Motor Carriers'' and adding ''State Director'' in paragraph (b)(1).

13. Revise § 386.81(a) to read as follows:

§ 386.81 General.

(a) The amounts of civil penalties that can be assessed for regulatory violations subject to the proceedings in this subchapter are established in the statutes granting enforcement powers. The determination of the actual civil penalties assessed in each proceeding is based on those defined limits or minimums and consideration of information available at the time the claim is made concerning the nature, gravity of the violation and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In addition to these factors, a civil penalty assessed under 49 U.S.C. 14901(a) and (d) concerning household goods is also based on the degree of harm caused to a shipper and whether the shipper has been adequately compensated before institution of the civil penalty proceeding. In adjudicating the claims and orders under the administrative procedures herein, additional information may be developed regarding these factors that may affect the final amount of the claim.

* * * * *

14. Amend appendix B to part 386 in the introductory paragraph by revising the second sentence; by revising paragraphs (a)(1) through (a)(4), and (b); and by adding paragraph (g) to read as follows:

Appendix B to Part 386—Penalty Schedule; Violations and Maximum Monetary Penalties

* * *. Pursuant to that authority, the inflation-adjusted civil penalties listed in paragraphs (a)(5) and (b) through (f) below supersede the corresponding civil penalty amounts listed in title 49, United States Code.

* * * * *

(a) *Violations of the Federal Motor Carrier Safety Regulations (FMCSRs):*

(1) *Recordkeeping.* A person or entity that fails to prepare or maintain a record required by parts 385 and 390–399 of this subchapter, or prepares or maintains a required record that is incomplete, inaccurate, or false, is subject to a maximum civil penalty of $500 for each day the violation continues, up to $5,000.

(2) *Knowing falsification of records.* A person or entity that knowingly falsifies, destroys, mutilates or changes a report or record required by parts 385 and 390–399 of this subchapter, knowingly makes or causes to be made a false or incomplete record about

an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary is subject to a maximum civil penalty of $5,000 if such action misrepresents a fact that constitutes a violation other than a reporting or recordkeeping violation.

(3) *Non-recordkeeping violations.* A person or entity who violates parts 385 or 390–399 of this subchapter, except a recordkeeping requirement, is subject to a civil penalty not to exceed $10,000 for each violation.

(4) *Non-recordkeeping violations by drivers.* A driver who violates parts 385 and 390–399 of this subchapter, except a recordkeeping violation, is subject to a civil penalty not to exceed $2,500.

(5) * * *

(b) *Commercial driver's license (CDL) violations.* Any person who violates 49 CFR part 383, subparts B, C, E, F, G, or H is subject to a civil penalty of $2,750.

* * * * *

(g) *Violations of the commercial regulations (CRs).* Penalties for violations of the CRs are specified in 49 U.S.C. Chapter 149. These penalties relate to transportation subject to the Secretary's jurisdiction under 49 U.S.C. Chapter 135. Unless otherwise noted, a separate violation occurs for each day the violation continues.

(1) A person who fails to make a report, to specifically, completely, and truthfully answer a question, or to make, prepare, or preserve a record in the form and manner prescribed is liable for a minimum penalty of $500 per violation.

(2) A person who operates as a carrier or broker for the transportation of property in violation of the registration requirements of 49 U.S.C. 13901 is liable for a minimum penalty of $500 per violation.

(3) A person who operates as a motor carrier of passengers in violation of the registration requirements of 49 U.S.C. 13901 is liable for a minimum penalty of $2,000 per violation.

(4) A person who operates as a foreign motor carrier or foreign motor private carrier in violation of the provisions of 49 U.S.C. 13902 (c) is liable for a minimum penalty of $500 per violation.

(5) A person who operates as a foreign motor carrier or foreign motor private carrier without authority, before the implementation of the land transportation provisions of the North American Free Trade Agreement, outside the boundaries of a commercial zone along the United States-Mexico border is liable for a maximum penalty of $10,000 for an intentional violation and a maximum penalty of $25,000 for a pattern of intentional violations.

(6) A person who operates as a motor carrier or broker for the transportation of hazardous wastes in violation of the registration provisions of 49 U.S.C. 13901 is liable for a maximum penalty of $20,000 per violation.

(7) A motor carrier or freight forwarder of household goods, or their receiver or trustee, that does not comply with any regulation relating to the protection of individual shippers is liable for a minimum penalty of $1,000 per violation.

(8) A person—

(i) Who falsifies, or authorizes an agent or other person to falsify, documents used in the transportation of household goods by motor carrier or freight forwarder to evidence the weight of a shipment or

(ii) Who charges for services which are not performed or are not reasonably necessary in the safe and adequate movement of the shipment is liable for a minimum penalty of $2,000 for the first violation and $5,000 for each subsequent violation.

(9) A person who knowingly accepts or receives from a carrier a rebate or offset against the rate specified in a tariff required under 49 U.S.C. 13702 for the transportation of property delivered to the carrier commits a violation for which the penalty is equal to three times the amount accepted as a rebate or offset and three times the value of other consideration accepted or received as a rebate or offset for the six-year period before the action is begun.

(10) A person who offers, gives, solicits, or receives transportation of property by a carrier at a different rate than the rate in effect under 49 U.S.C. 13702 is liable for a maximum penalty of $100,000 per violation. When acting in the scope of his/her employment, the acts or omissions of a person acting for or employed by a carrier or shipper are considered to be the acts and omissions of that carrier or shipper, as well as that person.

(11) Any person who offers, gives, solicits, or receives a rebate or concession related to motor carrier transportation subject to jurisdiction under subchapter I of 49 U.S.C. Chapter 135, or who assists or permits another person to get that transportation at less than the rate in effect under 49 U.S.C. 13702, commits a violation for which the penalty is $200 for the first violation and $250 for each subsequent violation.

(12) A freight forwarder, its officer, agent, or employee, that assists or willingly permits a person to get service under 49 U.S.C. 13531 at less than the rate in effect under 49 U.S.C. 13702 commits a violation for which the penalty is up to $500 for the first violation and up to $2,000 for each subsequent violation.

(13) A person who gets or attempts to get service from a freight forwarder under 49 U.S.C. 13531 at less than the rate in effect under 49 U.S.C. 13702 commits a violation for which the penalty is up to $500 for the first violation and up to $2,000 for each subsequent violation.

(14) A person who knowingly authorizes, consents to, or permits a violation of 49 U.S.C. 14103 relating to loading and unloading motor vehicles or who knowingly violates subsection (a) of 49 U.S.C. 14103 is liable for a penalty of not more than $10,000 per violation.

(15) A person, or an officer, employee, or agent of that person, who tries to evade regulation under Part B of Subtitle IV, Title 49, U.S.C., for carriers or brokers is liable for a penalty of $200 for the first violation and at least $250 for a subsequent violation.

(16) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under Part B of Subtitle IV, Title 49, U.S.C., or an officer, agent, or employee of that person, is liable for a maximum penalty of $5,000 per violation if it does not make the report, does not completely and truthfully answer the question within 30 days from the date the Secretary requires the answer, does not make or preserve the record in the form and manner prescribed, falsifies, destroys, or changes the report or record, files a false report or record, makes a false or incomplete entry in the record about a business related fact, or prepares or preserves a record in violation of a regulation or order of the Secretary.

(17) A motor carrier, water carrier, freight forwarder, or broker, or their officer, receiver, trustee, lessee, employee, or other person authorized to receive information from them, who discloses information identified in 49 U.S.C. 14908 without the permission of the shipper or consignee is liable for a maximum penalty of $2,000.

(18) A person who violates a provision of Part B, Subtitle IV, Title 49, U.S.C., or a regulation or order under Part B, or who violates a condition of registration related to transportation that is subject to jurisdiction under subchapter I or III or Chapter 135, or who violates a condition of registration of a foreign motor carrier or foreign motor private carrier under section 13902, is liable for a penalty of $500 for each violation if another penalty is not provided in 49 U.S.C. Chapter 149.

(19) A violation of Part B, Subtitle IV, Title 49, U.S.C., committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier that is a corporation is also a violation by the corporation to which the penalties of Chapter 149 apply. Acts and omissions of individuals acting in the scope of their employment with a carrier are considered to be the actions and omissions of the carrier as well as the individual.

(20) In a proceeding begun under 49 U.S.C. 14902 or 14903, the rate that a carrier publishes, files, or participates in under section 13702 is conclusive proof against the carrier, its officers, and agents that it is the legal rate for the transportation or service. Departing, or offering to depart, from that published or filed rate is a violation of 49 U.S.C. 14902 and 14903.

[FR Doc. 00–3661 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE30

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Sidalcea keckii (Keck's checker-mallow) From Fresno and Tulare Counties, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status for *Sidalcea keckii* (Keck's checker-mallow) pursuant to the Endangered Species Act (Act) of 1973, as amended. This annual plant is known from serpentine-derived clay soils in the foothill annual grasslands of the central western Sierra Nevada Mountains. The plant is threatened by agricultural land conversion, urbanization, grazing, and extirpation from naturally occurring random events due to the small number and size of its two populations. This rule implements the Federal protection provisions afforded by the Act for this plant species.

EFFECTIVE DATE: March 17, 2000.

ADDRESSES: You may view the complete administrative file for this rule, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Ken Fuller or Jan Knight at the above address (see **ADDRESSES** section) (telephone 916/414–6600; facsimile 916/414–6715.

SUPPLEMENTARY INFORMATION:

Background

The San Joaquin Valley of California is a large, north-south oriented, alluvial valley that is mostly farmed or developed. The San Joaquin Valley, from Stockton in the north to Bakersfield in the south, is approximately 690 kilometers (km) (430 miles (mi)) long and covers about 6,070,305 hectares (ha) (15 million acres (ac)). Tulare and Fresno Counties are located toward the southern end of the valley. One population of *Sidalcea keckii* occurs on private land toward the southern end of the valley, in south-central Tulare County. Another population of *S. keckii* occurs on a mixture of private and Federal lands in Fresno County.

Sidalcea keckii is a slender, hairy, erect annual herb belonging to the mallow family (Malvaceae). The species grows 1.5 to 3.3 decimeters (dm) (6 to 13 inches (in) tall. The lower leaf blades have seven to nine shallow lobes. The upper leaves have a tapered base with two to five notches in the upper lobes. A few deep pink flowers, 10 to 20 millimeters (mm) (0.4 to 0.8 in) wide, appear April through May. Seeds are smooth and pink-tinted. *Sidalcea keckii* closely resembles four other annual species of *Sidalcea—S. calycosa, S. diploscyha, S. hartwegii,* and *S. hirsuta. Sidalcea calycosa* and *S. diploscyha* have ranges that overlap with *S. keckii. Sidalcea keckii* can be separated from similar species by the number and size of flowers, the arrangement of stamens (male reproductive part), the lengths of the bract (a reduced leaf-like structure below the flower) and calyx (outermost segments of the flower), the presence of an aggregation of linear stipules (small, paired, leaf-like structures at the base of the leaves) and bracts surrounding the flower at maturity, the size and shape of the stem leaves, the density of hairs on the stems, and the presence of a purplish spot on the flower (Hickman 1993; John Stebbins, Fresno State University, *in litt.* 1994).

Wiggins (1940) described *Sidalcea keckii* from specimens collected in 1935 and 1938 near White River, Tulare County. *Sidalcea keckii* was known historically from 3 populations occurring between 120 to 425 meters (m) (400 to 1,400 feet (ft)) in elevation. However, it has not been seen at 2 of these sites for about 53 years (J. Stebbins, *in litt.* 1994), and the third site has not been relocated. The species was considered to be extirpated until 1992, when a new population of *S. keckii* was discovered by consultants conducting an environmental site inventory prior to construction of a subdivision (Woodward and Clyde Consultants 1992).

The habitat requirements of *Sidalcea keckii* are not well understood. The population of *S. keckii* in Tulare County (Tulare County population) occurs on 20- to 40-percent slopes of red or white-colored clay in sparsely-vegetated annual grasslands. The clays are thought to be derived from serpentine soils (soils high in magnesium, low in calcium, and laden with heavy metals). The Tulare County population covers an area measuring 30 m by 100 m (100 ft by 320 ft) and had a total of 60 plants in 1992 (Woodward and Clyde Consultants 1992). The population occurs on a privately owned, 280–ha (700 ac) parcel of land that is currently used for livestock grazing. A second new population of *S. keckii* was discovered on a mixture of private and public lands in Fresno County in 1998 (Fresno County population) and, at that time, consisted of 216 individual plants (Susan Carter, Bureau of Land Management, *in litt.* 1998). The Tulare County population is threatened by urban development, agricultural land conversion (particularly to citrus orchards), and grazing. Both populations are vulnerable to random events because of their small population sizes and numbers.

Previous Federal Action

Federal Government actions on the plant began as a result of section 12 of the original Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. It included *Sidalcea keckii* as a threatened species. We published a notice on July 1, 1975 (40 FR 27823) of our acceptance of the report as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3) of the Act), and our intention to review the status of the plant taxa named therein. As a result of this review, we published a proposed rule in the **Federal Register** on June 16, 1976 (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. This list, which did not include *S. keckii,* was assembled on the basis of comments and data received by the Smithsonian Institution and us in response to House Document No. 94–51, and the July 1, 1975, **Federal Register** publication.

We published an updated Notice of Review for plants on December 15, 1980 (45 FR 82480). This notice included *Sidalcea keckii* as a category 1 candidate, but it was noted that the species was possibly extinct. At that time, Category 1 candidates were defined as taxa for which we had on file substantial information on biological vulnerability and threats to support preparation of listing proposals. Category 2 candidates were defined as species for which information in our possession indicated that proposing to list the species as threatened or endangered was possibly appropriate, but for which we lacked substantial data on biological vulnerability and threats. The Category 1 designation for *S. keckii* was retained in the November 28, 1983 supplement to the Notice of Review (48 FR 53640), as well as subsequent revisions on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51143). We published a Notice of Review in the **Federal Register** on February 28, 1996 (61 FR 7596), that discontinued the use of different categories of candidates. In that notice, we defined candidates as species meeting the definition of former Category 1 species, and we retained *Sidalcea keckii* as a candidate species.

Section 4(b)(3)(B) of the Act requires us to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all

petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This situation applies to *Sidalcea keckii,* because of our acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983, we found that the petitioned listing of the species was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. A notice of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be reviewed, pursuant to section 4(b)(3)(C)(i) of the Act. The species was included in candidate Notices of Review, published September 27, 1985 (50 FR 39528), February 21, 1990 (55 FR 6184), September 30, 1993 (58 FR 51144), February 28, 1996 (61 FR 7596), and October 25, 1999 (64 FR 57534).

We published a proposed rule to list *Sidalcea keckii* as endangered in the **Federal Register** on July 28, 1997 (62 FR 40325). The comment period was open until September 26, 1997. We extended the comment period to allow for a public hearing and other comments on September 24, 1997 (62 FR 49954), and the comment period closed on November 10, 1997. We again reopened the comment period on August 19, 1998 (63 FR 44417), to allow for additional information on the species. The comment period closed on October 5, 1998. We now determine *Sidalcea keckii* to be endangered with the publication of this rule.

The processing of this final listing rule conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists). Third priority is processing new proposals to add species to the Lists. The processing of administrative petition findings (petitions files under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudency and determinability decisions) will no longer be subject to prioritization under the Listing Priority Guidance. This final rule is a Priority 2 action and is being completed in accordance with the current Listing Priority Guidance. We have updated this rule to reflect any changes in information concerning distribution, status, and threats since the publication of the proposed rule.

Summary of Comments and Recommendations

In the July 28, 1997, proposed rule (62 FR 40325) and associated notifications, we requested that interested parties submit factual reports or information that might contribute to the final listing determination for *Sidalcea keckii.* We published announcements of the proposed rule and notice of the public hearing in the *Tule River Times, Porterville Recorder,* and the *Visalia Times-Delta.* We sent copies of the proposed rule to the Porterville Public Library and the Tulare County Free Library. The original comment period closed on September 26, 1997. We received one request for a public hearing from California Assemblyman Roy Ashburn. As a result, the comment period was extended until November 10, 1997 (62 FR 49954). We conducted a public hearing on the proposed listing at the Visalia Convention Center, Visalia, California on October 21, 1997. Ten people gave oral presentations at the hearing. Additionally, we received a request from the Bureau of Reclamation (BOR) to reopen the comment period in 1998. In response to that request, we reopened the comment period on August 19, 1998 (63 FR 44417). The second comment period closed on October 5, 1998.

During the first comment period and its extension, we received 15 oral and written comments. Two people supported the proposed listing, four people had neutral comments, and nine people opposed the proposed listing. During the second comment period, we received six comment letters. Of these six letters, two were from individuals who provided the same comments opposing the listing during the first comment period. We also received two additional letters supporting the proposed listing, and two neutral comment letters. Because multiple respondents offered similar comments, we grouped together those of a similar nature.

Issue 1: Several commenters stated that because the plant is extinct, we should not list *Sidalcea keckii.* One commenter submitted photocopies of aerial photographs alleged to show that lands in the area had been converted to citrus orchards between 1992 and 1997, as evidence of the species extinction. Another commenter stated that the photocopies of aerial photographs submitted to us do not prove the species is extinct.

Our Response: We reviewed the photocopies of the aerial photographs and conclude that they are not of the specific location where the population of *Sidalcea keckii* was found. Agricultural conversion of rangelands to citrus orchards was cited in the proposed rule as a threat to *S. keckii.* Conversion to orchards, if the species were present at the location cited by the commenter, would have extirpated the species at this location. Because the aerial photograph did not depict the area containing the species, we maintain that the habitat for *S. keckii* at its location southeast of Porterville remains intact, and the species is not extinct.

Issue 2: One commenter stated that the information used in this listing does not justify the potential loss of private property, and that private property owners are being regulated out of the use of their lands by the Act. Another commenter stated that we assert that any use of the land by humans would put *Sidalcea keckii* in jeopardy. One commenter stated that our listing of *Sidalcea keckii* will have negative effects on the people of Tulare County and the entire Central Valley. Another commenter asked what economic impacts to the Central Valley had been considered. One commenter stated that no evidentiary standard or burden of proof for critical habitat or listing the species is found in the proposed rule.

Our Response: Section 4 (b)(10)(A) of the Act requires that listing be based solely on the best scientific and commercial data available (see ''Summary of Factors Affecting the Species'' section of this final rule.) We are precluded from assessing the potential effects to private property that may occur as a result of listing as part of the listing process. The legislative history of this provision explains the intent of Congress to ''ensure'' that listing decisions are ''based solely on biological criteria and to prevent non-biological considerations from affecting such decisions' (H.R. Rep. No. 97–835, 97th Cong. 2d Sess. 19(1982)). As further stated in the legislative history, ''Applying economic criteria to any phase of the species listing process is applying economics to the determinations made under section 4 of the Act and is specifically rejected by the inclusion of the word ''solely'' in this legislation'' (H.R. Rep. No. 97–835, 97th Cong. 2d Sess. 19(1982)). Because we are precluded from considering economic impacts in a final listing decision, we cannot examine such potential impacts.

Agricultural land conversion, urbanization, and random events threaten *Sidalcea keckii.* We believe that many activities on private land will not violate section 9 of the Act. Such

activities may include livestock grazing, construction or maintenance of livestock fences, clearing a defensible space for fire protection around one's personal residence, and landscaping one's personal residence (see ''Available Conservation Measures'' section of this final rule.) Not all uses of the land will put the species in jeopardy.

Issue 3: One commenter stated that we lack jurisdiction to enact the proposed rule, and that the rule should be withdrawn because there is no connection between regulation of these plants (located in California) and a substantial effect on ''interstate commerce.''

Our Response: The Federal Government has the authority under the Commerce Clause of the U.S. Constitution to protect this species. The Court of Appeals, in *National Association of Home Builders of the U.S.* v. *Babbitt,* 130 F.3d 1041 (D.C. Cir. 1997). *cert. denied,* 118 S.Ct. 2340 (1998), held that application of the Act's prohibitions against taking of endangered species was a proper exercise of Commerce Clause power. That case involved a challenge to application of the Act's prohibitions to protect the listed Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*). As with *Sidalcea keckii,* the Delhi Sands flower-loving fly is endemic to only one State.

The Federal Government also has the authority under the Property Clause of the Constitution to protect this species. *Sidalcea keckii* occurs on Federal land, and the courts have long recognized Federal authority under the Property Clause to protect Federal resources in such circumstances. See *Kleppe v. New Mexico,* 429 U.S. 873 (1976).

Issue 4: One commenter stated that we had over-emphasized the possibility of future Federal involvement on properties where *Sidalcea keckii* may occur, because the species did not occur in the BOR's Friant service area.

Our Response: The location of one population of *Sidalcea keckii* in Tulare County is close enough to BOR's Friant service area that it may be affected by actions relating to BOR's water programs in the area. Although the Friant service area may or may not be expanded to include the area that contains the occurrence of *S. keckii* in Tulare County (CH2M Hill 1997), we consider both the occurrence in Fresno County and the location of the occurrence of *S. keckii* in Tulare County to be included in, and directly or indirectly affected by, our Central Valley Project Conservation Program and the cooperative Service and BOR San Joaquin Valley Ecological Services Restoration Program. Although we will include federally listed species like *S. keckii* in our conservation programs, such inclusion does not mean that we anticipate any direct effects that would necessitate section 7 formal consultation with the BOR.

Peer Review

We solicited the expert opinions of three appropriate and independent specialists in accordance with our Interagency Cooperative Policy for peer review, published on July 1, 1994 (59 FR 34270). We requested they review the proposed rule and provide comments on the pertinent scientific or commercial data and assumptions relating to the taxonomy, population status, and supportive biological and ecological information for the proposed plant. The purpose of such review is to ensure listing decisions are based upon scientifically sound data, assumptions, and analyses, including input of appropriate experts and specialists.

We received two responses from the independent specialists whose opinions were solicited. The first reviewer stated that *Sidalcea keckii* is very closely related and very similar to *S. diploscypha.* Although the first reviewer related that the scarcity of knowledge and collections of the species make the quality of its distinctiveness from other taxa difficult, the reviewer stated that *S. keckii* should be listed as federally endangered. Additionally, the reviewer indicated that the soil seed bank where the species had been known to occur or currently occurs needs to be protected so that it may grow in favorable years.

The second reviewer found the information in the proposed rule to be accurate and the listing action warranted, given our current knowledge of the taxon and documented threats. However, the second reviewer related that two collections of *S. diploscypha* from Napa County seemed to be very close, if not identical, to *S. keckii.* Such a disjunct range extension and morphological similarity to *S. diploscypha* may present taxonomic and range issues that need to be carefully sorted out. The second reviewer stated that until such issues are resolved, *S. keckii* must be afforded protection provided by listing under the Act.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal List of Endangered and Threatened Wildlife. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Sidalcea keckii* Wiggins (Keck's checker-mallow) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* One extant population of *S. keckii,* of approximately 60 individuals in Tulare County, was discovered in 1992 (J. Stebbins, *in litt.* 1994). Since 1992, the landowner has not granted us permission to enter the property and check the status of the population. Another population of *S. keckii* in Fresno County was found in 1998. Only three historical sites for *Sidalcea keckii* have been reported. The species is presumed extirpated at all three sites because, despite repeated searches for the species, it has not been found at any of these sites since 1939 (J. Stebbins, *in litt.* 1994). A report of an occurrence near Porterville, Tulare County, is a misidentification of either *S. calycosa* or *S. hirsuta,* and is not *S. keckii* (J. Stebbins, *in litt.* 1994).

The habitat of the Fresno County population of *Sidalcea keckii* has no known threats, except for random, naturally occurring events such as fire. The habitat of the Tulare County population has been degraded, and continues to be threatened, by urban development, agricultural land conversion, and grazing (J. Stebbins, *in litt.* 1994). As recently as 1992, a subdivision was proposed for the private land containing the Tulare County population of *S. keckii,* although that proposal has since been withdrawn (Marge Neufeld, Tulare County Planning Department, *in litt.* 1995). Agricultural land conversion also threatens this population (California Natural Diversity Data Base (CNDDB)1997). Citrus orchards occur within 1.6 km (1 mi) of this population of *S. keckii.* The population is at the same elevation as existing orchards, and has soils similar to those on which citrus is grown. Between 1992 and 1997, rangelands were converted into citrus orchards on a parcel adjacent to the western boundary of the occurrence of *S. keckii* (Ken Fuller, Service, pers. obs. 1999).

The land on which the population is found changed ownership in 1993 and is currently used for grazing. Although the current level of grazing on the parcel is not thought to pose a threat to the species, an increase in grazing intensity could potentially threaten the species. The current zoning of this 64–ha (160 ac) property is Planned Development Foothill Mobile Home (Roberto Brady, Tulare County Planning Department, pers. comm. 1997). This designation

means that, subject to site plan review, the current or any future landowner could place a subdivision, business, or mixed business and residential development on the land. The lands adjacent to this property, which are owned by the same landowner, are zoned to permit citrus, grapes, or other crop agriculture, or cattle grazing (R. Brady, pers. comm. 1997). A zoning variance could permit either residential or agricultural use of the parcel on which the plant occurs. The intentions of the current landowner are unknown.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overutilization is not currently known to be a factor for the plant. However, *Sidalcea keckii* is an attractive, showy plant, and the genus is prized as a source of horticultural plants. Simply listing a species can precipitate commercial or scientific interest, both legal and illegal, which can threaten the species through unauthorized and uncontrolled collection. Unrestricted collecting for scientific or horticultural purposes, and impacts from excessive visits by individuals interested in seeing rare plants could result in a reduction of plant numbers and seed production. The two known populations of the species are so small that even limited collecting pressure could have significant impacts.

C. *Disease or predation.* At this time, disease is not known to pose any problems for *Sidalcea keckii.*

Moderate to light livestock grazing occurs at the Tulare County population location. *S. keckii* is not believed to be selectively grazed. However, if the intensity of grazing increases at this site, the species may be subject to increased grazing pressure and trampling of plants. The timing and intensity of grazing are important factors in the effect of grazing on the plant. Livestock grazing during spring and summer likely causes the most damage to the species. When herbivores eat the flower or seed head of the plant, the reproductive output for the year for that individual is destroyed.

D. *The inadequacy of existing regulatory mechanisms.* The California Environmental Quality Act (CEQA) requires full disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines requires a finding of significance if a project has the potential to ''reduce the number or restrict the range of an endangered, rare, or threatened species.'' Species that are eligible for listing as rare, threatened, or endangered but are not so listed are given the same protection as those species that are officially listed with the Federal or State governments. Once significant effects are identified, the lead agency has the option to require mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible. In the latter case, projects may be approved that cause significant environmental damage. Protection of unlisted, proposed, and listed species through CEQA is, therefore, dependent upon the discretion of the lead agency.

Sidalcea keckii is not listed by the California Department of Fish and Game under the California Endangered Species Act (CESA) (Chapter 1.5 sec. 2050 *et seq.* of the California Fish and Game Code and Title 14 California Code of Regulations section 670.2).

E. *Other natural or manmade factors affecting its continued existence. Sidalcea keckii* is extremely localized, with only one small population of approximately 60 individuals and another population with 216 individual plants (CNDDB 1997; S. Carter, *in litt.* 1998). Small population size increases the susceptibility of a population to extirpation from random demographic, environmental, and/or genetic events, affecting survival and reproduction of individuals (Shaffer 1981, 1987; Lande 1988; Meffe and Carroll 1994). Environmental events that may put small populations at risk include random or unpredictable fluctuations in the physical environment, such as changes in the weather (Shaffer 1981, 1987; Lande 1988; Meffe and Carroll 1994). The small population of *Sidalcea keckii* may also be subject to increased genetic drift (random fluctuation in gene frequencies) and inbreeding (mating by relatives more frequently than would be expected by chance) as a consequence of its small population size (Menges 1991; Ellstrand and Elam 1993). Decreased genetic variation resulting from genetic drift and inbreeding may lead to a loss of fitness (ability of individuals to survive and reproduce). Reduced genetic variation in small populations may make the species less able to successfully adapt to future environmental changes (Ellstrand and Elam 1993). In addition, the combination of two small populations, small range, and restricted habitat makes *S. keckii* highly susceptible to extinction or extirpation from a significant portion of its range due to random events such as flood, fire, disease, drought, or other occurrences (Shaffer 1981, 1987; Primack 1993; Meffe and Carroll 1994). Such events are not usually a concern until the number of populations or geographic distribution become severely limited, as is the case with *S. keckii.*

Fire is a natural part of the ecosystem where the populations occur but because the species is so reduced in range, may adversely affect the species, depending on the time of year it occurs. A fire occurred in the area of the Tulare County population of *S. keckii* in the summer of 1996 or 1997. The fire started near the two-lane road that borders the southern side of the property. The fire burned about 162 ha (400 ac) before being put out. It is uncertain but unlikely that the population of *S. keckii* was damaged by the fire because the species typically blooms in April and May with seed-set soon after flowering, and the fire occurred later in the summer. We have not been granted permission to enter the property and check the status of the population since 1992. If a fire should occur before the plants bloomed or as they were blooming, the fire could destroy the individual plants as well as deplete the seed bank.

We have carefully assessed the best scientific and commercial information available regarding the present and future threats faced by this species in developing this final rule. Only two populations of *Sidalcea keckii* are known to exist, and total only about 276 individual plants. The Tulare County population of *S. keckii* is threatened by urban development, agricultural land conversion, and grazing. Both the Tulare and Fresno County populations are threatened by naturally occurring random events. Although we are not aware of any current proposal for either development or conversion of the parcel on which the two small populations occur, the Tulare County population occurs in an area that is zoned for development or agriculture and is currently unprotected from these threats. *Sidalcea keckii* is in danger of extinction throughout its range and, therefore, meets the Act's definition of endangered. Because of the high potential for these threats, if realized, to result in the extinction of *S. keckii,* the preferred action is to list this plant as endangered.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are

found those physical or biological features (I) Essential to the conservation of the species and (II) That may require special management considerations or protection and; (ii) Specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) Such designation of critical habitat would not be beneficial to the species.

In the proposed rule, we indicated that designation of critical habitat was not prudent for *Sidalcea keckii* (Keck's checkermallow) because of a concern that publication of precise maps and descriptions of critical habitat in the **Federal Register** could increase the vulnerability of these species to incidents of collection and/or vandalism. We also indicated that designation of critical habitat was not prudent because we believed the limited benefit provided by designation was outweighed by the increase in threats from collection and/or vandalism.

In the last few years, a series of court decisions have overturned Service determinations regarding a variety of species that designation of critical habitat would not be prudent (*e.g., Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt,* 2 F. Supp. 2d 1280 (D. Hawaii 1998)). Based on the standards applied in those judicial opinions, we have reexamined the question of whether critical habitat for *Sidalcea keckii* (Keck's checkermallow) would be prudent.

Due to the small number of populations, *Sidalcea keckii* (Keck's checkermallow) is vulnerable to unrestricted collection, vandalism, or other disturbance. We remain concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, we have examined the evidence available for *Sidalcea keckii* (Keck's checkermallow) and have not found specific evidence of taking, vandalism, collection, or trade of this species or any similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and recent case law, we do not expect that the identification of critical habitat will increase the degree of threat to this species of taking or other human activity.

In the absence of a finding that critical habitat would increase threats to a species, if any benefits would result from critical habitat designation, then a prudent finding is warranted. In the case of this species, critical habitat may provide some benefits. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, in some instances section 7 consultation might be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. Designating critical habitat may also provide some educational or informational benefits. Therefore, we find that designation of critical habitat is prudent for *Sidalcea keckii* (Keck's checkermallow).

The Final Listing Priority Guidance for FY 2000 (64 FR 57114) states that the processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand-alone critical habitat determinations will be published as notices in the **Federal Register**. We will undertake critical habitat determinations and designations during FY 2000 as conservation efforts demand and in light of resource constraints. As explained in detail in the Listing Priority Guidance, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Deferral of the critical habitat designation for *Sidalcea keckii* (Keck's checkermallow) will allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, while allowing us to put in place protections needed for the conservation of *Sidalcea keckii* (Keck's checkermallow) without further delay.

We plan to employ a priority system for deciding which outstanding critical habitat designations should be addressed first. We will focus our efforts on those designations that will provide the most conservation benefit, taking into consideration the efficacy of critical habitat designation in addressing the threats to the species, and the magnitude and immediacy of those threats. We will develop a proposal to designate critical habitat for the *Sidalcea keckii* (Keck's checkermallow) as soon as feasible, considering our workload priorities. Unfortunately, for the immediate future, most of Region 1's listing budget must be directed to complying with numerous court orders and settlement agreements, as well as due and overdue final listing determinations.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in public awareness and conservation actions by Federal, State, and private organizations, groups, and individuals. Without the elevated profile that Federal listing affords, little likelihood exists that any conservation activities would be undertaken. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing, or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its

critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

Listing *Sidalcea keckii* will provide for development of a recovery plan for the plant. Such a plan would bring together both State and Federal efforts for conservation of the plant. The plan would establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan would set recovery priorities, assign responsibilities, and estimate costs of various tasks necessary to accomplish them. It would also describe site-specific management actions necessary to achieve conservation and survival of the plant. Additionally, pursuant to section 6 of the Act, we would be able to grant funds to California, the affected State, for management actions promoting the protection and recovery of the species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport or ship in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction to areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to our agents and State conservation agencies.

It is our policy, published in the **Federal Register** on July 1, 1994, (59 FR 34272) to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effects of the listing on proposed and ongoing activities within the species' range. The species is known to occur on private and Federal lands. Collection, damage, or destruction of this species on Federal land is prohibited, although in appropriate cases, a Federal endangered species permit may be issued for scientific or recovery purposes. Such activities on non-Federal lands would constitute a violation of section 9 when conducted in knowing violation of California State law or regulations or in violation of State criminal trespass law.

Activities that are not likely to violate section 9 include livestock grazing at current intensitities, construction or maintenance of fences and livestock water facilities, clearing a defensible space for fire protection around one's personal residence, and landscaping (including irrigation) around one's personal residence. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Sacramento Fish and Wildlife office (see **ADDRESSES** section).

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. Requests for copies of the regulations on listed plants, and general inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Division of Recovery Planning and Permits, 911 NE 11th Ave., Portland, Oregon 97232–4181 (telephone 503/231–2063).

National Environmental Policy Act

We have determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any information collection requirements for which the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is required. An information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned the clearance number 1018–0094. For additional information concerning permits and associated requirements for endangered and threatened species, see 50 CFR 17.32.

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Author

The primary author of this proposed rule is Ken Fuller, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*		*
FLOWERING PLANTS							
*	*	*	*	*	*		*
Sidalcea keckii	Keck's checker-mallow.	U.S.A. (CA)	Malvaceae—Mallow ..	E	NA	NA	
*	*	*	*	*	*		*

Dated: January 13, 2000.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 00–3278 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 990128036–0025–02; I.D. 012100E]

RIN 0648–AG49

Designated Critical Habitat: Critical Habitat for 19 Evolutionarily Significant Units of Salmon and Steelhead in Washington, Oregon, Idaho, and California

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

ACTION: Final rule.

SUMMARY: NMFS is designating critical habitat for 19 evolutionarily significant units (ESUs) of chinook (*Oncorhynchus tshawytscha*), chum (*O. keta*), coho (*O. kisutch*), and sockeye salmon (*O. nerka*) and steelhead trout (*O. mykiss*) previously listed under the Endangered Species Act (ESA). Critical habitat occurs in the states of Washington, Oregon, Idaho, and California and encompasses accessible reaches of all rivers (including estuarine areas and tributaries) within the range of each listed ESU. Critical habitat is also designated in Ozette Lake for that sockeye salmon ESU. The areas described in this final rule represent the current freshwater and estuarine range of the listed species. For all ESUs, critical habitat includes all waterways, substrate, and adjacent riparian zones below longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years). After considering public comments and reviewing additional scientific information, NMFS has modified various aspects of the proposed designations, including a revised description of adjacent riparian zones and the exclusion of Indian lands from critical habitat. The economic (and other) impacts resulting from this critical habitat designation are expected to be minimal.

DATES: This rule is effective March 17, 2000. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of June 4, 1999.

ADDRESSES: Copies of the USGS publication and maps may be obtained from the USGS, Map Sales, Box 25286, Denver, CO 80225. Copies may be inspected at NMFS, Protected Resources Division, 525 NE Oregon Street—Suite 500, Portland, OR 97232–2737, or NMFS, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Reference materials regarding this critical habitat designation can be obtained via the internet at www.nwr.noaa.gov.

FOR FURTHER INFORMATION CONTACT: In Washington, Oregon, or Idaho, contact Garth Griffin (Portland) at (503) 231–2005. In California, contact Craig Wingert (Long Beach) at (562) 980–4021.

SUPPLEMENTARY INFORMATION:

Background

During the past 3 years, NMFS has published final listing determinations for numerous ESUs of salmon and steelhead throughout the Pacific Northwest and California. Although critical habitat has been designated for several of these ESUs, final designations are still pending for 19 ESUs of five species: (1) Puget Sound, Lower Columbia River, Upper Willamette River, Upper Columbia River spring-run, California Central Valley spring-run, and California Coastal chinook salmon ESUs (63 FR 11482, March 9, 1998); (2) Hood Canal summer-run and Columbia River chum salmon ESUs (63 FR 11774, March 10, 1998); (3) Ozette Lake sockeye salmon ESU (63 FR 11750, March 10, 1998); (4) Oregon Coast coho salmon ESU (64 FR 24998, May 10, 1999); and (5) Southern California, South-Central California coast, Central California coast, California Central Valley, Upper Columbia River, Snake River Basin, Lower Columbia River, Upper Willamette River, and Middle Columbia River steelhead ESUs (64 FR 5740, February 5, 1999).

Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, NMFS designate critical habitat concurrently with a determination that a species is endangered or threatened. At the time of final listing for each of these 19 ESUs, critical habitat was not determinable because the information to perform the required analyses was insufficient. However, NMFS has published proposed rules designating critical habitat for these ESUs, solicited public comments, and held public hearings on the proposals. This final rule considers the new information and comments received in response to the proposed rules for all 19 ESUs.

Use of the term ''essential habitat'' within this document refers to critical habitat as defined by the ESA and should not be confused with the requirement to describe and identify Essential Fish Habitat (EFH) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq*.

Definition of Critical Habitat

Critical habitat is defined in section 3(5)(A) of the ESA as ''(i) the specific areas within the geographical area occupied by the species...on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species...upon a determination by the Secretary [of Commerce (Secretary)] that such areas are essential for the conservation of the species.'' The term ''conservation,'' as defined in section 3(3) of the ESA, means ''...to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary'' (see U.S.C. 1532(3)).

In designating critical habitat, NMFS considers the following requirements of the species: (1) Space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, or rearing of offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of the species (see 50 CFR 424.12(b)). In addition to these factors, NMFS also focuses on the known physical and biological features (primary constituent elements) within the designated area that are essential to the conservation of the species and that may require special management considerations or protection. These essential features may include, but are not limited to, spawning sites, food resources, water quality and quantity, and riparian vegetation.

Benefits of Critical Habitat Designation

A designation of critical habitat provides Federal agencies with a clear indication as to when consultation under section 7 of the ESA is required, particularly in cases where the proposed action would not result in immediate mortality, injury, or harm to individuals of a listed species (e.g., an action occurring within the critical habitat area when a migratory species is not present). The critical habitat designation, in describing the essential features of the habitat, also helps determine which activities conducted outside the designated area are subject to section 7 (i.e., activities outside critical habitat that may affect essential features of the designated area).

A critical habitat designation will also assist Federal agencies in planning future actions because the designation establishes, in advance, those habitats that will be given special consideration in section 7 consultations. With a designation of critical habitat, potential conflicts between Federal actions and endangered or threatened species can be identified and possibly avoided early in an agency's planning process.

Summary of Comments

Between April 1998 and June 1999, NMFS held 40 public hearings on the critical habitat proposals: 9 in Washington, 15 in Oregon, 4 in Idaho, and 12 in California (63 FR 16955, April 7, 1998; 63 FR 30455, June 4, 1998; 64 FR 20248, April 26, 1999; 64 FR 24998, May 10, 1999). Approximately 800 written comments were submitted in response to the proposed rules and numerous individuals provided oral testimony at the public hearings. New information and comments received are summarized as follows.

Public Notification Process

Comment 1 : Some commenters felt that the process for proposing critical habitat was not handled well (e.g., difficulties with public notice and time to respond) and that the proposal itself was too ill-defined to be fully evaluated.

Response: NMFS made every attempt to communicate the critical habitat proposal to the affected communities. As noted above, 40 public hearings were held in California, Washington, Oregon, and Idaho and various local newspapers were notified of the proposed action, comment deadlines, and public meetings. In response to numerous requests, NMFS twice extended the comment periods (63 FR 30455, June 4, 1998; 64 FR 20248, April 26, 1999) to allow additional time for the public to submit comments. Finally, NMFS responded to several requests for supplemental meetings with affected county and local groups to promote better understanding of the proposal and attempt to allay unwarranted fears resulting from misleading information. Any and all parties are encouraged to contact NMFS if they have questions or need additional information regarding this final rule (see **FOR FURTHER INFORMATION CONTACT**).

Economic Considerations

Comment 2: Numerous commenters believed that NMFS improperly minimized the proposal's economic impacts by separating the designation of critical habitat from the listing process (i.e., by considering only the incremental economic effects of designating critical habitat, beyond the effects associated with listing the species). These commenters are concerned that by separating the costs associated with the various administrative actions (e.g., listing, critical habitat designation, section 7 consultations), NMFS underestimated the real economic consequences of protecting listed salmon and steelhead. Some commenters countered that any economic costs would be offset once the salmon and steelhead fisheries were restored. Many commenters objected to NMFS' interpretation that the impact of critical habitat designation is subsumed by the costs associated with protections under section 7 of the ESA. Several commenters contended that NMFS failed to conduct an analysis pursuant to the Regulatory Flexibility Act.

Response: NMFS disagrees with the assertion that it has improperly minimized the economic impacts by separating the designation of critical habitat from the listing process, or that this incremental approach for critical habitat designation renders sections of the ESA meaningless. Rather, the ESA is unambiguous in how it addresses economic impacts; it prohibits the consideration of economic impacts in the listing process, but requires analysis of economic impacts when designating critical habitat. These separate requirements for each determination necessarily engender an incremental analysis in which only the economic impacts resulting from the designation of critical habitat are considered.

Since NMFS is designating the current range of the listed species as critical habitat, this designation will not impose any additional requirements or economic effects beyond those which already accrue from section 7 of the ESA, which is triggered by the species' listing. Section 7 requires Federal agencies to ensure that any action they carry out, authorize, or fund is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of habitat determined to be critical. The consultation requirements of section 7 are nondiscretionary and are effective at the time of species' listing. Therefore, Federal agencies must consult with

NMFS and ensure their actions do not jeopardize a listed species regardless of whether critical habitat is designated.

Most of the effect on non-Federal interests will result from the protective regulations of 4(d) and the no-jeopardy requirement of section 7, both of which are a function of listing a species, not designating its critical habitat. Whether or not critical habitat is designated, non-Federal interests must conduct their actions in a manner consistent with the requirements of the ESA. When a species is listed, non-Federal interests must comply with the prohibitions on takings found in section 9 of the ESA and associated regulations under section 4(d). If the activity is funded, permitted, or authorized by a Federal agency, that agency must comply with the non-jeopardy mandate of section 7 of the ESA, which results from listing a species, not from designating its critical habitat. Once critical habitat is designated, the agency must avoid actions that destroy or adversely modify that critical habitat. However, pursuant to NMFS' ESA implementing regulations, any action that destroys or adversely modifies critical habitat is also likely to jeopardize the continued existence of the species (See the definitions in 50 CFR 402.02). Therefore, NMFS does not anticipate that the designation will result in significant additional requirements for non-Federal interests.

Notwithstanding its lack of economic impact, the designation of critical habitat remains important because it identifies habitat that is essential for the continued existence of a species and, therefore, indicates habitat that may require special management attention. This facilitates and enhances Federal agencies' ability to comply with section 7 by ensuring that agencies are aware of it when their activities may affect listed species and habitats essential to support them. In addition to aiding Federal agencies in determining when consultations are required pursuant to section 7(a)(2), critical habitat can aid an agency in fulfilling its broader obligation under section 7(a)(1) to use its authority to carry out programs for the conservation of listed species.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities, as provided in the Regulatory Flexibility Act.

Comment 3: A number of commenters were under the impression that critical habitat is equivalent to a ''set-aside'' or an easement and that by its nature is tantamount to an illegal and unconstitutional ''taking'' of private property. Some commenters felt that designating critical habitat abrogated Executive Order 12630 and the June 30, 1988, Attorney General's ''Guidelines for Evaluation and Risk Avoidance of Unanticipated Takings.'' Some of these commenters provided estimates and analyses describing specific costs they believed they would incur as a result of the proposed critical habitat designation. These commenters suggested that they should be monetarily reimbursed for any financial hardship resulting from a designation of critical habitat.

Response: A critical habitat designation does not impose any additional burdens on private land than those imposed by the species' listing. A private landowner continues to be free to manage his property as he sees fit, using care that his land management does not result in the take of a listed species. The critical habitat designation simply clarifies the geographic areas within which one's activities may impact listed salmon and steelhead. A critical habitat designation affects private land only when a Federal action (e.g., obtaining a Federal permit) triggers a section 7 consultation.

Land use activities may be affected by statutory and regulatory protections afforded species once they are listed under the ESA. Section 9(a) of the ESA specifically prohibits the take of endangered species, and NMFS has proposed to adopt similar regulations for threatened steelhead (64 FR 73479, December 30, 1999) and chinook, chum, coho, and sockeye salmon (65 FR 170, January 3, 2000). These prohibitions, which include actions that significantly modify or degrade habitat, may have some impact on land uses that can be shown to have harmed anadromous salmonids (e.g., placing barriers to migration in a stream), but these regulations should not be confused with the designation of critical habitat. In the course of deciding to make this final designation, the Department of Commerce has complied with Executive Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights.

Compliance with National Environmental Policy Act (NEPA)

Comment 4: Some commenters believed that NMFS should prepare an environmental impact statement pursuant to NEPA on the critical habitat designations because the designations are a major Federal action and will have a significant impact on the environment.

Response: Under section 4(b)(2) of the ESA, the Secretary is required to designate critical habitat on the basis of the best scientific data available after taking into account the economic and other relevant impacts of specifying any particular area as critical habitat. In past critical habitat designations, NMFS has performed analyses of the kind requested here: environmental analysis under the NEPA. In all such cases NMFS has determined that mere designation of critical habitat has no adverse environmental impacts. In the time since these analyses were performed, it has become NMFS' policy, as well as that of the U.S. Fish and Wildlife Service, that designating critical habitat has in fact no impact that requires a NEPA analysis. The Services determined that any appreciable environmental impact resulting from ESA activities accrued not from designating critical habitat, but from listing the species in the first place. Thus, designating critical habitat is simply an adjunct to listing species as threatened or endangered; it is, in itself, merely another effect generated by the listing process and has little or no environmental impact.

The Ninth Circuit Court of Appeals has upheld the Services' determination. In *Douglas County* v. *Babbitt* (*see* 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996)), the Court found that Congress, in enacting the ESA, intended that critical habitat procedures displace NEPA requirements. Further, the Court found that NEPA ''does not apply to actions that do not change the physical environment'' and that ''to apply NEPA to the * * * ESA would further the purposes of neither statute.'' In other words, the court found that NEPA does not apply to designation of critical habitat under the ESA.

Scope and Extent of Critical Habitat

The majority of commenters raised issues regarding the geographic scope and extent of proposed critical habitat, in particular the designation of adjacent riparian zones and the exclusion of historical habitats above dams and marine areas in the Pacific Ocean. Critical habitat is defined in section 3(5)(A) of the ESA as the specific areas within the geographic area occupied by the species on which are found those physical or biological features that are essential to the conservation of the species and that may require special management considerations or protection. Based on commenters' concerns and on new information received during the public comment period, NMFS has refined its designation of critical habitat for all 19

ESUs of salmon and steelhead. The following sections, partitioned by habitat type, address commenters' concerns and clarify NMFS' designation of critical habitat for these ESUs.

Freshwater and Estuarine Habitats

Comment 5 : Numerous commenters felt that a more complete scientific analysis was required before critical habitat could be designated and, as a result, requested that the agency withdraw the proposed rules. Some commenters questioned NMFS' delineation of critical habitat as including all areas currently accessible to the species, and requested more specificity as to which stream reaches are critical habitat. Some commenters sought designation of unoccupied streams as critical habitat, while others noted that some local creeks and streams never had salmon or steelhead (e.g., Calleguas Creek) and requested designation of only those areas where species restoration is feasible. Several commenters believed that adverse hydrologic conditions and degraded habitat in certain streams (e.g., Stone Corral Creek and Upper Elder Creek in California's Central Valley, and Pony Creek in coastal Oregon) would preclude certain basins or river reaches from playing a critical role in the species' recovery. Several commenters noted errors in the tables used to identify river basins containing critical habitat in the proposed rules (e.g., in the California coastal chinook salmon ESU). Several commenters identified streams and estuarine areas that they believed should be included or highlighted due to their significance for salmon and steelhead production. Finally, a large number of commenters requested that NMFS extend the southern extent of the critical habitat designation from Malibu Creek to at least San Mateo Creek in San Diego County in conjunction with a range extension of the Southern California steelhead ESU.

Response: While the proposed rules described the lack of consistent and robust data sets with which to discern the species' distribution at a fine scale, NMFS believes that the best available distribution information is sufficient to characterize basin-level designations of critical habitat for the listed species. A variety of mapping efforts are underway throughout the Pacific Northwest and California (e.g., the ''core area'' mapping component of the Oregon Coastal Salmon Restoration Initiative (OCSRI 1997), since renamed ''The Oregon Plan for Salmon and Watersheds''). However, most have yet to be completed or fail to depict salmonid habitats in a consistent manner or at a fine geographic scale. Hence, they must be viewed as good but tentative descriptions of areas occupied by or critical for salmon and steelhead. NMFS believes that these mapping efforts hold great promise for focusing habitat protection and restoration efforts and will continue to use the expertise of state and tribal comanagers to discern salmonid distribution when specific actions warrant (e.g., during section 7 consultations). However, the limited data across the range of these 19 ESUs, as well as dissimilarities in data types within them, continue to make it difficult to define this species' distribution at a finer scale than the U.S. Geological Survey (USGS) hydrologic units (i.e., basins) identified Tables 7–24. Similarly, this limitation precludes the agency from restricting critical habitat to streams where restoration may or may not be feasible.

The agency's preferred approach to identifying critical habitat is to designate all areas accessible to the species within the range of hydrologic units in each ESU. While this may not provide the level of resolution to define the species' presence or absence in specific local creeks and streams, NMFS believes that adopting a more inclusive, watershed-based description of critical habitat is appropriate because it: (1) recognizes the species' use of diverse habitats and underscores the need to account for all of the habitat types supporting the species' freshwater and estuarine life stages, from small headwater streams to migration corridors and estuarine rearing areas; (2) takes into account the natural variability in habitat use that makes precise mapping problematic (e.g., some streams may have fish present only in years with abundant rainfall); and (3) reinforces the important linkage between aquatic areas and adjacent riparian/upland areas. While unoccupied streams are excluded from critical habitat, habitat quality in the species' current range is intrinsically related to the quality of upland areas and of inaccessible headwater or intermittent streams which provide key habitat elements (e.g., large woody debris, gravel, water quality) crucial for fish in downstream reaches.

NMFS clarifies that reaches or basins historically and currently unoccupied (e.g., Calleguas Creek, Ventura County, California) would not be considered critical habitat. Also, the agency acknowledges that some streams currently have little suitable habitat for salmon and steelhead or are rarely inhabited by the species. As noted previously, the paucity of detailed information regarding salmonid distribution precludes NMFS from identifying specific drainages or river reaches occupied by the species. In addition, the current low abundance of the species makes it difficult to rule out any stream for recovery since the remnant populations may need whatever habitat is available in order to persist. In the case of some streams cited by commenters it is unclear whether the basin has been monitored sufficiently such that firm conclusions about the species' presence/absence can be made. Instead, NMFS believes that the most prudent approach to characterizing critical habitat is to include all areas accessible to listed salmon and steelhead. In streams where there is limited species distribution information, NMFS biologists would make their best professional judgment about the access to and suitability of available habitat and what if any impacts would occur to the listed fish as a result of a specific activity. Few if any effects would result from an activity where it is well documented that the listed species makes little use of a river reach or basin and the existing habitat conditions are poor.

To address the request by several commenters, NMFS has provided a more complete list of rivers, bays, and estuaries known to support salmon and steelhead in each ESU (see section Critical Habitat of Salmon and Steelhead; Changes to the Proposed Rules). NMFS has also corrected several errors contained in the tables used to identify river basins and estuarine areas containing critical habitat and errors in the regulatory definitions. Changes included correcting misidentified basins and dams, deleting reference to several dams that are beyond the upstream extent of salmonid access, and including habitats currently occupied but erroneously omitted in the proposed rule (e.g., the inadvertent exclusion of south San Francisco Bay as critical habitat for Central California Coast steelhead ESU). See also comments and corrections noted under Dams and Barriers.

It is important to note that recent listing determinations have changed the geographic boundaries of several chinook salmon, chum salmon, and steelhead ESUs. These changes have resulted in modifications to the critical habitat to correspond with the new ESU configurations. As a result, the Upper Willamette River chinook salmon ESU (and its critical habitat) now extends downstream of Willamette Falls to include the areas occupied by Clackamas River spring-run populations (64 FR 14308, March 24, 1999) and the Hood Canal summer-run chum salmon ESU/critical habitat now includes

Dungeness Bay and tributaries (64 FR 14508, March 25, 1999). In contrast, the California coastal and Snake River fall-run chinook salmon ESUs (64 FR 50394, September 16, 1999) and Upper Willamette River steelhead ESU (64 FR 14517, March 25, 1999) were listed within a smaller range of watersheds; hence several basins and dams/reservoirs are now being excluded from the critical habitat designation. In the case of the Snake River fall-run chinook salmon ESU, critical habitat will remain in the range of watersheds originally designated on December 28, 1993 (58 FR 68543). Specific changes to the critical habitat designations for all ESUs are summarized in Critical Habitat of Salmon and Steelhead; Changes to the Proposed Rules.

Finally, with respect to the southern extent of critical habitat for the Southern California steelhead ESU, NMFS finds that the comments may have merit. In 1999, juvenile *O. mykiss* suspected of being steelhead were found in several locations within the San Mateo Creek watershed. NMFS is evaluating the available biological information for these fish, including a limited amount of genetic and otolith microchemistry data, to determine whether a range extension of this ESU is warranted. If warranted by the available data, NMFS will propose a range extension of this ESU in a separate rule making. NMFS would consider the extension of the critical habitat designation south of Malibu Creek in conjunction with that rulemaking.

Adjacent Riparian Zones

Comment 6: While many commenters supported NMFS' proposal to include the adjacent riparian zone as critical habitat, others were strongly against this approach. Some noted the lack of justification for including adjacent riparian zones of 300 feet from each side of a stream in the critical habitat proposals for chinook, chum and sockeye salmon. Moreover, many felt that proposing to designate these zones was arbitrary and excessive. Several commenters offered possible lesser solutions to defining adjacent riparian zones, including: only the actual inhabited stream reaches themselves, a smaller width to the riparian boundary (e.g., equivalent to a site-potential tree height), or the extent of the flood plain.

Response: NMFS agrees that the proposed rules for chinook, chum, and sockeye salmon did not adequately describe the rationale for identifying adjacent riparian zones as part of critical habitat. The subsequent proposed rules for steelhead and Oregon coast coho salmon included greater detail on this topic and moreover proposed a new, refined approach to designating the adjacent riparian zone (summarized below). NMFS believes it is important to include these zones in the designation of critical habitat for several reasons. The ESA defines critical habitat to include areas ''on which are found those physical or biological features * * * essential to the conservation of the species and * * * which may require special management considerations or protection.'' These essential features for salmon include, but are not limited to, spawning sites, food resources, water quality and quantity, and riparian vegetation (see 50 CFR 424.12(b)). Riparian areas form the basis of healthy watersheds and affect these primary constituent elements; therefore, they are essential to the conservation of the species and need to be included as critical habitat.

NMFS' past critical habitat designations for listed salmonids have included the adjacent riparian zone as part of the designation. For example, in the final designations for Snake River spring/summer chinook, fall chinook, and sockeye salmon (58 FR 68543, December 28, 1993), NMFS included the adjacent riparian zone as part of critical habitat and defined it in the regulation as those areas within a horizontal distance of 300 feet (91.4 meters) from the normal high water line. In the critical habitat designation for Sacramento River winter-run chinook (58 FR 33212, June 16, 1993), NMFS included ''adjacent riparian zones'' as part of the critical habitat but did not define the extent of that zone in the regulation. The preamble to that rule stated that the adjacent riparian zone was limited to ''those areas that provide cover and shade.''

Streams and stream functioning are inextricably linked to adjacent riparian and upland (or upslope) areas. Streams regularly submerge portions of the riparian zone via floods and channel migration, and portions of the riparian zone may contain off-channel rearing habitats used by juvenile salmonids, especially during periods of high flow. The riparian zone also provides an array of important watershed functions that directly benefit salmonids. Vegetation in the zone shades the stream, stabilizes banks, and provides organic litter and large woody debris. The riparian zone stores sediment, recycles nutrients and chemicals, mediates stream hydraulics, and controls microclimate. Healthy riparian zones help ensure water quality essential to salmonids as well as the forage species they depend on (Reiser and Bjornn, 1979; Meehan, 1991; FEMAT, 1993; and Spence *et al.*, 1996). Human activities in the adjacent riparian zone, or in upslope areas, can harm stream function and can harm salmonids, both directly and indirectly, by interfering with the watershed functions described here. For example, timber harvest, road-building, grazing, cultivation, and other activities can increase sediment, destabilize banks, reduce organic litter and woody debris, increase water temperatures, simplify stream channels, and increase peak flows leading to scouring. These adverse modifications reduce the value of habitat for salmonids and, in many instances, may result in injury to or mortality of fish. Because human activity may adversely affect these watershed functions and habitat features, NMFS concluded the adjacent riparian zone could require special management consideration, and, therefore, was appropriate for inclusion in critical habitat.

The Snake River salmon critical habitat designation relied on analyses and conclusions reached by the Forest Ecosystem Management Assessment Team (FEMAT, 1993) regarding interim riparian reserves for fish-bearing streams on Federal lands within the range of the northern spotted owl. The interim riparian reserve recommendations in the FEMAT report were based on a systematic review of the available literature, primarily for forested habitats, concerning riparian processes as a function of distance from stream channels. The interim riparian reserves identified in the FEMAT report for fish-bearing streams on Federal forest lands are intended to (1) provide protection to salmonids, as well as riparian-dependent and associated species, through the protection of riparian processes that influence stream function, and (2) provide a high level of fish habitat and riparian protection until site-specific watershed and project analyses can be completed. The FEMAT report identified several alternative ways that interim riparian reserves providing a high level of protection could be defined, including the 300-foot (91.4 meter) slope distance, a distance equivalent to two site-potential tree heights, the outer edges of riparian vegetation, the 100-year flood plain, or the area between the edge of the active stream channel to the top of the inner gorge, whichever is greatest. The U.S. Forest Service (USFS) and U.S. Bureau of Land Management (BLM) ultimately adopted these riparian reserve criteria as part of an Aquatic Conservation Strategy aimed at conserving fish, amphibians, and other aquatic- and riparian-

dependent species in the Record of Decision for the Northwest Forest Plan (FEMAT ROD, 1994).

While NMFS has used the findings of the FEMAT report to guide its analyses in ESA section 7 consultations with the USFS and BLM regarding management of Federal lands, NMFS recognizes that the interim riparian reserves may be conservative in some instances, with regard to the protection of adjacent riparian habitat for salmonids since they are designed to protect terrestrial species that are riparian dependent or associated, as well as salmonids. Moreover, NMFS' analyses have focused more on the stream functions important to salmonids and on how proposed activities will affect the riparian area's contribution to properly functioning conditions for salmonid habitat.

Since the adoption of the Northwest Forest Plan, NMFS has gained experience working with Federal and non-Federal landowners to determine the likely effects of proposed land management actions on stream functions. In freshwater and estuarine areas, these activities include, but are not limited to agriculture; forestry; grazing; diking and bank stabilization; construction/urbanization; dam construction/operation; dredging and dredged spoil disposal; habitat restoration projects; irrigation withdrawal, storage, and management; mineral mining; road building and maintenance; sand and gravel mining; wastewater/pollutant discharge; wetland and floodplain alteration; and woody debris/structure removal from rivers and estuaries. NMFS has developed numerous tools to assist Federal agencies in analyzing the likely impacts of their activities on anadromous fish habitat. With these tools, Federal agencies are better able to judge the impacts of their actions on salmonid habitat, taking into account the location and nature of their actions. NMFS' primary tool guiding Federal agencies is a document titled ''Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale'' (NMFS, 1996a). This document presents guidelines to facilitate and standardize determinations of ''effect'' under the ESA and includes a matrix for determining the condition of various habitat parameters. This matrix is being implemented throughout northern California and Oregon coastal watersheds and is expected to help guide efforts to define salmonid risk factors and conservation strategies throughout the West Coast.

Several recent literature reviews have addressed the effectiveness of various riparian zone widths for maintaining specific riparian functions (e.g., sediment control, large woody debris recruitment) and overall watershed processes. These reviews provide additional useful information about riparian processes as a function of distance from stream channels. For example, Castelle *et al.* (1994) conducted a literature review of riparian zone functions and concluded that riparian widths in the range of 30 meters (98 feet) appear to be the minimum needed to maintain biological elements of streams. They also noted that site-specific conditions may warrant substantially larger or smaller riparian management zones. Similarly, Johnson and Reba (1992) summarized the technical literature and found that available information supported a minimum 30-meter riparian management zone for salmonid protection.

A recent assessment funded by NMFS and several other Federal agencies reviewed the technical basis for various riparian functions as they pertain to salmonid conservation (Spence *et al.*, 1996). These authors suggest that a functional approach to riparian protection requires a consistent definition of riparian ecosystems based on ''zones of influence'' for specific riparian processes. They noted that in constrained reaches where the active channel remains relatively stable through time, riparian zones of influences may be defined based on site-potential tree heights and distance from the active channel. In contrast, they note that, in unconstrained reaches (e.g., streams in broad valley floors) with braided or shifting channels, the riparian zone of influence is more difficult to define, but recommend that it is more appropriate to define the riparian zone based on some measure of the extent of the flood plain.

Spence *et al.* (1996) reviewed the functions of riparian zones that are essential to the development and maintenance of aquatic habitats favorable to salmonids and the available literature concerning the riparian distances that would protect these functional processes. Many of the studies reviewed indicate that riparian management widths designed to protect one function in particular, recruitment of large woody debris, are likely to be adequate to protect other key riparian functions. The reviewed studies concluded that the vast majority of large woody debris is obtained within one site-potential tree height from the stream channel (Murphy and Koski, 1989; McDade *et al.*, 1990; Robison and Beschta, 1990; Van Sickle and Gregory, 1990; FEMAT, 1993; and Cederholm, 1994). Based on the available literature, Spence *et al.* (1996) concluded that fully protected riparian management zones of one site-potential tree would adequately maintain 90 to 100 percent of most key riparian functions of Pacific Northwest forests if the goal was to maintain instream processes over a time frame of years to decades.

Based on experience gained since earlier critical habitat designations and after considering public comments and reviewing additional scientific information regarding riparian habitats, NMFS is re-defining adjacent riparian zones for the 9 chinook, chum and sockeye salmon ESUs to match the riparian function description used for steelhead and Oregon Coast coho salmon ESUs. Specifically, the adjacent riparian area for all 19 salmon and steelhead ESUs is defined as the area adjacent to a stream that provides the following functions: shade, sediment transport, nutrient or chemical regulation, streambank stability, and input of large woody debris or organic matter. Specific guidance on assessing the potential impacts of land use activities on riparian functions can be obtained by consulting with NMFS (see **ADDRESSES**), local foresters, conservation officers, fisheries biologists, or county extension agents.

The physical and biological features that create properly functioning salmonid habitat vary throughout the species' range and the extent of the adjacent riparian zone may change accordingly depending on the landscape under consideration. While a site-potential tree height can serve as a reasonable benchmark in some cases, site-specific analyses provide the best means to characterize the adjacent riparian zone because such analyses are more likely to accurately capture the unique attributes of a particular landscape. Knowing what may be a limiting factor to the properly functioning condition of a stream channel on a land use or land type basis and how that may or may not affect the function of the riparian zone will significantly assist Federal agencies in assessing the potential for impacts to listed salmon and steelhead. On Federal lands within the range of the northern spotted owl, Federal agencies should continue to rely on the Aquatic Conservation Strategy of the Northwest Forest Plan to guide their consultations with NMFS. Where there is a Federal action on non-Federal lands, Federal agencies should consider the potential effects of the activities they fund, permit, or authorize on the riparian zone adjacent to a stream that may

influence the following functions: shade, sediment delivery to the stream, nutrient or chemical regulation, streambank stability, and the input of large woody debris or organic matter. In areas where the existing riparian zone is seriously diminished (e.g., in many urban settings and agricultural settings where flood control structures are prevalent), Federal agencies should focus on maintaining any existing riparian functions and restoring others where appropriate, for example, by cooperating with local watershed groups and landowners. NMFS acknowledges in its description of riparian habitat function that different land use types (e.g., timber, urban, and agricultural) will have varying degrees of impact and that activities requiring a Federal permit will be evaluated on the basis of disturbance to the riparian zone. In many cases the evaluation of an activity may focus on a particular limiting factor for a watercourse (e.g., temperature, stream bank erosion, sediment transport) and whether that activity may or may not contribute to improving or degrading the riparian habitat.

Finally, NMFS emphasizes that a designation of critical habitat does not prohibit landowners from conducting actions that modify streams or the adjacent terrestrial habitat. Critical habitat designation serves to identify important areas and essential features within those areas, thus alerting both Federal and non-Federal entities to the importance of the area for listed salmonids. Federal agencies are required by the ESA to consult with NMFS to ensure that any action they authorize, fund, or carry out is not likely to destroy or adversely modify critical habitat in a way that appreciably diminishes the value of critical habitat for both the survival and recovery of the listed species. The designation of critical habitat will assist Federal agencies in evaluating how their actions on Federal or non-Federal lands may affect listed salmon and steelhead and determining when they should consult with NMFS on the impacts of their actions. When a private landowner requires a Federal permit that may result in the modification of salmonid habitat, Federal permitting agencies will be required to ensure that the permitted action, regardless of whether it occurs in the stream channel, adjacent riparian zone, upstream of an impassible dam, or upland areas, does not appreciably diminish the value of critical habitat for both the survival and recovery of the listed species or jeopardize the species' (i.e., ESUs) continued existence. For other actions, landowners and agencies should consider the needs of the listed fish and NMFS will assist them in assessing the impacts of actions.

Dams and Barriers

Comment 7: Numerous commenters, including the Elwha Klallam Tribe requested that NMFS conduct a more detailed analysis of areas above existing dams before concluding that these areas do not constitute critical habitat. Of particular concern were two Elwha River dams in Washington and numerous dams in California's Central Valley and south coast. Many felt that designating areas above dams would assist in recovery planning and dam-relicensing negotiations. Others requested that NMFS identify additional dams as the upstream extent of accessible habitat for salmon and steelhead. Some commenters requested clarification about whether NMFS considers critical habitat above dams that currently have listed fish transported above them (i.e., via trap and haul programs). The Shoshone-Bannock Tribes requested that NMFS include areas above Napias Creek Falls in the designation for Snake River Basin steelhead.

Response: NMFS' ESA implementing regulations specify that unoccupied areas are not to be included in critical habitat unless the present range would be inadequate to ensure the conservation of the species (50 CFR 424.12(e)). While the blocked areas are significant in certain ESUs or river basins (e.g., California's Central Valley and southern coast and in Washington's Elwha River Basin), NMFS has not conducted an assessment to determine if all or some of these blocked habitats are currently essential for the recovery of any ESU. In addition, the agency has not performed the requisite economic analyses needed to designate blocked areas (50 CFR 424.12(a)).

The agency's intent in identifying specific dams in each ESU was to clarify the upstream extent of known occupied reaches and to contrast these barriers with smaller, ephemeral barriers (e.g., culverts, push-up dams, etc.) that the agency does not view as impassable structures. NMFS does not intend to ''write off'' potential habitats above these dams, but instead will fully consider the role of these blocked habitats in the recovery planning process and in ESA habitat conservation plans and section 7 consultations. If future analyses reveal that these areas are essential for the species' conservation or could contribute to an expedited recovery of any listed ESU, NMFS will revise the critical habitat designation and make efforts to gain access to blocked habitats. NMFS will continue to encourage Federal, state and local agencies to consider the needs of listed salmon and steelhead even in areas currently unoccupied but potentially important for future population access, restoration, and recovery.

NMFS has also reviewed information submitted by commenters requesting that a number of dams be added or removed from the list of dams/reservoirs representing the upstream extent of critical habitat (Tables 7–24). In doing so, the agency re-examined the hydrologic unit maps and found a number of errors that have been corrected in the tables. In many cases a particular dam was found to be misidentified, located in the wrong hydrologic unit, or upstream of an impassable barrier. Although several commenters believed that Black Butte Dam was misidentified in the proposed rule, NMFS has verified that this dam does in fact mark the upstream extent of Stony Creek in the Sacramento-Lower Thomes hydrologic unit. In other cases, NMFS found additional dams that block salmon and steelhead passage and has identified them as the upstream extent of critical habitat in the appropriate tables.

The agency also found several cases where dams identified as blockages in the original proposed designation were discovered to have ''trap and haul'' programs that move listed salmon and steelhead above them. This has resulted in an increase in the occupied range of several listed ESUs, and NMFS has expanded critical habitat to include accessible reaches above such dams. These and other edits are summarized in the section Critical Habitat of Salmon and Steelhead; Changes to the Proposed Rules.

In the case of Napias Creek Falls, NMFS noted in the proposed designation that steelhead do not presently occur in upper Napias Creek and that conclusions regarding the nature of this barrier are difficult. While NMFS believes it is likely steelhead could migrate above the falls at certain streamflows (NMFS, 1998), it is difficult to determine the frequency that steelhead would migrate above the falls or whether steelhead would recolonize habitat areas above the falls. The presence of relict indicator species above the falls (e.g., rainbow trout) tends to indicate steelhead may have occurred above the falls over evolutionary time periods; however, historical information indicates steelhead have not occurred in this area in recent times. The agency specifically requested comments regarding this and

other falls, but has not received information that would bear conclusively on this issue. Therefore, the agency will continue to consider the areas upstream of Napias Creek Falls as outside the range of critical habitat for listed Snake River Basin steelhead. If new information becomes available to indicate otherwise, the agency will make the appropriate modifications to this ESU's critical habitat designation.

Marine Habitats

Comment 8: Numerous commenters questioned why NMFS had not designated critical habitat in marine areas. Some commenters provided data supporting the inclusion of estuarine/marine areas for the Hood Canal summer-run chum salmon ESU. Some recommended that NMFS revise its designation based on the recent EFH recommendations which include marine areas over portions of the continental shelf.

Response: In the case of the Hood Canal summer-run chum salmon ESU, NMFS agrees that the evidence supports including marine/estuarine areas in the unique, fjord-like setting of Puget Sound (i.e., in a manner similar to the designation for the Puget Sound chinook salmon ESU). The agency is currently re-evaluating its previous determination to exclude ocean areas as critical habitat for listed salmon and steelhead ESUs, in particular the issue of whether marine areas require special management consideration or protection. NMFS agrees that the rationale supporting the current EFH designation for Pacific salmon should be a key part of this re-evaluation. Regardless of the specific areas designated, it is important to note that Federal agencies are required to ensure that their actions, regardless of whether they occur in freshwater, estuarine, or marine habitats, do not jeopardize the continued existence of a listed species.

Factors for the Species' Decline

Comment 9: Many commenters challenged the merits of the original listings and felt that the true cause of salmon and steelhead declines lay in various spheres aside from freshwater habitat. Among the various causes cited were: tribal fishing, commercial fishing, sport fishing, foreign fishing, marine mammals, other protected predators, non-native species, birds, hatchery practices, dams, ocean conditions, and recent droughts and floods. Others provided evidence that mismanagement and pollution of freshwater habitats have been principal factors in the species' decline. Still others felt that extinction is a natural process and that little can (or should) be done about it.

Response: NMFS believes that the threatened extinction of numerous salmon and steelhead populations is primarily the result of human, not natural, factors and will continue to encourage all efforts to protect and restore imperiled salmon and their habitat. The agency acknowledges that a multitude of factors have contributed to the decline of west coast salmon and steelhead and has described these factors in more detail in the proposed listing determinations (60 FR 38011, July 25, 1995; 61 FR 41541, August 9, 1996; 63 FR 11482, March 9, 1998; 63 FR 11750, March 10, 1998; 63 FR 11774, March 10, 1998; 63 FR11798, March 10, 1998), in technical status reviews for the coho salmon (Weitkamp *et al.*, 1995), steelhead (Busby *et al.*, 1996), sockeye salmon (Gustafson *et al.*, 1997), chum salmon (Johnson *et al.*, 1997), and chinook salmon (Myers *et a*l., 1998), and in documents detailing factors for decline for related species (NMFS 1996b and 1998). Many of the causes cited by commenters are human-controlled and NMFS believes that these can and must be addressed in the near term to improve the salmon's chances for surviving uncontrollable natural events such as droughts, floods, and poor ocean conditions.

ESA Definitions and Standards

Comment 10: Some commenters requested that NMFS clarify the meaning of ''harm'' under the ESA.

Response: NMFS interprets the term ''harm'' in the context of habitat destruction as an act that actually kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, and sheltering (64 FR 60727, November 8, 1999). The habitat modification or degradation contained in the definition of ''harm'' is limited to those actions that actually kill or injure listed fish or wildlife. NMFS believes that this definition is reasonable for the conservation of the habitats of listed species and moreover is in keeping with Congress' intent under the ESA.

Section 9 of the ESA makes it illegal to take an endangered species of fish or wildlife. The definition of ''take'' is to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' (16 U.S.C. 1532(19)). On November 8, 1999, NMFS published a final rule defining the term ''harm'' (64 FR 60727). The U.S. Fish and Wildlife Service has also promulgated a regulation further defining the term ''harm'' to eliminate confusion concerning its meaning (50 CFR 17.3). The U.S. Fish and Wildlife Service's definition of ''harm'' with respect to habitat destruction has been upheld by the Supreme Court as a reasonable interpretation of the term and supported by the broad purpose of the ESA to conserve endangered and threatened species (See *Babbitt* v. *Sweet Home Chapter of Communities for a Greater Oregon*, 115 S. Ct. 2407, 2418 (1995)). With the listings of salmon and steelhead, potentially affected parties questioned whether NMFS also interpreted harm to include habitat destruction. The November 8, 1999, final rule clarifies that NMFS' interpretation of harm is consistent with that of the U.S. Fish and Wildlife Service.

Comment 11: Several commenters took exception to NMFS' assertion that adverse modification of critical habitat is equivalent to jeopardizing the listed species.

Response: NMFS disagrees that the terms ''adverse modification'' and ''jeopardy'' are necessarily different. Section 7 of the ESA requires that Federal agencies ensure that their actions are not likely to result in the destruction or adverse modification of critical habitat. This requirement is in addition to the prohibition against jeopardizing the continued existence of a listed species, and it is the only mandatory legal consequence of a critical habitat designation. An understanding of the interplay of the ''jeopardy'' and ''adverse modification'' standards is necessary to the proper evaluation of the prudence of designation as well as the conduct of consultation under section 7. Implementing regulations (50 CFR 402.02) define ''jeopardize the continued existence of'' and ''destruction or adverse modification of'' in virtually identical terms. ''Jeopardize the continued existence of'' means ''to engage in an action that reasonably would be expected...to reduce appreciably the likelihood of both the survival and recovery of a listed species...'' ''Destruction or adverse modification'' means ''an alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species.'' Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Thus, actions satisfying the standard for adverse modification are nearly always found to also jeopardize the species

concerned, and the existence of a critical habitat designation does not materially affect the outcome of section 7 consultation. This is in contrast to the public perception that the adverse modification standard sets a lower threshold for violation of section 7 than that for jeopardy. In fact, biological opinions which conclude that a Federal agency action is likely to adversely modify critical habitat but not to jeopardize the species for which it is designated are very rare.

Adequacy of Existing Conservation Plans and Efforts

Comment 12: Several commenters stated that existing management plans and conservation initiatives were sufficient to protect salmon and steelhead and their habitat, and, therefore, the proposed critical habitat designation is not warranted. Some commenters admonished NMFS to engage in local salmon conservation programs and warned that designating critical habitat could dampen these efforts.

Response: The designation of critical habitat relies on evaluating which areas are occupied and essential for the species' conservation (see ''Definition of Critical Habitat''). However, NMFS did consider existing regulatory mechanisms and conservation plans applicable to salmon and steelhead and their habitats in the final listing determinations for each species (62 FR 43937, August 18, 1997; 63 FR 13347, March 19, 1998; 63 FR 42587, August 10, 1998; 64 FR 14308, March 24, 1999; 64 FR 14508, March 25, 1999; 64 FR 14517, March 25, 1999; 64 FR 14528, March 25, 1999; 64 FR 50394, September 16, 1999). In those **Federal Register** documents, a variety of Federal and state laws and programs were found to have affected the abundance and survival of anadromous fish populations in all 19 ESUs. NMFS concluded that available regulatory mechanisms were inadequate and that regulated activities continued to represent a potential threat to the species' existence.

NMFS agrees with commenters that state and local watershed efforts are key to the recovery and long-term survival of these 19 salmon and steelhead ESUs. Species listings and critical habitat designations under the ESA should in no way hamper efforts to help salmonids and other imperiled species in the Pacific Northwest and California. NMFS encourages such efforts, as evidenced by the agency's involvement with an array of programs in the Pacific Northwest and California, including: helping to fund watershed coordinators through the Oregon Governor's Watershed Enhancement Board and assisting with implementation of the Oregon Plan for Salmon and Watersheds; working with numerous Resource Conservation Districts and watershed restoration efforts in the four states; providing technical support for a variety of recovery planning efforts in Puget Sound and the Columbia River Basin; participating in the development of California's recovery and strategic management plans for coastal salmonids and working with the California Governor's Biodiversity Councils; and working with tribal, state, and city/local jurisdictions to develop protective regulations for threatened salmonids. NMFS recognizes the significant benefits that will accrue to salmon and steelhead as a result of these efforts. In fact, NMFS has promulgated interim and proposed protection regulations (i.e., ESA 4(d) rules) that provide specific limits to the ESA take prohibitions for certain harvest, hatchery, habitat restoration, monitoring, and other state and tribal efforts currently underway in the range of these 19 salmon and steelhead ESUs (62 FR 38479, July 18, 1997; 64 FR 73479, December 30, 1999; 65 FR 170, January 3, 2000). All parties interested in obtaining technical assistance in support of salmon and steelhead conservation (or other information related to NMFS' ESA activities) are encouraged to contact NMFS field office personnel in Washington, Oregon, Idaho, and California (see **FOR FURTHER INFORMATION CONTACT**).

Indian Lands

Comment 13: Beginning in 1998, NMFS received comments from various Northwest and California tribes requesting that the agency not designate critical habitat on Indian lands. Many of these tribes noted that this exclusion was warranted due to specific provisions contained in a June 1997 Secretarial Order entitled ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' (Secretarial Order). Many of these comments focused on the critical habitat proposals for chinook, chum and sockeye salmon (63 FR 11482, March 9, 1998; 63 FR 11750, March 10, 1998; 63 FR 11774, March 10, 1998) which did not address Indian lands (i.e., proposed to designate Indian lands). However, other comments addressed specific language used to define the exclusion of Indian lands in proposals for steelhead (64 FR 5740, February 5, 1999) and Oregon Coast coho salmon (64 FR 24998, May 10, 1999).

Response: The unique and distinctive relationship between the United States and Indian tribes is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribes from the other entities that deal with, or are affected by, the Federal Government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. Pursuant to the treaties, statutes, judicial decisions, executive orders and other agreements that define the relationship between the United States and tribes, lands have been retained by Indian tribes or have been set aside for tribal use. These lands are managed by Indian tribes in accordance with tribal goals and objectives, within the framework of applicable laws.

As a means of recognizing the responsibilities and relationship between the United States and Indian tribes, the Secretaries of Commerce and Interior issued the June 5, 1997 Secretarial Order. The Secretarial Order clarifies the responsibilities of NMFS and the U.S. Fish and Wildlife Service when carrying out authorities under the ESA and requires that they consult with, and seek participation of, the affected Indian tribes to the maximum extent practicable. The Secretarial Order further provides that the Services...≥shall consult with the affected Indian tribe(s) when considering the designation of critical habitat in an area that may impact tribal trust resources, tribally owned fee lands, or the exercise of tribal rights. Critical habitat shall not be designated in such areas unless it is determined essential to conserve a listed species.''

Pursuant to the Secretarial Order and in response to written and verbal comments provided by various tribes in Washington, Oregon, Idaho, and California, as well as the Northwest Indian Fisheries Commission, NMFS met and corresponded with many of the affected tribes concerning the inclusion of Indian lands in final critical habitat designations. These discussions resulted in significant clarifications regarding the tribes' general position to exclude their lands, as well as specific issues regarding NMFS' interpretation of Indian lands under the Secretarial Order.

The Secretarial Order defines Indian lands as ''any lands title to which is either: (1) held in trust by the United States for the benefit of any Indian tribe

or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.'' In clarifying this definition with the tribes, NMFS has asserted that (1) fee lands within the reservation boundaries and owned by non-Indians, and (2) fee lands outside the reservation boundaries and owned by individual Indians, would be designated as critical habitat. The basis for this distinction regarding fee lands is that the tribal governments exercise management authority over fee lands they own (whether on or off the reservation) and over fee lands on the reservation owned by individual Indians. However, it is presently unclear to NMFS what management authority the tribal governments have over non-Indian-owned lands on the reservation or member-owned fee lands off the reservation. Such authority over land management is a crucial factor in the determination to designate them as critical habitat or not.

Based on a consideration of the Federal Government's trust responsibilities to Indian tribes, particularly as addressed in the Secretarial Order (including NMFS' determination that designating such areas are not essential to the conservation of listed steelhead), and out of respect for tribal sovereignty over the management of Indian lands, NMFS has determined that Indian lands should be excluded from the final critical habitat designation for these 19 ESUs of salmon and steelhead. The Indian lands specifically excluded from critical habitat are those defined in the Secretarial Order, including: (1) fee lands, either within or outside the reservation boundaries, owned by the tribal government; and (2) fee lands, within the reservation boundaries, owned by individual Indians.

Although NMFS continues to believe that habitat on Indian lands which is currently accessible to listed salmon and steelhead is important for the long-term survival and recovery of these species, the agency believes that section 7 consultations through the Bureau of Indian Affairs and other Federal agencies in combination with the continued development and implementation of tribal resource management programs that support salmonid conservation represent an alternative to designating critical habitat that will result in a proportionate and essential contribution to salmon and steelhead conservation that is also consistent with the goals of the Secretarial Order. Also, all of these Tribal lands combined comprised only a minor portion (less than 3%) of the total watershed area for these 19 ESUs. Therefore, NMFS has determined that the critical habitat that is designated in this final rule is sufficient to provide for the conservation of these 5 species.

NMFS will continue to discuss this issue with interested tribes, in particular some tribes' concerns over the status of fee lands, and will modify critical habitat as needed in the future. Such modifications could include: (1) recognizing that additional lands have been converted into trust status and are thereby excluded from critical habitat; or (2) designating Indian lands as critical habitat if the agency, in consultation with an affected tribe, determines that recovery cannot be achieved for an ESU unless the particular lands are designated.

The original proposals for steelhead and Oregon Coast coho identified specific tribes that should be excluded from critical habitat designation. However, given the complete exclusion of all Indian lands within the range of these 19 salmon and steelhead ESUs, NMFS believes there is no longer a need to identify all affected tribes. If, in future rulemaking, NMFS proposes to designate Indian lands, then the agency would specifically identify the affected landholdings.

Critical Habitat of Salmon and Steelhead; Changes to the Proposed Rules

As noted in the proposed rules for these 5 species of salmon and steelhead, critical habitat encompasses dozens of major river basins and an array of essential habitat features. Essential habitat types for these species can be generally described to include the following: (1) juvenile rearing areas; (2) juvenile migration corridors; (3) areas for growth and development to adulthood; (4) adult migration corridors; and (5) spawning areas. Within these areas, essential features of critical habitat include adequate: (1) substrate, (2) water quality, (3) water quantity, (4) water temperature, (5) water velocity, (6) cover/shelter, (7) food, (8) riparian vegetation, (9) space, and (10) safe passage conditions. Given the vast geographic range occupied by each of these salmon and steelhead ESUs and the diverse habitat types used by the various life stages, it is not practical to describe specific values or conditions for each of these essential habitat features. However, good summaries of these environmental parameters and freshwater factors that have contributed to the decline of salmon and steelhead can be found in reviews by CDFG, 1965; California Advisory Committee on Salmon and Steelhead Trout (CACSST), 1988; Brown and Moyle, 1991; Bjornn and Reiser, 1991; Nehlsen *et al.*, 1991; Higgins *et al.*, 1992; California State Lands Commission (CSLC), 1993; Botkin *et al.*, 1995; NMFS, 1996b; and Spence *et al.*, 1996.

For reasons described earlier in this document, NMFS has revised its designation of freshwater and estuarine critical habitat for chinook, chum, and sockeye salmon to include riparian areas that provide the following functions: shade, sediment transport, nutrient or chemical regulation, streambank stability, and input of large woody debris or organic matter. Habitat quality in this range is intrinsically related to the quality of riparian and upland areas and of inaccessible headwater or intermittent streams which provide key habitat elements (e.g., large woody debris, gravel, water quality) crucial for salmon and steelhead in downstream reaches. Marine habitats (i.e., oceanic or nearshore areas seaward of the mouth of coastal rivers) are also vital to salmon and steelhead, and ocean conditions are believed to have a major influence on the species' survival. Although NMFS has not included the Pacific Ocean as critical habitat in these final rules, the agency will be re-evaluating this issue and may propose including specific marine zones for salmon and steelhead ESUs in a separate notice.

NMFS is modifying the final critical habitat designations for these 19 ESUs based on comments and new information received on the proposed rules. The following section gives a general description of each ESU's range, identifies some of the larger salmon and steelhead basins within each ESU, and summarizes the major changes to critical habitat designations. The river basins identified do not constitute a comprehensive inventory; many small or unidentified streams and tributaries in each ESU also provide essential spawning, rearing and estuarine habitat for salmon and steelhead. Instead, these summaries are meant to supplement the USGS hydrologic units listed in Tables 7–24 with commonly-used river names within each ESU. The actual regulatory descriptions of critical habitat for each ESU can be found in the regulatory text at the end of this **Federal Register** document.

General Description of ESU Range and Major Changes from Proposed Critical Habitat Designations

Chinook Salmon

(1) Puget Sound ESU - Major river basins known to support this ESU include the Nooksack, Skagit, Stillaguamish, Snohomish, Green/

Duwamish, Puyallup, Nisqually, Skokomish, Dungeness, Cedar, and Elwha Rivers. Major bays and estuarine/marine areas include the South Sound, Hood Canal, Elliott Bay, Possession Sound, Admiralty Inlet, Saratoga Passage, Rosario Strait, Strait of Georgia, Haro Strait, and the Strait of Juan De Fuca. In this final rule, NMFS has: (1) modified the description of the adjacent riparian zone to be based on a functional (rather than quantitative) description; (2) excluded all Indian lands (as previously defined) from the designation; (3) removed the Fraser and Crescent-Hoko hydrologic units from Table 7 because they are outside the range of the ESU; (4) included areas above Howard Hanson Dam due to the fact that trap and haul operations move listed chinook salmon into habitats above this dam; (5) included areas above Cushman Dam due to the presence of listed chinook salmon above the dam; (6) removed Cedar Falls Dam (Masonary Dam) since it does not delimit the upstream extent of river reaches inhabited by this ESU; and (7) added Landsburg Diversion and Alder Dam to Table 7 because they currently block upstream passage.

(2) Lower Columbia River ESU - Major river basins known to support this ESU include the Grays, Elochoman, Kalama, Lewis, Washougal, White Salmon, Cowlitz, Coweeman, Klaskanine, Clackamas, Sandy, and Hood Rivers, as well as Youngs Bay and the Columbia River and estuary. In this final rule, NMFS has: (1) modified the description of the adjacent riparian zone to be based on a functional (rather than quantitative) description; (2) excluded all Indian lands (as previously defined) from the designation; (3) added the Upper Cowlitz hydrologic unit to Table 8 because it contains critical habitat for this ESU; (4) removed Cougar, Oak Grove, and Yale Dams from Table 8 since they do not delimit the upstream extent of river reaches inhabited by this ESU; (5) clarified that the dam in the Lower Columbia-Sandy hydrologic unit is ''Bull Run Dam 2'' and that The Dalles Dam is in the Middle Columbia-Hood hydrologic unit; and (6) included areas above Mayfield Dam due to the fact that trap and haul operations move listed chinook salmon into habitats above the dam.

(3) Upper Willamette River ESU - Major river basins known to support this ESU include the Willamette, Molalla, North Santiam, and McKenzie Rivers, as well as the Columbia River and estuary. In this final rule, NMFS has: (1) modified the description of the adjacent riparian zone to be based on a functional (rather than quantitative) description; (2) excluded all Indian lands (as previously defined) from the designation; (3) corrected the range of the designation to include the Clackamas River Basin (which contains populations that are part of the ESU); (4) added Big Cliff, Blue River, Cottage Grove, Dorena, and Fern Ridge Dams to Table 9 because they currently block upstream passage; (5) included areas above Foster, Cougar, and Dexter Dams due to the fact that trap and haul operations move listed chinook salmon into habitats above these dams.

(4) Upper Columbia River Spring-run ESU - Major river basins known to support this ESU include the Wenatchee, Entiat, and Methow Rivers, as well as the Columbia River and estuary. In this final rule, NMFS has: (1) modified the description of the adjacent riparian zone to be based on a functional (rather than quantitative) description; (2) excluded all Indian lands (as previously defined) from the designation; (3) added the Lower Willamette hydrologic unit to Table 10 because it contains critical habitat for this ESU; (4) removed the Okanogan hydrologic unit from Table 10 since it does not contain river reaches inhabited by the ESU; and (5) removed Bull Run and Condit Dams from Table 10 since they do not delimit the upstream extent of river reaches inhabited by this ESU.

(5) California Central Valley Spring-run ESU - Major river basins known to support this ESU include the Sacramento River, Feather River, Yuba River, and Big Chico, Beegum, Deer, Mill, Butte, Clear, Battle, and Antelope Creeks, as well as the Sacramento-San Joaquin Delta and Honker, Grizzly, Suisun, and San Francisco Bays. In this final rule, NMFS has: (1) modified the description of the adjacent riparian zone to be based on a functional (rather than quantitative) description; (2) excluded all Indian lands (as previously defined) from the designation; (3) removed the Lower American, Cottonwood Headwaters, Upper Coon-Upper Auburn and Coyote hydrologic units from Table 11 since they do not contain river reaches inhabited by the ESU; (4) removed Nimbus, San Pablo, Shasta, and Calaveras Dams from Table 11 since they do not delimit the upstream extent of river reaches inhabited by this ESU; (5) added Centerville Dam to Table 11 because it currently blocks upstream passage; and (6) corrected the location of Englebright Dam to be in the Upper Yuba hydrologic unit.

(6) California Coastal ESU - Rivers, estuaries, and bays known to support this ESU include Humboldt Bay, Redwood Creek, and the Mad, Eel, Mattole, and Russian Rivers. In this final rule, NMFS has: (1) modified the description of the adjacent riparian zone to be based on a functional (rather than quantitative) description; (2) excluded all Indian lands (as previously defined) from the designation; (3) removed several hydrologic units and dams/reservoirs that are no longer within the range of this re-configured ESU; (4) added Warm Springs Dam to Table 12 because it currently blocks upstream passage; and (5) specified the dams for two reservoirs - Scott Dam (Lake Pillsbury) and Coyote Dam (Lake Mendocino).

Chum Salmon

(1) Hood Canal Summer-run ESU - Rivers, estuaries, and bays known to support this ESU include the Quilcene, Dosewallips, Duckabush, Hamma Hamma, Lilliwaup, Dewatto, Tahuya, and Union Rivers, Dungeness Bay/River, and Snow and Salmon Creeks (Discovery Bay tributaries) and Jimmycomelately Creek in Sequim Bay. Some populations on the east side of Hood Canal (Big Beef Creek, Anderson Creek, and the Dewatto and Tahuya Rivers) are severely depressed and have recently had no returning adults. In this final rule, NMFS has: (1) modified the description of the adjacent riparian zone to be based on a functional (rather than quantitative) description; (2) excluded all Indian lands (as previously defined) from the designation; (3) included estuarine/marine areas adjacent to the basins within the range of the ESU as well as areas of Admiralty Inlet and the Straits of Juan De Fuca; (4) corrected the range of the designation to extend as far west as Dungeness Bay/Basin (which contains populations that are part of the ESU); and (5) excluded areas above Cushman Dam or above longstanding, naturally impassable barriers.

(2) Columbia River ESU - Besides the Columbia River and estuary, presently only a few Washington streams are recognized as containing chum salmon: Hamilton and Hardy Creeks (near Bonneville Dam), and the Cowlitz and Grays Rivers. Oregon currently recognizes 23 ''provisional'' populations in the Columbia River Basin, ranging from the Lewis and Clark River to Milton Creek near St. Helens, Oregon (Kostow, 1995). In this final rule, NMFS has: (1) modified the description of the adjacent riparian zone to be based on a functional (rather than quantitative) description; (2) excluded all Indian lands (as previously defined) from the designation; and (3) excluded areas above specific dams (Bonneville and Merwin Dams) or above longstanding, naturally impassable barriers.

Sockeye Salmon

(1) Ozette Lake ESU - Sockeye salmon in this ESU inhabit Ozette Lake and the Ozette River and currently spawn primarily in lakeshore upwelling areas in Ozette Lake (particularly at Allen's Bay and Olsen's Beach). Additional spawning areas may include the Ozette River (below Ozette Lake) and Coal Creek, a tributary of the Ozette River. Sockeye salmon do not presently spawn in tributary streams to Ozette Lake (although they may have spawned there historically), but currently there are efforts to propagate the species in Umbrella Creek. In this final rule, NMFS has: (1) modified the description of the adjacent riparian zone to be based on a functional (rather than quantitative) description; (2) excluded all Indian lands (as previously defined) from the designation; and (3) clarified that areas above longstanding, naturally impassable barriers are excluded.

Coho Salmon

(1) Oregon Coast ESU - Major river basins known to support this ESU include the Necanicum, Nehalem, Nestucca, Salmon, Siletz, Yaquina, Alsea, Yachats, Siuslaw, Umpqua, Coos, Coquille Rivers, and Siltcoos, Tahkenitch, and Tenmile Lakes Basins. In this final rule, NMFS has: (1) added Win Walker Reservoir to Table 15 because it currently blocks upstream passage; and (2) clarified that all Indian lands are excluded from the designation.

Steelhead

(1) Southern California ESU - Major river basins known to support this ESU include Malibu Creek and the Santa Clara, Santa Ynez, and Ventura Rivers. In this final rule, NMFS has: (1) removed Vern Freeman Dam (which was misidentified in the Ventura hydrologic unit) and Matilija Dam since they do not delimit the upstream extent of river reaches inhabited by this ESU; (2) corrected the location of Vaquero and Rindge Dams to be in the Santa Maria and Santa Monica Bay hydrologic units, respectively; (3) removed the Calluegas hydrologic unit from Table 16 since it does not contain river reaches inhabited by the ESU; and (4) clarified that all Indian lands are excluded from the designation.

(2) South-Central California Coast ESU - Major river basins known to support this ESU include the Big Sur, Carmel, Little Sur, Pajaro, and Salinas Rivers. In this final rule, NMFS has: (1) removed Los Padres Dam since it does not delimit the upstream extent of river reaches inhabited by this ESU; (2) added Lopez Dam, and Whale Rock, North Fork Pacheco, Chesbro, Nacimiento, and San Antonio Reservoirs to Table 17 because they currently block upstream passage; and (3) clarified that all Indian lands are excluded from the designation.

(3) Central California Coast ESU - Major river basins known to support this ESU include the Russian and San Lorenzo Rivers on the coast, and several other smaller tributaries within San Pablo and San Francisco Bays. In this final rule, NMFS has: (1) corrected the range of the designation to include Aptos Creek (which contains populations that are part of the ESU); (2) added Phoenix Dam, Almaden Reservoir, Anderson Reservoir, Calero Reservoir, Guadalupe Reservoir, Searsville Lake, Stevens Creek Reservoir, Vasona Reservoir, Chabot Dam, Crystal Springs Reservoir, Del Valle Reservoir, San Antonio Reservoir, Soulejule Dam, and Pilarcitos Dam to Table 18 because they currently block upstream passage; (3) corrected the location of Calaveras Reservoir to be in the San Francisco Bay hydrologic unit; (4) renamed Nicasio Dam to Peters Dam; (5) included the entire San Francisco Bay (west to the Golden Gate Bridge) as critical habitat; and (6) clarified that all Indian lands are excluded from the designation.

(4) California Central Valley ESU - Major river basins known to support this ESU include the Sacramento, San Joaquin, Stanislaus, American, Feather, Merced, Mokelumne, Tuolumne, and Yuba Rivers, Battle, Butte, Big Chico, Beegum, Cache, Deer, Mill, Antelope, Putah, Stony, and Cottonwood Creeks, as well as the Sacramento-San Joaquin Delta and Honker, Grizzly, Suisun, and San Francisco Bays. In this final rule, NMFS has: (1) added Centerville and Monticello Dams to Table 19 because they currently block upstream passage; (2) corrected the location of Whiskeytown Dam to be in the Sacramento-Upper Clear hydrologic unit; (3) added the Lower Cache and San Francisco Bay hydrologic units to Table 19 because they contain critical habitat for this ESU; and (4) clarified that all Indian lands are excluded from the designation.

(5) Upper Columbia River ESU - Major Columbia River tributaries known to support this ESU include the Entiat, Methow, Okanogan, and Wenatchee Rivers, as well as the Columbia River and estuary. In this final rule, NMFS has clarified that all Indian lands are excluded from the designation.

(6) Snake River Basin ESU - Major Snake River tributaries known to support this ESU include the Clearwater, Grande Ronde, Salmon, Selway, and Tucannon Rivers, as well as the Columbia River and estuary. In this final rule, NMFS has: (1) clarified that all Indian lands are excluded from the designation; and (2) clarified that areas upstream of Napias Creek Falls are excluded from the designation.

(7) Lower Columbia River ESU - Major Columbia River tributaries known to support this ESU include the Clackamas, Cowlitz, Hood, Kalama, Lewis, Sandy, Washougal, and Wind Rivers. In this final rule, NMFS has: (1) included areas above Mayfield Dam due to the fact that trap and haul operations move listed steelhead into habitats above these dams; and (2) clarified that all Indian lands are excluded from the designation.

(8) Upper Willamette River ESU - Major river basins known to support this ESU include the Willamette, Mollala, and Santiam Rivers, as well as the Columbia River and estuary. In this final rule, NMFS has: (1) corrected the range of the designation to exclude areas upstream of the Calapooia River Basin; (2) removed Bull Run, Cougar, Dexter, and Dorena Dams from Table 23 since they do not delimit the upstream extent of river reaches inhabited by this ESU; (3) corrected the location of Big Cliff Dam to be in the North Santiam hydrologic unit; and (4) clarified that all Indian lands are excluded from the designation.

(9) Middle Columbia River ESU - Major Columbia River tributaries known to support this ESU include the Deschutes, John Day, Klickitat, Umatilla, Walla Walla, and Yakima Rivers, as well as the Columbia River and estuary. In this final rule, NMFS has clarified that all Indian lands are excluded from the designation.

As a result of recent listing determinations affecting the geographic boundaries and ESA listing status of several chinook salmon ESUs (64 FR 50394, September 16, 1999), NMFS is not promulgating a final critical habitat designation for the Central Valley fall- and late-fall run chinook salmon ESU. Also, NMFS is excluding from designation areas north of Redwood Creek and south of the Russian River, including San Francisco and San Pablo Bay tributaries, that were originally proposed as critical habitat for the former southern Oregon and California coastal chinook salmon ESU (63 FR 11482, March 9, 1998). Finally, critical habitat for the Snake River fall-run chinook salmon ESU will remain in the range of watersheds originally designated on December 28, 1993 (58 FR 68543).

Need for Special Management Considerations or Protection

NMFS believes that special management considerations may be needed to ensure that essential habitats and features are maintained or restored. Activities that may require special management considerations for freshwater and estuarine life stages of listed salmon and steelhead include, but are not limited to: (1) land management; (2) timber harvest; (3) point and non-point water pollution; (4) livestock grazing; (5) habitat restoration; (6) beaver removal; (7) irrigation and domestic water withdrawals and returns; (8) mining; (9) road construction; (10) dam operation and maintenance; (11) diking and streambank stabilization; and (12) dredge and fill activities. Not all of these activities are necessarily of current concern within every watershed; however, they indicate the potential types of activities that will require consultation in the future. At this time, no special habitat management considerations have been identified for listed salmon and steelhead while they are residing in the ocean environment.

Activities that May Affect Critical Habitat

A wide range of activities may affect the essential habitat requirements of listed salmon and steelhead in freshwater and estuarine habitats. More in-depth discussions are contained in the response to comments under Scope and Extent of Critical Habitat and in **Federal Register** documents announcing the proposed critical habitat for each ESU (63 FR 11482, March 9, 1998; 63 FR 11750, March 10, 1998; 63 FR 11774, March 10, 1998; 64 FR 5740, February 5, 1999; 64 FR 24998, May 10, 1999). These activities include water and land management actions of Federal agencies (e.g., U.S. Forest Service, U.S. Bureau of Land Management, U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, the Federal Highway Administration, Natural Resource Conservation Service, National Park Service, Bureau of Indian Affairs, and the Federal Energy Regulatory Commission) and related or similar actions of other federally regulated projects and lands, including livestock grazing allocations by the U.S. Forest Service and U.S. Bureau of Land Management; hydropower sites licensed by the Federal Energy Regulatory Commission; dams built or operated by the U.S. Army Corps of Engineers or U.S. Bureau of Reclamation; timber sales conducted by the U.S. Forest Service and U.S. Bureau of Land Management; road building activities authorized by the Federal Highway Administration, U.S. Forest Service, U.S. Bureau of Land Management, and National Park Service; and mining and road building activities authorized by the states of California and Oregon. Other actions of concern include dredge and fill, mining, diking, and bank stabilization activities authorized or conducted by the U.S. Army Corps of Engineers, habitat modifications authorized by the Federal Emergency Management Agency, and approval of water quality standards and pesticide labeling and use restrictions administered by the Environmental Protection Agency.

The Federal agencies that will most likely be affected by this critical habitat designation include the U.S. Forest Service, U.S. Bureau of Land Management, U.S. Bureau of Reclamation, U.S. Army Corps of Engineers, Federal Highway Administration, Natural Resource Conservation Service, National Park Service, Bureau of Indian Affairs, Federal Emergency Management Agency, Environmental Protection Agency, and the Federal Energy Regulatory Commission. This designation will provide these agencies, private entities, and the public with clear notification of critical habitat designated for listed salmonids and the boundaries of the habitat and protection provided for that habitat by the section 7 consultation process. This designation will also assist these agencies and others in evaluating the potential effects of their activities on listed salmon and steelhead and their critical habitat and in determining if consultation with NMFS is needed.

NMFS anticipates that numerous private entities will be affected by the ESA listings and the resultant need to carry out conservation measures throughout the species' current range. As noted above, many of these effects result from direct and indirect linkages to an array of Federal actions, including Federal projects, permits, and funding. For example, the fishing industry (both the commercial and recreational sectors) is already hard hit by declining salmon runs and will continue to suffer until the species recover and provide sustainable fisheries. Agriculture and forestry sectors typically require Federal permits or authorizations to harvest timber, graze livestock, apply herbicides/pesticides, irrigate crops, or build associated access roads in salmon watersheds. These permits will need to be modified so that they are adequately protective of salmon and their habitats. In some cases, such modifications could result in decreases in timber harvest, and livestock and crop production. The transportation and utilities sectors may need to modify the placement of culverts, bridges and utility conveyances (e.g., water, sewer and power lines) to avoid barriers to fish migration. Developments occurring in or near salmon streams (e.g., marinas, residential, or industrial facilities) may need to be altered or built in a manner that ensures that listed fish will not be harmed by the construction, or subsequent operation, of the facility. Recreational and commercial mining operations will need to ensure that their actions do not jeopardize listed species. Recreational and tourism industries may have ESA-related restrictions imposed so that activities such as fishing enterprises are conducted in a manner that safeguard spawning fish and their habitats.

In addition, the widespread ESA listings underscore that both urban and rural communities could face significant changes in how they approach such diverse activities as: planning, zoning, and construction/development; erosion and sediment control; floodplain management; water withdrawals and supply reservoirs; and stormwater and wastewater discharges. These are just a few examples of potential impacts, but it is clear that the effects will encompass numerous sectors of private and public activities.

Expected Economic Impacts of Designating Critical Habitat

The economic impacts to be considered in a critical habitat designation are the incremental effects of critical habitat designation above the economic impacts attributable to listing or attributable to authorities other than the ESA (see response to comments under Economic Considerations). Incremental impacts result from special management activities in those areas, if any, outside the present distribution of the listed species that NMFS has determined to be essential to the conservation of the species. For these 19 salmon and steelhead ESUs NMFS has determined that the present geographic extent of their freshwater and estuarine range is likely sufficient to provide for conservation of the species, although the quality of that habitat needs improvement on many fronts. Because NMFS is not designating any areas beyond the current range of these ESUs as critical habitat, the designation will result in few, if any, additional economic effects beyond those that may have been caused by listing and by other statutes.

Compliance With Existing Statutes

NMFS has determined that Environmental Assessments and Environmental Impact Statements, as defined under the National Environmental Policy Act of 1969, need not be prepared for critical habitat designations made pursuant to the ESA. See *Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996).

References

The complete citations for the references used in this document can be obtained by contacting Garth Griffin, NMFS (see **FOR FURTHER INFORMATION CONTACT**) or via the Internet (see **ADDRESSES**).

Classification

This rule has been determined to be significant for purposes of Executive Order (E.O.) 12866.

NMFS is designating only the current range of these salmon and steelhead ESUs as critical habitat. Given the affinity of these species to spawn in small watersheds, this current range encompasses a wide range of habitat, including lakes, small tributary reaches, as well as mainstem, off-channel and estuarine areas. Areas excluded from this designation include historically-occupied areas above impassable dams and headwater areas above impassable natural barriers (e.g., long-standing, natural waterfalls). Since NMFS is designating the current range of the listed species as critical habitat, this designation will not impose any additional requirements or economic effects upon small entities, beyond those which may accrue from section 7 of the ESA. Section 7 requires Federal agencies to insure that any action they carry out, authorize, or fund is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat (ESA § 7(a)(2)). The consultation requirements of section 7 are nondiscretionary and are effective at the time of species' listing. Therefore, Federal agencies must consult with NMFS and ensure their actions do not jeopardize a listed species, regardless of whether critical habitat is designated.

In the future, should NMFS determine that designation of habitat areas outside the species' current range is necessary for conservation and recovery, NMFS will analyze the incremental costs of that action and assess its potential impacts on small entities, as required by the Regulatory Flexibility Act. Until that time, a more detailed analysis would be premature and would not reflect the true economic impacts of the proposed action on local businesses, organizations, and governments.

Accordingly, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact of a substantial number of small entities, as described in the Regulatory Flexibility Act.

Executive Order 13132 - Federalism

In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual State and Federal interest, NMFS has conferred with appropriate State and local officials following its proposal to designate the critical habitat described in this final rule. While these officials, and other interested parties, expressed support for protection of the listed species, they also expressed support for activities that may be affected by the designation. The **SUPPLEMENTARY INFORMATION** section of this rule discusses these comments and NMFS' responses. Among other things, the responses address concerns regarding the scope and extent of critical habitat, and concerns regarding possible impacts of a critical habitat designation. The areas described in this final rule represent the current freshwater and estuarine range of the listed species. For all ESUs, critical habitat includes all waterways, substrate, and adjacent riparian zones below longstanding, naturally impassable barriers. The economic (and other) impacts resulting from this critical habitat designation are expected to be minimal.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 226

Endangered and threatened species, Incorporation by reference.

Dated: February 7, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 226 is amended as follows:

PART 226–DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

2. Section 226.212 is added to read as follows:

§ 226.212 Critical habitat designation for 19 evolutionary significant units of salmon and steelhead in Washington, Oregon, Idaho, and California.

Critical habitat is designated to include all river reaches accessible to listed salmon or steelhead within the range of the ESUs listed, except for reaches on Indian lands. Critical habitat consists of the water, substrate, and adjacent riparian zone of estuarine and riverine reaches in hydrologic units and counties identified in Tables 7 through 24 to this part for all of the salmon and steelhead ESUs listed in this section. Accessible reaches are those within the historical range of the ESUs that can still be occupied by any life stage of salmon or steelhead. Inaccessible reaches are those above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years) and specific dams within the historical range of each ESU identified in Tables 7 through 24 to this part. Hydrologic units are those defined by the Department of the Interior (DOI), U.S. Geological Survey (USGS) publication, ''Hydrologic Unit Maps,'' Water Supply Paper 2294, 1987, and the following DOI, USGS, 1:500,000 Scale Hydrologic Unit Maps: State of Oregon (1974), State of Washington (1974), State of California (1978), and State of Idaho (1981), which are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the USGS publicaion and maps may be obtained from the USGS, Map Sales, Box 25286, Denver, CO 80225. Copies may be inspected at NMFS, Protected Resources Division, 525 NE Oregon Street-Suite 500, Portland, OR 97232-2737, or NMFS, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washiongton, DC.

(a) *Puget Sound Chinook Salmon (Oncorhynchus tshawytscha) geographic boundaries.* Critical habitat is designated to include all marine, estuarine and river reaches accessible to listed chinook salmon in Puget Sound. Puget Sound marine areas include South Sound, Hood Canal, and North Sound to the international boundary at the outer extent of the Strait of Georgia, Haro Strait, and the Strait of Juan De Fuca to a straight line extending north from the west end of Freshwater Bay, inclusive. Excluded are areas above specific dams identified in Table 7 to this part or above longstanding, naturally impassable barriers (i.e.,

natural waterfalls in existence for at least several hundred years).

(b) *Lower Columbia River Chinook Salmon (Oncorhynchus tshawytscha) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed chinook salmon in Columbia River tributaries between the Grays and White Salmon Rivers in Washington and the Willamette and Hood Rivers in Oregon, inclusive. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to the Dalles Dam. Excluded are areas above specific dams identified in Table 8 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(c) *Upper Willamette River chinook salmon (Oncorhynchus tshawytscha) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed chinook salmon in the Clackamas River and the Willamette River and its tributaries above Willamette Falls. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to, and including, the Willamette River in Oregon. Excluded are areas above specific dams identified in Table 9 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(d) *Upper Columbia River Spring-run Chinook salmon (Oncorhynchus tshawytscha) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed chinook salmon in Columbia River tributaries upstream of the Rock Island Dam and downstream of Chief Joseph Dam in Washington, excluding the Okanogan River. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to Chief Joseph Dam in Washington. Excluded are areas above specific dams identified in Table 10 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(e) *Central Valley Spring-run chinook salmon (Oncorhynchus tshawytscha) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed chinook salmon in the Sacramento River and its tributaries in California. Also included are river reaches and estuarine areas of the Sacramento-San Joaquin Delta, all waters from Chipps Island westward to Carquinez Bridge, including Honker Bay, Grizzly Bay, Suisun Bay, and Carquinez Strait, all waters of San Pablo Bay westward of the Carquinez Bridge, and all waters of San Francisco Bay (north of the San Francisco/Oakland Bay Bridge) from San Pablo Bay to the Golden Gate Bridge. Excluded are areas above specific dams identified in Table 11 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(f) *California Coastal Chinook Salmon (Oncorhynchus tshawytscha) geographic boundaries*. Critical habitat is designated to include all river reaches and estuarine areas accessible to listed chinook salmon from Redwood Creek (Humboldt County, California) to the Russian River (Sonoma County, California), inclusive. Excluded are areas above specific dams identified in Table 12 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(g) *Hood Canal Summer-run Chum Salmon (Oncorhynchus keta) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed chum salmon (including estuarine areas and tributaries) draining into Hood Canal as well as Olympic Peninsula rivers between and including Hood Canal and Dungeness Bay, Washington. Also included are estuarine/marine areas of Hood Canal, Admiralty Inlet, and the Straits of Juan De Fuca to the international boundary and as far west as a straight line extending north from Dungeness Bay. Excluded are areas above specific dams identified in Table 13 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(h) *Columbia River Chum Salmon (Oncorhynchus keta) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed chum salmon (including estuarine areas and tributaries) in the Columbia River downstream from Bonneville Dam, excluding Oregon tributaries upstream of Milton Creek at river km 144 near the town of St. Helens. Excluded are areas above specific dams identified in Table 14 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(i) *Ozette Lake Sockeye Salmon (Oncorhynchus nerka) geographic boundaries*. Critical habitat is designated to include all lake areas and river reaches accessible to listed sockeye salmon in Ozette Lake, located in Clallam County, Washington. Excluded are areas above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(j) *Oregon Coast coho salmon (Oncorhynchus kisutch) geographic boundaries*. Critical habitat is designated to include all river reaches and estuarine areas accessible to listed coho salmon from coastal streams south of the Columbia River and north of Cape Blanco, Oregon. Excluded are areas above specific dams identified in Table 15 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(k) *Southern California steelhead (Oncorhynchus mykiss) geographic boundaries*. Critical habitat is designated to include all river reaches and estuarine areas accessible to listed steelhead in coastal river basins from the Santa Maria River to Malibu Creek, California (inclusive). Excluded are areas above specific dams identified in Table 16 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(l) *South-Central California Coast steelhead (Oncorhynchus mykiss) geographic boundaries*. Critical habitat is designated to include all river reaches and estuarine areas accessible to listed steelhead in coastal river basins from the Pajaro River (inclusive) to, but not including, the Santa Maria River, California. Excluded are areas above specific dams identified in Table 17 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(m) *Central California Coast steelhead (Oncorhynchus mykiss) geographic boundaries*. Critical habitat is designated to include all river reaches and estuarine areas accessible to listed steelhead in coastal river basins from the Russian River to Aptos Creek, California (inclusive), and the drainages of San Francisco and San Pablo Bays. Also included are all waters of San Pablo Bay westward of the Carquinez

Bridge and all waters of San Francisco Bay from San Pablo Bay to the Golden Gate Bridge. Excluded is the Sacramento-San Joaquin River Basin of the California Central Valley as well as areas above specific dams identified in Table 18 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(n) *Central Valley steelhead (Oncorhynchus mykiss) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed steelhead in the Sacramento and San Joaquin Rivers and their tributaries in California. Also included are river reaches and estuarine areas of the Sacramento-San Joaquin Delta, all waters from Chipps Island westward to Carquinez Bridge, including Honker Bay, Grizzly Bay, Suisun Bay, and Carquinez Strait, all waters of San Pablo Bay westward of the Carquinez Bridge, and all waters of San Francisco Bay (north of the San Francisco/Oakland Bay Bridge) from San Pablo Bay to the Golden Gate Bridge. Excluded are areas of the San Joaquin River upstream of the Merced River confluence and areas above specific dams identified in Table 19 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(o) *Upper Columbia River steelhead (Oncorhynchus mykiss) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed steelhead in Columbia River tributaries upstream of the Yakima River, Washington, and downstream of Chief Joseph Dam. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to Chief Joseph Dam in Washington. Excluded are areas above specific dams identified in Table 20 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(p) *Snake River Basin steelhead (Oncorhynchus mykiss) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed steelhead in the Snake River and its tributaries in Idaho, Oregon, and Washington. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to the confluence with the Snake River. Excluded are areas above specific dams identified in Table 21 to this part or above longstanding, naturally impassable barriers (i.e., Napias Creek Falls and other natural waterfalls in existence for at least several hundred years).

(q) *Lower Columbia River steelhead (Oncorhynchus mykiss) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed steelhead in Columbia River tributaries between the Cowlitz and Wind Rivers in Washington and the Willamette and Hood Rivers in Oregon, inclusive. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to the Hood River in Oregon. Excluded are areas above specific dams identified in Table 22 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(r) *Upper Willamette River steelhead (Oncorhynchus mykiss) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed steelhead in the Willamette River and its tributaries above Willamette Falls upstream to, and including, the Calapooia River. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to, and including, the Willamette River in Oregon. Excluded are areas above specific dams identified in Table 23 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(s) *Middle Columbia River steelhead (Oncorhynchus mykiss) geographic boundaries*. Critical habitat is designated to include all river reaches accessible to listed steelhead in Columbia River tributaries (except the Snake River) between Mosier Creek in Oregon and the Yakima River in Washington (inclusive). Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to the Yakima River in Washington. Excluded are areas above specific dams identified in Table 24 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

3. Tables 7 through 24 are added to part 226 to read as follows:

Table 7 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Puget Sound Chinook Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat.

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Strait of Georgia	17110002	Skagit (WA), Whatcom (WA)	
Sand Juan Islands	17110003	San Juan (WA)	
Nooksack	17110004	Skagit (WA), Whatcom (WA)	
Upper Skagit	17110005	Skagit (WA), Whatcom (WA)	
Sauk	17110006	Snohomish (WA), Skagit (WA)	
Lower Skagit	17110007	Skagit (WA), Snohomish (WA)	
Stillaguamish	17110008	Snohomish (WA), Skagit (WA)	
Skykomish	17110009	King (WA), Snohomish (WA)	
Snoqualmie	17110010	King (WA), Snohomish (WA)	Tolt Dam
Snohomish	17110011	Snohomish (WA)	
Lake Washington	17110012	King (WA), Snohomish (WA)	Landsburg Diversion
Duwamish	17110013	King (WA)	
Puyallup	17110014	King (WA), Pierce (WA)	
Nisqually	17110015	Pierce (WA), Thurston (WA)	Alder Dam

Table 7 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Puget Sound Chinook Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat.—Continued

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Deschutes	17110016	Lewis (WA), Thurston (WA)	
Skokomish	17110017	Grays Harbor (WA), Jefferson (WA), Mason (WA).	
Hood Canal	17110018	Clallam (WA), Jefferson (WA), Kitsap (WA), Mason (WA).	
Puget Sound	17110019	Island (WA), Jefferson (WA), King (WA), Kitsap (WA), Mason (WA), Pierce (WA), Skagit (WA), Snohomish (WA), Thurston (WA).	
Dungeness-Elwha	17110020	Clallam (WA), Jefferson (WA)	Elwha Dam

[1] Some counties have very limited overlap with estuarine, riverine, and riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 8 to Part 226 —Hydrologic Units and Counties Containing Critical Habitat for Lower Columbia River Chinook Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Middle Columbia-Hood	17070105	Hood River (OR), Klickitat (WA), Skamania (WA), Wasco (OR).	Condit Dam, The Dalles Dam
Lower Columbia-Sandy	17080001	Clackamas (OR), Clark (WA), Multnomah (OR), Skamania (WA).	Bull Run Dam 2
Lewis	17080002	Clark (WA), Cowlitz (WA), Skamania (WA).	Merwin Dam
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (OR), Cowlitz (WA), Lewis (WA), Skamania (WA), Wahkiakum (WA).	
Upper Cowlitz	17080004	Lewis (WA), Pierce (WA), Skamania (WA), Yakima (WA).	
Lower Cowlitz	17080005	Cowlitz (WA), Lewis (WA), Skamania (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Clackamas	17090011	Clackamas (OR), Marion (OR)	
Lower Willamette	17090012	Clackamas (OR), Columbia (OR), Multnomah (OR), Washington (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, and riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 9 to Part 226 —Hydrologic Units and Counties Containing Critical Habitat for Upper Willamette River Chinook Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat.

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Lower Columbia-Sandy	17080001	Clark (WA)	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (OR), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Middle Fork Willamette	17090001	Douglas (OR), Lane (OR)	
Coast Fork Willamette	17090002	Douglas (OR), Lane (OR)	Cottage Grove Dam, Dorena Dam
Upper Willamette	17090003	Benton (OR), Lane (OR), Lincoln (OR), Linn (OR), Polk (OR).	Fern Ridge Dam
McKenzie	17090004	Lane (OR), Linn (OR)	Blue River Dam
North Santiam	17090005	Clackamas (OR), Linn (OR) Marion (OR)	Big Cliff Dam
South Santiam	17090006	Linn (OR)	Green Peter Dam
Middle Willamette	17090007	Clackamas (OR), Marion (OR), Polk (OR), Washington (OR), Yamhill (OR).	
Yamhill	17090008	Lincoln (OR), Polk (OR), Tillamook (OR), Yamhill (OR).	
Molalla-Pudding	17090009	Clackamas (OR), Marion (OR)	
Tualatin	17090010	Clackamas (OR), Columbia (OR), Multnomah (OR), Tillamook (OR), Washington (OR), Yamhill (OR).	
Clackamas	17090011	Clackamas (OR), Marion (OR)	

Table 9 to Part 226 —Hydrologic Units and Counties Containing Critical Habitat for Upper Willamette River Chinook Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat.—Continued

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Lower Willamette	17090012	Clackamas (OR), Columbia (OR), Multnomah (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, and riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 10 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Upper Columbia River Spring-run Chinook Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat.

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Chief Joseph	17020005	Chelan (WA), Douglas (WA), Okanogan (WA).	Chief Joseph
Similkameen	17020007	Okanogan (WA)	
Methow	17020008	Okanogan (WA)	
Upper Columbia-Entiat	17020010	Chelan (WA), Douglas (WA), Grant (WA), Kittitas (WA).	
Wenatchee	17020011	Chelan (WA)	
Upper Columbia-Priest Rapids	17020016	Benton (WA), Grant (WA), Franklin (WA), Kittitas (WA), Yakima (WA).	
Middle Columbia-Lake Wallula	17070101	Benton (WA), Gilliam (OR), Klickitat (WA), Morrow (OR), Sherman (OR), Umatilla (OR), Walla Walla (WA).	
Middle Columbia-Hood	17070105	Hood River (OR), Klickitat (WA), Sherman (OR), Skamania (WA), Wasco (OR).	
Lower Columbia-Sandy	17080001	Clark (WA), Multnomah (OR), Skamania (WA).	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (OR), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR)	

[1] Some counties have very limited overlap with estuarine, riverine, and riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 11 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Central Valley California Spring-run Chinook Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat.

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Sacramento-Lower Cow-Lower Clear	18020101	Shasta (CA), Tehama (CA)	
Lower Cottonwood	18020102	Shasta (CA), Tehama (CA)	
Sacramento-Lower Thomes	18020103	Butte (CA), Glenn (CA), Tehama (CA)	Black Butte Dam
Sacramento-Stone Corral	18020104	Butte (CA), Colusa (CA), Glenn (CA), Sutter (CA), Yolo (CA).	
Lower Butte	18020105	Butte (CA), Colusa (CA), Glenn (CA), Sutter (CA).	Centerville Dam
Lower Feather	18020106	Butte (CA), Sutter (CA), Yuba (CA)	Oroville Dam
Lower Yuba	18020107	Yuba (CA)	
Lower Bear	18020108	Placer (CA), Sutter (CA), Yuba (CA)	Camp Far West Dam
Lower Sacramento	18020109	Sacramento (CA), Solano (CA), Sutter (CA), Placer (CA), Yolo (CA).	
Sacramento-Upper Clear	18020112	Shasta (CA)	Keswick Dam, Whiskeytown Dam
Upper Elder-Upper Thomes	18020114	Tehama (CA)	
Upper Cow-Battle	18020118	Shasta (CA), Tehama (CA)	
Mill-Big Chico	18020119	Butte (CA), Shasta (CA), Tehama (CA)	
Upper Butte	18020120	Butte (CA), Tehama (CA)	
Upper Yuba	18020125	Nevada (CA), Yuba (CA)	Englebright Dam
Suisun Bay	18050001	Contra Costa (CA), Napa (CA), Solano (CA).	
San Pablo Bay	18050002	Alameda (CA), Contra Costa (CA), Marin (CA), Napa (CA), San Mateo (CA), Solano (CA), Sonoma (CA).	
San Francisco Bay	18050004	Alameda (CA), Contra Costa (CA), Marin (CA), San Francisco (CA), San Mateo (CA).	

[1] Some counties have very limited overlap with estuarine, riverine, and riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 12 to Part 226 —Hydrologic Units and Counties Containing Critical Habitat for California Coastal Chinook Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat.

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Mad-Redwood	18010102	Humboldt (CA), Trinity (CA)	
Upper Eel	18010103	Glenn (CA), Lake (CA), Mendocino (CA), Trinity (CA).	Scott Dam
Middle Fork Eel	18010104	Humboldt (CA), Mendocino (CA), Trinity (CA).	
Lower Eel	18010105	Humboldt (CA), Mendocino (CA)	
South Fork Eel	18010106	Humboldt (CA), Mendocino (CA)	
Mattole	18010107	Humboldt (CA), Mendocino (CA)	
Big-Navarro-Garcia	18010108	Mendocino (CA)	
Gualala-Salmon	18010109	Mendocino (CA), Sonoma (CA)	
Russian	18010110	Mendocino (CA), Sonoma (CA)	Coyote Dam, Warm Springs Dam
Bodega Bay	18010111	Marin (CA), Sonoma (CA)	

[1] Some counties have very limited overlap with estuarine, riverine, and riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 13 to part 226—Hydrologic Units and Counties Containing Critical Habitat for Hood Canal Summer-run Chum Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat.

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Skokomish	17110017	Mason (WA)	Cushman Dam
Hood Canal	17110018	Clallam (WA), Jefferson (WA), Kitsap (WA), Mason (WA).	
Puget Sound	17110019	Island (WA), Jefferson (WA), Kitsap (WA)	
Dungeness-Elwha	17110020	Clallam (WA), Jefferson (WA)	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 14 to part 226—Hydrologic Units and Counties Containing Critical Habitat for Columbia River Chum Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat.

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Lower Columbia - Sandy	17080001	Clark (WA), Skamania (WA), Multnomah (OR).	Bonneville Dam
Lewis	17080002	Cowlitz (WA), Clark (WA), Skamania (WA).	Merwin Dam
Lower Columbia - Clatskanie	17080003	Wahkiakum (WA), Lewis (WA), Cowlitz (WA), Skamania (WA), Clatsop (OR), Columbia (OR).	
Lower Cowlitz	17080005	Cowlitz (WA), Lewis (WA), Skamania (WA).	
Lower Columbia	17080006	Pacific (WA), Wahkiakum (WA), Lewis (WA), Clatsop (OR).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR), Washington (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 15 to part 226—Hydrologic Units and Counties Containing Critical Habitat for Oregon Coast Coho Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within the range of ESU[X]	Dams/Reservoirs
Necanicum	17100201	Clatsop (OR), Tillamook (OR)	
Nehalem	17100202	Clatsop (OR), Columbia (OR), Tillamook (OR), Washington (OR).	
Wilson-Trask-Nestucca	17100203	Lincoln (OR), Polk (OR), Tillamook (OR), Washington (OR), Yamhill (OR).	McGuire Dam
Siletz-Yaquina	17100204	Benton (OR), Lincoln (OR), Polk (OR), Tillamook (OR).	
Alsea	17100205	Benton (OR), Lane (OR), Lincoln (OR)	
Siuslaw	17100206	Benton (OR), Douglas (OR), Lane (OR)	
Siltcoos	17100207	Douglas (OR), Lane (OR)	

Table 15 to part 226—Hydrologic Units and Counties Containing Critical Habitat for Oregon Coast Coho Salmon, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat—Continued

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within the range of ESU[X]	Dams/Reservoirs
North Umpqua	17100301	Douglas (OR), Lane (OR)	Cooper Creek Dam, Soda Springs Dam
South Umpqua	17100302	Coos (OR), Douglas (OR), Josephine (OR).	Ben Irving Dam, Galesville Dam, Win Walker Reservoir
Umpqua	17100303	Coos (OR), Douglas (OR), Lane (OR)	
Coos	17100304	Coos (OR), Douglas (OR)	Lower Pony Creek Dam
Coquille	17100305	Coos (OR), Curry (OR), Douglas (OR)	
Sixes	17100306	Coos (OR), Curry (OR)	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 16 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Southern California Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Cuyama	18060007	San Luis Obispo (CA), Santa Barbara (CA).	
Santa Maria	18060008	San Luis Obispo (CA), Santa Barbara (CA).	Vaquero Dam
San Antonio	18060009	Santa Barbara (CA)	
Santa Ynez	18060010	Santa Barbara (CA)	Bradbury Dam
Santa Barbara Coastal	18060013	Santa Barbara (CA), Ventura (CA)	
Ventura	18070101	Santa Barbara (CA), Ventura (CA)	Casitas Dam, Robles Dam
Santa Clara	18070102	Los Angeles (CA), Santa Barbara (CA), Ventura (CA).	Santa Felicia Dam
Santa Monica Bay	18070104	Los Angeles (CA), Ventura (CA)	Rindge Dam

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 17 to Part 226.—Hydrologic Units and Counties Containing Critical Habitat for South-Central California Coast Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Pajaro	18060002	Monterey (CA), San Benito (CA), Santa Clara (CA), Santa Cruz (CA).	Chesbro Reservoir, North Fork Pacheco Reservoir
Estrella	18060004	Monterey (CA), San Luis Obispo (CA)	
Salinas	18060005	Monterey (CA), San Benito (CA), San Luis Obispo (CA).	Nacimiento Reservoir, Salinas Dam, San Antonio Reservoir
Central Coastal	18060006	Monterey (CA), San Luis Obispo (CA)	Lopez Dam, Whale Rock Reservoir
Alisal-Elkhorn Sloughs	18060011	Monterey (CA), San Benito (CA)	
Carmel	18060012	Monterey (CA)	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 18 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Central California Coast Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Russian	18010110	Mendocino (CA), Sonoma (CA)	Coyote Dam, Warm Springs Dam
Bodega Bay	18010111	Marin (CA), Sonoma (CA)	
Suisun Bay	18050001	Contra Costa (CA), Napa (CA), Solano (CA).	
San Pablo Bay	18050002	Alameda (CA), Contra Costa (CA), Marin (CA), Napa (CA), San Francisco (CA), Solano (CA), Sonoma (CA).	Phoenix Dam, San Pablo Dam
Coyote	18050003	Alameda (CA), San Mateo (CA), Santa Clara (CA).	Almaden Reservoir, Anderson Reservoir, Calero Reservoir, Guadalupe Reservoir, Searsville Lake, Stevens Creek Reservoir, Vasona Reservoir
San Francisco Bay	18050004	Alameda (CA), Contra Costa (CA), San Francisco (CA), San Mateo (CA), Santa Clara (CA).	Calaveras Reservoir, Chabot Dam, Crystal Springs Reservoir, Del Valle Reservoir, San Antonio Reservoir

Table 18 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Central California Coast Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat—Continued

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Tomales-Drake Bays	18050005	Marin (CA), Sonoma (CA)	Peters Dam, Seeger Dam, Soulejule Dam
San Francisco Coastal South	18050006	San Mateo (CA)	Pilarcitos Dam
San Lorenzo-Soquel	18060001	San Mateo (CA), Santa Cruz (CA)	Newell Dam

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 19 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Central Valley Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Sacramento-Lower Cow-Lower Clear	18020101	Shasta (CA), Tehama (CA)	
Lower Cottonwood	18020102	Shasta (CA), Tehama (CA)	
Sacramento-Lower Thomes	18020103	Butte (CA), Glenn (CA), Tehama (CA)	Black Butte Dam
Sacramento-Stone Corral	18020104	Butte (CA), Colusa (CA), Glenn (CA), Sutter (CA), Yolo (CA).	
Lower Butte	18020105	Butte (CA), Colusa (CA), Glenn (CA), Sutter (CA).	Centerville Dam
Lower Feather	18020106	Butte (CA), Sutter (CA), Yuba (CA)	Oroville Dam
Lower Yuba	18020107	Yuba (CA)	
Lower Bear	18020108	Placer (CA), Sutter (CA), Yuba (CA)	Camp Far West Dam
Lower Sacramento	18020109	Placer (CA), Sacramento (CA), Solano (CA), Sutter (CA), Yolo (CA).	Monticello Dam
Lower Cache	18020110	Yolo (CA)	
Lower American	18020111	Placer (CA), Sacramento (CA), Sutter (CA).	Nimbus Dam
Sacramento-Upper Clear	18020112	Shasta (CA)	Keswick Dam, Whiskeytown Dam
Cottonwood Headwaters	18020113	Shasta (CA), Tehama (CA)	
Upper Elder-Upper Thomes	18020114	Tehama (CA)	
Upper Cow-Battle	18020118	Shasta (CA), Tehama (CA)	
Mill-Big Chico	18020119	Butte (CA), Shasta (CA), Tehama (CA)	
Upper Butte	18020120	Butte (CA), Tehama (CA)	
Honcut Headwaters	18020124	Butte (CA), Yuba (CA)	
Upper Yuba	18020125	Yuba (CA), Nevada (CA)	Englebright Dam
Upper Coon-Upper Auburn	18020127	Placer (CA)	
Middle San Joaquin-Lower Merced-Lower Stanislaus.	18040002	Calaveras (CA), Merced (CA), San Joaquin (CA), Stanislaus (CA).	Crocker Diversion Dam, La Grange Dam
San Joaquin Delta	18040003	Alameda (CA), Contra Costa (CA), Sacramento (CA), San Joaquin (CA).	
Lower Calaveras-Mormon Slough	18040004	Calaveras (CA), San Joaquin (CA), Stanislaus (CA).	
Lower Consumnes-Lower Mokelumne	18040005	Amador (CA), Sacramento (CA), San Joaquin (CA).	Comanche Dam
Upper Stanislaus	18040010	Calaveras (CA), San Joaquin (CA), Tuolumne (CA).	Goodwin Dam
Upper Calaveras	18040011	Calaveras (CA)	New Hogan Dam
Panoche-San Luis Reservoir	18040014	San Joaquin (CA), Stanislaus (CA)	
Suisun Bay	18050001	Contra Costa (CA), Solano (CA)	
San Pablo Bay	18050002	Contra Costa (CA), Marin (CA), San Francisco (CA), Solano (CA), Sonoma (CA).	
San Francisco Bay	18050004	Alameda (CA), Contra Costa (CA), San Francisco (CA), San Mateo (CA).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 20 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Upper Columbia River Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Chief Joseph	17020005	Chelan (WA), Douglas (WA), Okanogan (WA).	Chief Joseph Dam
Okanogan	17020006	Okanogan (WA)	
Similkameen	17020007	Okanogan (WA)	
Methow	17020008	Okanogan (WA)	

Table 20 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Upper Columbia River Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat—Continued

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Upper Columbia-Entiat	17020010	Chelan (WA), Douglas (WA), Grant (WA), Kittitas (WA).	
Wenatchee	17020011	Chelan (WA)	
Moses Coulee	17020012	Douglas (WA), Grant (WA)	
Upper Columbia-Priest Rapids	17020016	Benton (WA), Franklin (WA), Grant (WA), Kittitas (WA), Yakima (WA).	
Middle Columbia-Lake Wallula	17070101	Benton (WA), Gilliam (OR), Klickitat (WA), Morrow (OR), Sherman (OR), Umatilla (OR), Walla Walla (WA).	
Middle Columbia-Hood	17070105	Hood River (OR), Klickitat (WA), Sherman (OR), Skamania (WA), Wasco (OR).	
Lower Columbia-Sandy	17080001	Clark (WA), Multnomah (OR), Skamania (WA).	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR)	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 21 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Snake River Basin Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Hells Canyon	17060101	Adams (ID), Idaho (ID), Wallowa (OR)	Hells Canyon Dam
Imnaha	17060102	Baker (OR), Union (OR), Wallowa (OR)	
Lower Snake-Asotin	17060103	Asotin (WA), Garfield (WA), Nez Perce (ID), Wallowa (OR).	
Upper Grande Ronde	17060104	Umatilla (OR), Union (OR), Wallowa (OR)	
Wallowa	17060105	Union (OR), Wallowa (OR)	
Lower Grande Ronde	17060106	Asotin (WA), Columbia (WA), Garfield (WA), Union (OR), Wallowa (OR).	
Lower Snake-Tucannon	17060107	Asotin (WA), Columbia (WA), Garfield (WA), Whitman (WA).	
Palouse	17060108	Franklin (WA), Whitman (WA)	
Lower Snake	17060110	Columbia (WA), Franklin (WA), Walla Walla (WA).	
Upper Salmon	17060201	Blaine (ID), Custer (ID), Lemhi (ID)	
Pahsimeroi	17060202	Custer (ID), Lemhi (ID)	
Middle Salmon-Panther	17060203	Custer (ID), Lemhi (ID)	
Lemhi	17060204	Lemhi (ID)	
Upper Middle Fork Salmon	17060205	Boise (ID), Custer (ID), Lemhi (ID), Valley (ID).	
Lower Middle Fork Salmon	17060206	Idaho (ID), Lemhi (ID), Valley (ID)	
Middle Salmon-Chamberlain	17060207	Idaho (ID), Lemhi (ID), Valley (ID)	
South Fork Salmon	17060208	Idaho (ID), Valley (ID)	
Lower Salmon	17060209	Idaho (ID), Lewis (ID), Nez Perce (ID)	
Little Salmon	17060210	Adams (ID), Idaho (ID)	
Upper Selway	17060301	Idaho (ID)	
Lower Selway	17060302	Idaho (ID)	
Lochsa	17060303	Clearwater (ID), Idaho (ID)	
Middle Fork Clearwater	17060304	Idaho (ID)	
South Fork Clearwater	17060305	Idaho (ID)	
Clearwater	17060306	Clearwater (ID), Idaho (ID), Latah (ID), Lewis (ID), Nez Perce (ID), Whitman (WA).	
Lower North Fork Clearwater	17060308	Clearwater (ID)	Dworshak Dam
Middle Columbia-Lake Wallula	17070101	Benton (WA), Gilliam (OR), Klickitat (WA), Morrow (OR), Sherman (OR), Umatilla (OR), Walla Walla (WA).	
Middle Columbia-Hood	17070105	Hood River (OR), Klickitat (WA), Sherman (OR), Skamania (WA), Wasco (OR).	
Lower Columbia-Sandy	17080001	Clark (WA), Multnomah (OR), Skamania (WA).	

Table 21 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Snake River Basin Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat—Continued

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR)	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 22 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Lower Columbia River Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Middle Columbia-Hood	17070105	Hood River (OR), Skamania (WA)	
Lower Columbia-Sandy	17080001	Clackamas (OR), Clark (WA), Multnomah (OR), Skamania (WA).	Bull Run Dam 2
Lewis	17080002	Clark (WA), Cowlitz (WA), Skamania (WA).	Merwin Dam
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (OR), Cowlitz (WA), Skamania (WA), Wahkiakum (WA).	
Lower Cowlitz	17080005	Cowlitz (WA), Lewis (WA), Skamania (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Clackamas	17090011	Clackamas (OR), Marion (OR)	
Lower Willamette	17090012	Clackamas (OR), Columbia (OR), Multnomah (OR), Washington (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 23 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Upper Willamette River Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Lower Columbia-Sandy	17080001	Clark (WA)	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Upper Willamette	17090003	Benton (OR), Linn (OR), Polk (OR)	
North Santiam	17090005	Clackamas (OR), Linn (OR), Marion (OR)	Big Cliff Dam
South Santiam	17090006	Linn (OR)	Green Peter Dam
Middle Willamette	17090007	Clackamas (OR), Marion (OR), Polk (OR), Washington (OR), Yamhill (OR).	
Yamhill	17090008	Lincoln (OR), Polk (OR), Tillamook (OR), Yamhill (OR).	
Molalla-Pudding	17090009	Clackamas (OR), Marion (OR)	
Tualatin	17090010	Clackamas (OR), Columbia (OR), Multnomah (OR), Tillamook (OR), Washington (OR), Yamhill (OR).	
Lower Willamette	17090012	Clackamas (OR), Columbia (OR), Multnomah (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

Table 24 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Middle Columbia River Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Upper Columbia-Priest Rapids	17020016	Benton (WA), Franklin (WA)	
Upper Yakima	17030001	Kittitas (WA), Yakima (WA)	

Table 24 to Part 226—Hydrologic Units and Counties Containing Critical Habitat for Middle Columbia River Steelhead, and Dams/Reservoirs Representing the Upstream Extent of Critical Habitat—Continued

Hydrologic Unit name	Hydrologic Unit number	Counties[1] within Hydrologic Unit and within range of ESU	Dams/Reservoirs
Naches	17030002	Kittitas (WA), Yakima (WA)	
Lower Yakima	17030003	Benton (WA), Klickitat (WA), Yakima (WA).	
Middle Columbia-Lake Wallula	17070101	Gilliam (OR), Morrow (OR), Umatilla (OR), Benton (WA), Klickitat (WA), Sherman (OR), Walla Walla (WA), Yakima (WA).	
Walla Walla	17070102	Umatilla (OR), Wallowa (OR), Columbia (WA), Walla Walla (WA).	
Umatilla	17070103	Morrow (OR), Umatilla (OR), Union (OR)	
Willow	17070104	Morrow (OR), Gilliam (OR)	
Middle Columbia-Hood	17070105	Hood River (OR), Sherman (OR), Wasco (OR), Klickitat (WA), Skamania (WA).	Condit Dam
Klickitat	17070106	Klickitat (WA), Yakima (WA)	
Upper John Day	17070201	Crook (OR), Grant (OR), Harney (OR), Wheeler (OR),.	
North Fork John Day	17070202	Grant (OR), Morrow (OR), Umatilla (OR), Union (OR), Wheeler (OR).	
Middle Fork John Day	17070203	Grant (OR)	
Lower John Day	17070204	Crook (OR), Gilliam (OR), Grant (OR), Jefferson (OR), Morrow (OR), Sherman (OR), Wasco (OR), Wheeler (OR).	
Lower Deschutes	17070306	Hood River (OR), Jefferson (OR), Sherman (OR), Wasco (OR).	Pelton Dam
Trout	17070307	Crook (OR), Jefferson (OR), Wasco (OR)	
Lower Columbia-Sandy	17080001	Multnomah (OR), Clark (WA), Skamania (WA).	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR)	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

[FR Doc. 00–3553 Filed 2–15–00; 8:45 am]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991223348–9348–01; I.D. 021000C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Shelikof Strait Conservation Area in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in the Shelikof Strait conservation area in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the interim 2000 pollock total allowable catch (TAC) for the Shelikof Strait conservation area established by the 2000 Interim Specifications and amended by the emergency interim rule implementing Steller sea lion protection measures for the pollock fisheries off Alaska.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 13, 2000, until 1200 hrs, A.l.t., March 15, 2000.

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

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

The interim 2000 pollock TAC in the Shelikof Strait conservation area as amended by the emergency interim rule implementing Steller sea lion protection measures for the pollock fisheries off Alaska (65 FR 3892, January 25, 2000) and an inseason adjustment (65 FR 4892, February 2, 2000) is 13,991 metric tons (mt), determined in accordance with § 679.22(b)(3)(iii)(C).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the interim TAC of pollock in the Shelikof Strait conservation area will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 13,491 mt, and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.22(b)(3)(iii)(A), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock in the Shelikof Strait conservation area in the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the seasonal allocation of pollock in the Shelikof Strait conservation area. Providing prior notice and an opportunity for public comment is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: February 11, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–3728 Filed 2–11–00; 4:54 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 32
Wednesday, February 16, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–56–AD]

RIN 2120–AA64

Airworthiness Directives; Ayres Corporation S2R Series and Model 600 S2D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); Reopening of the comment period.

SUMMARY: This document proposes to revise an earlier proposed airworthiness directive (AD) that the Federal Aviation Administration (FAA) issued against Ayres Corporation (Ayres) S2R series and Model 600 S2D airplanes. The earlier proposed rule would supersede the existing AD with a new AD that would require you to repetitively inspect the ¼-inch and 5/16-inch bolt hole areas on the lower spar caps for fatigue cracking, replace any lower spar cap where fatigue cracking is found, and report any fatigue cracking. The existing AD was the result of an accident of an Ayres S2R series airplane where the wing separated from the airplane in flight. Based upon our continuous evaluation of this situation, we are making minor changes to the most recent proposal; specifically regrouping the affected airplanes into six groups, adjusting the repetitive inspection intervals, providing alternatives for inspection methods, and including modification alternatives to replacing the spar cap. By reopening the comment period, we are allowing you the opportunity to comment on these changes. The actions specified by the proposed AD are intended to detect and correct fatigue cracking of the lower spar caps, which could result in the wing separating from the airplane with consequent loss of control of the airplane.

DATES: The FAA must receive any comments on the proposed rule on or before April 10, 2000.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–56–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in the proposed AD from the Ayres Corporation, P.O. Box 3090, One Rockwell Avenue, Albany, Georgia 31706–3090. You may examine this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Satish Lall, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703-6082; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites comments on this rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES.** The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

The FAA is re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 98–CE–56–AD.'' We will date stamp and mail the postcard back to you.

Discussion

Has the FAA taken any action to this point? Yes. An accident on an Ayres S2R series airplane where the wing separated from the airplane in flight caused the FAA to issue AD 97–17–03, Amendment 39–10195 (62 FR 43296, August 18, 1997). AD 97–17–03 currently requires you to accomplish the following:

—Inspect the ¼-inch and 5/16-inch bolt hole areas on the lower spar caps for fatigue cracking;
—Replace any lower spar cap where fatigue cracking is found; and
—Report any fatigue cracking to the FAA.

Investigation of all resources available to the FAA at the time of the accident showed nine occurrences of fatigue cracking in the lower spar caps of Ayres S2R airplanes, specifically emanating from the ¼-inch and 5/16-inch bolt holes. Investigation of the above-referenced accident revealed that the cause can be attributed to fatigue cracks emanating from the ¼-inch and 5/16-inch bolt holes in the lower spar caps. Because the Ayres Model 600 S2D airplanes have a similar type design to that of the S2R series airplanes, they were included in the Applicability of AD 97–17–03.

Data indicates that the fatigue cracks on these Ayres S2R series airplanes become detectable at different times based upon the type of engines and design of the airplane. With this in mind, the FAA categorized these airplanes into three groups for the Applicability of AD 97–17–03.

Since issuing AD 97–17–03, we received data specifying 29 additional occurrences of fatigue cracks found in the lower spar caps of Ayres S2R and Model 600 S2D airplanes. The data from

these occurrences indicate the following:

—Several of these occurrences involved airplanes that had not accumulated enough hours to require the initial inspection of AD 97–17–03;

—Detectable cracks could still develop after the initial inspection on the affected airplanes; and

—Ayres has manufactured additional airplanes that have a similar type design to that of the airplanes affected by AD 97–17–03. The existing AD should also cover these airplanes.

To address the above areas, the FAA issued a notice of proposed rulemaking (NPRM) to supersede AD 97–17–03. This NPRM was published in the **Federal Register** on January 13, 1999 (64 FR 2157). The NPRM proposed to supersede AD 97–17–03 with a new AD that would:

—Retain the inspection and replacement (if necessary) requirements of the lower spar caps that are currently required in AD 97–17–03;

—Make these inspections repetitive;

—Add additional airplanes to the Applicability of the AD;

—Change the initial compliance time for all airplanes; and

—Arrange the affected airplanes into four groups instead of three based on usage and configurations.

Was the public invited to comment on the NPRM? Yes. Interested persons were afforded an opportunity to participate in the making of the amendment. A summary of the comments and the FAA's responses follow.

Comment Issue No. 1: Certain Repetitive Inspection Intervals Too Long

What are the commenters' concerns? Two commenters question why the FAA would allow longer repetitive inspection intervals for airplanes with cold working done on the bolt holes. One commenter questions why longer repetitive inspection intervals are allowed for airplanes with the big butterfly plates (Ayres part numbers 20211–9/–11) installed. The commenters specify the following:

—One commenter bases the comment on cracks found on an airplane where cold working was previously accomplished on the bolt holes. The cracks were found 527 hours time-in-service (TIS) after the cold working and the previous inspection.

—The other commenter states that installing the big butterfly plates would not significantly lower the stress levels in the spar cap and would not delay crack initiation and growth. The commenter also has information that cracks have occurred on airplanes within 500 hours TIS after cold working the bolt holes. The commenter is concerned that corrosion pitting and other defects on the bolt hole inner surface are not adequately removed prior to cold working and that this reduces the effectiveness of cold working the bolt holes.

What is the FAA's response to the concern? We have evaluated the information received to date, including the above comments. Airplanes where bolt holes have been cold worked have not shown a significant reduction in crack growth rates. The safety benefit for airplanes with big butterfly plates installed is not as large as the FAA originally calculated.

Is it necessary to change the proposed AD? Yes. We have adjusted the repetitive inspection intervals for airplanes with the bolt holes cold worked and/or big butterfly plates installed.

Comment Issue No. 2: Change the Applicability Grouping of a Specific Airplane

What are the commenter's concern? One commenter states that the Model S2R–G10 airplane, serial number G10–137, should be categorized as a Group 4 airplane in the Applicability of the proposed AD instead of Group 2. The commenter states that this airplane has big butterfly plates installed and should therefore be included with the other airplanes with big butterfly plates installed.

What is the FAA's response to the concern? We concur that this airplane has big butterfly plates installed and should be re-categorized.

Is it necessary to change the AD? Yes. We have re-categorized the airplanes in the Applicability of the proposed AD into six categories instead of four. This re-categorization allows the FAA to structure the repetitive inspection intervals to coincide with the specific airplane configuration.

Comment Issue No. 3: Require Ultrasonic Inspections

What is the commenter's concern? One commenter recommends using ultrasonic inspection techniques instead of utilizing the magnetic particle method. The commenter states that the magnetic particle method could be used as a final check if a crack is indicated while using the ultrasonic method. This commenter states that, while utilizing the magnetic particle inspection method, damage to the bolt holes can occur during removal and reassembly of the lower splice fitting. Ultrasonic inspections do not require removing the lower splice fitting.

What is the FAA's response to the concern? The FAA concurs that damage can occur when the lower splice fitting is removed and reassembled while accomplishing a magnetic particle inspection. We included a ''CAUTION'' statement in the NPRM to instruct that the wings must be firmly supported during the inspection to prevent movement of the spar caps when the splice blocks are removed. This allows easier realignment of the splice block holes and the holes in the spar cap for bolt insertion. We are not eliminating the option of using magnetic particle methods because the equipment used in this method is the most readily available in the field.

Is it necessary to change the AD? Yes. We have included different inspection methods as options to accomplishing the actions of the proposed AD. This includes ultrasonic and magnetic particle methods.

Comment Issue No. 4: Ream the ¼-inch Bolt Holes to 5/16 Inches Diameter

What is the commenter's concern? One commenter recommends that the FAA require the 1/4-inch bolt holes be reamed to 5/16 inches diameter. This commenter states that this will remove any damage caused by previous removal and reassembly of the splice fitting.

What is the FAA's response to the concern? The FAA has approved reaming the ¼-inch bolt holes to 5/16 inches through the procedures included in Ayres Custom Kit No. CK–AG–29, dated December 23, 1997. We have determined that allowing this as an option is more appropriate than requiring it on all affected airplanes.

Is it necessary to change the AD? No.

Comment Issue No. 5: Require a Hardness Test of All Spar Caps

What is the commenter's concern? One commenter recommends a one-time Rockwell hardness test of all spar caps as specified in National Transportation Safety Board (NTSB) Report No. 98–2. This report specifies that the spar cap on the accident aircraft (reason for the initial AD action on this subject) did not meet the strength specifications for the type of material.

What is the FAA's response to the concern? The FAA has determined that all the spars, including the ones installed on the accident aircraft, have adequate static strength. No Rockwell hardness tests are required.

Is it necessary to change the AD? No

The FAA's Determination and Followup Action

What have we decided? After careful review of all available information related to the subject presented above, including the above-referenced comments, the FAA has determined that:

—The changes to the proposed AD as described in the above comment disposition should be incorporated; and

—AD action should be taken to incorporate these changes to continue to detect and correct fatigue cracking of the lower spar caps, which could result in the wing separating from the airplane with consequent loss of control of the airplane.

What is our next action? Since the changes propose actions that go beyond the scope of what was already proposed, the FAA is reopening the comment period to allow the public additional time to comment on the proposed AD.

Cost Impact

How many airplanes does the proposed AD impact? The FAA estimates that 1,000 airplanes in the U.S. registry would be affected by the proposed AD.

What is the cost impact of the initial inspection on owners/operators of the affected airplanes? We estimate that it would take approximately 3 workhours per airplane to accomplish the proposed initial inspection, and that the average labor rate is approximately $60 an hour. Parts to accomplish the proposed initial inspection cost approximately $417 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $597,000, or $597 per airplane.

What about the cost of repetitive inspections and possible repairs and replacements? The figures above only take into account the cost of the proposed initial inspection and do not take into account the cost of proposed repetitive inspections. We have no way of determining how many repetitive inspections each owner/operator of the affected airplanes would incur. These figures are based upon the presumption that no affected airplane operator has accomplished the proposed inspection, and does not take into account the cost for replacement if a crack is found. We have no way of determining the number of wing spar caps that may need to be replaced based upon the results of the proposed inspections.

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 proposed rule would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 Airworthiness Directive (AD) 97–17–03, Amendment 39–10105 (62 FR 43926, August 18, 1997), and by adding a new AD to read as follows:

Ayres Corporation: Docket No. 98–CE–56–AD Supersedes AD 97–17–03, Amendment 39–10105.

(a) *What airplanes are affected by this AD?* Airplanes with the following model and serial number (S/N) designations with or without a –DC or –X suffix, certificated in any category:

GROUP 1 AIRPLANES

Model	Serial Nos.
S–2R	5000R through 5099R, except 5010R, 5031R, 5038R, 5047R, and 5085R.
SR–R1820	R1820–001 through R1820–035.
S2R–T34	6000R through 6049R, T34–001 through T34–143, T34–145, T34–147 through T34–167, T34–171, T34–180, and T34–181.*
S2R–T15	T15–001 through T15–033.**
S2R–	G1 G1–101 through G1–106.

*The serial numbers of the Model S2R–T34 airplanes could incorporate T34–XXX, T36–XXX, T41–XXX, or T42–XXX. This AD applies to all of these serial number designations as they are all Model S2R–T34 airplanes.

**The serial numbers of the Model S2R–T15 airplanes could incorporate T15–XXX and T27–XXX. This AD applies to both of these serial number designations as they are both Model S2R–T15 airplanes.

GROUP 2 AIRPLANES

Model	Serial Nos.
S2R–R1820	R1820–036.
S2R–T65	T65–001 through T65–017.
S2RHG–T65	T65–002 through T65–017.
S2R–T34	T34–144, T34–146, T34–168, T34–169, T34–172 through T34–179, and T34–189 through T34–232. And T34–234.*
S2R–T45	T45–001 through T45–014.
S2R–G6	G6–101 through G6–147.
S2R–G10	G10–101 through G10–136, G10–138, G10–140, and G10–141.

GROUP 2 AIRPLANES—Continued

Model	Serial Nos.
S2R–G5	G5–101 through G5–105.

*The serial numbers of the Model S2R–T34 airplanes could incorporate T34–XXX, T36–XXX, T41–XXX, or T42–XXX. This AD applies to all of these serial number designations as they are all Model S2R–T34 airplanes.

GROUP 3 AIRPLANES*

Model	Serial Nos.
600 S2D	All serial numbers beginning with 600–1311D.
S–2R	1380R and 1416R through 4999R.
S2R–R1340	R1340–001 through R1340–035.
S2R–R3S	R3S–001 through R3S–011.
S2R–T11	T11–001 through T11–005.

*Any Group 3 airplane that has been modified with a hopper of a capacity over 410 gallons a piston engine greater than 600 horsepower or any gas turbine engine makes the airplane a Group 1 airplane for the purposes of this AD. The owner/operator must inspect the airplane at the Group 1 compliance time specified in this AD.

GROUP 4 AIRPLANES

Model	Serial Nos.
S2R–T34	T34–225, T34–236, T34–237, and T34–238.*
S2R–G1	G1–107, G1–108, and G1–109.
S2R–G10	G10–137, G10–139, and G10–142.

*The serial numbers of the Model S2R–T34 airplanes could incorporate T34–XXX, T36–XXX, T41–XXX, or T42–XXX. This AD applies to all of these serial number designations as they are all Model S2R–T34 airplanes.

GROUP 5 AIRPLANES

Model	Serial Nos.
S2R–T34	T34–239 through T34–266.*
S2RHG–T34	T34HG–102.
S2R–T15	T15–034 through T15–040.**
S2R–T45	T45–015.
S2R–G1	G1–110 through G1–114.
S2R–G6	G6–148 through G6–151.
S2R–G10	G10–143 through G10–160.

*The serial numbers of the Model S2R–T34 airplanes could incorporate T34–XXX, T36–XXX, T41–XXX, or T42–XXX. This AD applies to all of these serial number designations as they are all Model S2R–T34 airplanes.

**The serial numbers of the Model S2R–T15 airplanes could incorporate T15–XXX and T27–XXX. This AD applies to both of these serial designations as they are both Model S2R–T15 airplanes.

GROUP 6 AIRPLANES

Model	Serial Nos.
S2R	5010R, 5031R, 5038R, 5047R, and 5085R.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register.

(c) *What problem does this AD address?* The actions specified by the proposed AD are intended to detect and correct fatigue cracking of the lower spar caps. This could result in the wing separating from the airplane with consequent loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

(1) Repetitively inspect, using magnetic particle, ultrasonic, or eddy current procedures, the ¼-inch and 5/16-inch bolt hole areas on each lower spar cap for fatigue cracking. Reference paragraph (e)(3) and (e)(4) of this AD (including all subparagraphs) to obtain the initial and repetitive inspection compliance times.

(i) The cracks may emanate from the bolt hole on the face of the spar cap or they may occur in the shaft of the hole.

(ii) You must inspect both of these areas.

(2) If any cracking is found during any inspection required by this AD, you must accomplish the following:

(i) Use the cold work process to ream out small cracks as defined in Ayres Service Bulletin No. SB–AG–39, dated September 17, 1996; or replace the affected spar cap in accordance with the maintenance manual; or ream the ¼-inch bolt holes to 5/16 inches diameter as defined in Part I of Ayres Custom Kit No. CK–AG–29, dated December 23, 1997; and

(ii) Submit a report of inspection findings to the Manager, Atlanta ACO, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; facsimile: (770) 703–6097. You must include the airplane serial number and engine model number; the total number of flight hours on the lower spar cap that is cracked; time on the spar cap since last inspection, if applicable; and the type of inspection used for the last inspection. Indicate if cold working has been accomplished or modifications incorporated such as installation of big butterfly plates. Include the time on the spar cap when the cold working or modifications were accomplished. Indicate which bolt hole is

cracked and the length of the crack. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(e) *What is the compliance time of this AD?* The compliance times for each of the actions of this AD are as follows:

(1) Any required repair or replacement: Prior to further flight after the inspection where the crack(s) was/were found.

(2) Reporting requirement:

(i) Submit the report within 10 days after finding any crack(s) during any inspection required by this AD.

(ii) For airplanes where cracking was found during any inspection accomplished in accordance with AD 97–17–03, which is superseded by this AD; or by AD 97–13–11, which was superseded by AD 97–17–03, submit the report within 10 days after the effective date of this AD, unless already accomplished.

(3) Initial Inspection: The following is for the initial inspections required by this AD. The affected airplanes are categorized into six different groups.

(i) *Group 1 Airplanes:* Required upon the accumulation of 2,000 hours time-in-service (TIS) on each lower spar cap or within 50 flight hours after the effective date of this AD, whichever occurs later, unless already accomplished (compliance with AD 97–17–03 or AD 97–13–11).

(ii) *Group 2 Airplanes:* Required upon the accumulation of 2,200 hours TIS on each lower spar cap or within 50 flight hours after the effective date of this AD, whichever occur later, unless already accomplished (compliance with AD 97–17–03 or AD 97–13–11).

(iii) *Group 3 Airplanes:* Required upon the accumulation of 6,400 hours TIS on each lower spar cap or within 50 flight hours after the effective date of this AD, whichever occurs later, unless already accomplished (compliance with AD 97–17–03 or AD 97–13–11).

(iv) *Group 4 Airplanes:* Required upon the accumulation of 2,500 hours TIS on each lower spar cap or within 50 flight hours after the effective date of this AD, whichever occurs later, unless already accomplished (compliance with AD 97–17–03 or AD 97–13–11).

(v) *Group 5 Airplanes:* Required upon the accumulation of 6,200 hours TIS on each lower spar cap or within 50 flight hours after the effective date of this AD, whichever occurs later, unless already accomplished (compliance with AD 97–17–03 or AD 97–13–11).

(vi) *Group 6 Airplanes:* As presented below.

(A) For S/N 5010R: Required upon the accumulation of 5,530 hours TIS on each lower spar cap or within the next 50 hours TIS after the effective date of this AD, whichever occurs later.

(B) For S/N 5038R: Required upon the accumulation of 5,900 hours TIS on each lower spar cap or within the next 50 hours TIS after the effective date of this AD, whichever occurs later.

(C) For S/N's 5031R and 5047R: Required upon the accumulation of 6,400 hours TIS on each lower spar cap or within the next 50 hours TIS after the effective date of this AD, whichever occurs later.

(D) For S/N 5085R: Required upon the accumulation of 6,290 hours TIS on each lower spar cap or within the next 50 hours TIS after the effective date of this AD, whichever occurs later.

(4) Repetitive Inspections: The following chart gives the required repetitive inspection intervals based on the work performed and the method of inspection utilized. Each time is hours TIS intervals after the last inspection:

Work previously performed	Magnetic particle	Ultrasonic	Eddy current
No Cracks with optional cold work accomplished per SB–AG–39; or optional ¼-inch bolt hole reamed to 5/16 inches diameter per CK–AG–29, Part I, or previous Alternative Methods of Compliance.**	500 hours TIS.	550 hours TIS.	700 hours TIS.
No Cracks with optional cold work accomplished per SB–AG–39 or optional ¼-inch bolt hole reamed to 5/16 inches diameter per CK–AG–29, Part I, or previous Alternative Methods of Compliance**; and butterfly plates, part number (P/N) 20211–09 and P/N 20211–11, installed per CK–AG–29, Part II.***	900 hours TIS.	950 hours TIS.	1,250 hours with TIS.

*Aircraft S/N's T45–007DC and T45–10DC had modified splice block assemblies installed at Ayres (Ayres/Kaplan Assembly No. 88–251) and must still follow the repetitive inspection intervals listed here.

**If a crack is found, the reaming associated with the cold work process may remove a crack if it is small enough. Some aircraft owners/operators were issued alternative methods of compliance with AD 97–17–03 to ream the ¼-inch bolt hole to 5/16 inches diameter to remove small cracks. Ayres CK–AG–29, Part I, also provides procedures to ream the ¼-inch bolt hole to 5/16 inches diameter. If you use either of these two methods to remove cracks and the airplane is reinspected immediately with no cracks found, you may continue to follow the repetitive inspection intervals listed above.

***Group 4 and Group 5 airplanes had the butterfly plates installed at the factory and may follow this repetitive inspection interval.

(f) *What procedures must I use to accomplish the actions required in this AD?*

(1) Inspections:

(i) For the magnetic particle inspection, utilize the procedures contained in Ayres Service Bulletin No. SB–AG–39, dated September 17, 1996. Use only sections titled ''Inspection Accomplishment Instructions'' and ''Lower Splice Fitting Removal and Installation Instructions.'' You must follow American Society for Testing Materials (ASTM) E1444–94A, using wet particles meeting the requirements of the Society for Automotive Engineers (SAE) AMS 3046. CAUTION: You must firmly support the wings during the inspection to prevent movement of the spar caps when the splice blocks are removed. This will allow easier realignment of the splice block holes and the holes in the spar cap for bolt insertion.

(ii) The FAA must approve ultrasonic or eddy current inspection procedures. To obtain FAA approval, you must send your proposed procedure to the Manager, Atlanta Aircraft Certification (ACO), One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349. You are not required to remove the splice block for either the ultrasonic or eddy current inspections, unless corrosion is visible.

(iii) All inspections required by this AD must be accomplished by a Level 2 or Level 3 inspector certified for that inspection method using the guidelines established by the American Society for Nondestructive Testing or MIL–STD–410.

(2) Repair: Utilize the procedures contained in Ayres Service Bulletin No. SB–AG–39, dated September 17, 1996; or in Part I of Ayres Custom Kit No. CK–AG–29, dated December 23, 1997 if necessary to remove small cracks. You must then immediately re-inspect and continue to accomplish the repetitive inspections.

(3) Replacement: Utilize the procedures contained in the maintenance manual.

(g) *Can I comply with this AD in any other way?* Yes.

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Atlanta Aircraft Certification Office, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager.

(2) 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 (g)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by

this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(3) Alternative methods of compliance approved in accordance with AD 97–17–03, which is superseded by this AD; or in accordance with AD 97–13–11, which was superseded by AD 97–17–03, are approved as alternative methods of compliance with this AD, unless otherwise noted in this AD.

(h) *Where can I get information about any already-approved alternative methods of compliance?* Contact the Atlanta ACO, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 303496; telephone: (770) 703–6082; facsimile: (770) 703–6097.

(i) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD, provided the following is followed:

(1) The hopper is empty.

(2) Vne is reduced to 126 miles per hour (109 knots).

(3) Flight into known turbulence is prohibited.

(j) You may obtain copies of the documents referenced in this document from the Ayres Corporation, P.O. Box 3090, One Rockwell Avenue, Albany, Georgia 31706–3090. You may examine these documents at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(k) This amendment supersedes AD 97–17–03, Amendment 39–10105.

Issued in Kansas City, Missouri, on February 8, 2000.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–3623 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–62–AD]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc. Models SA226–T, SA226–AT, SA226–T(B), SA226–TC, SA227–AT, SA–227–TT, and SA–227–AC Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 92–01–02, which currently requires you to accomplish the following on certain Fairchild Aircraft SA226 and SA227 series airplanes: modify the parking brake system; and inspect (repetitively) certain landing gear brake assemblies.

That AD resulted from wheel brake system malfunctions on several of the affected airplanes where regular brake system maintenance had been performed. The proposed AD retains the modification and inspection requirements of AD 92–01–02 and incorporates the inspection requirements for additional landing gear brake assemblies. The actions specified by the proposed AD are intended to prevent wheel brake system malfunctions that could result in a fire in the brake area.

DATES: The FAA must receive any comments on the proposed rule on or before April 10, 2000.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–62–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in the proposed AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609 and B.F. Goodrich Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373. You may examine this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES.** The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

The FAA is re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 99–CE–62–AD.'' We will date stamp and mail the postcard back to you.

Discussion

Has the FAA taken any action to this point? Yes. Wheel brake system malfunctions on several Fairchild SA226 and SA227 series airplanes caused the FAA to issue AD 92–01–02, Amendment 39–39–8125 (56 FR 65824, December 19, 1991). This AD currently requires you to accomplish the following on certain Fairchild SA226 and SA227 series airplanes:

—modify the parking brake system; and

—inspect (repetitively) certain landing gear brake assemblies.

You must accomplish the actions of AD 92–01–02 in accordance with the instructions in Fairchild Service Bulletin (SB) No. 226–32–049 and Fairchild SB No. 227–32–017, both Issued: November 14, 1984; and B.F. Goodrich Service Letter No. 1498, dated October 26, 1989.

What has happened since AD 92–01–02 to initiate this action? The inspection requirements of AD 92–01–02 only applied to airplanes equipped with B.F. Goodrich landing gear brake assemblies, part number 2–1203–3. We have received service reports on B.F. Goodrich landing gear brake assemblies, part numbers 2–1203 and 2–1203–01, that indicate these brake assemblies should also be inspected for wear.

The FAA's Determination and Followup Action

What have we decided? After careful review of all available information related to the subject presented above, the FAA has determined that:

—B.F. Goodrich landing gear brake assemblies, part numbers 2–1203 and 2–1203–01, that are installed on certain Fairchild SA226 and SA227 series airplanes should also be inspected for wear and clearance limits; and

—AD action should be taken to incorporate the inspection requirements for additional landing gear brake assemblies into the existing AD action and continue to prevent wheel brake system malfunctions that could result in a fire in the brake area.

What is our next action? Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild SA226 and SA227 series airplanes of the same type design, the FAA is proposing AD action to supersede AD 92–01–02. The proposed AD would retain the modification and inspection requirements of AD 92–01–02 and would incorporate the additional landing gear brake assemblies previously referenced.

Are there differences between the proposed AD and the service information? Yes. B.F. Goodrich Service Letter No. 1498, dated October 26, 1989, specifies maximum clearance brake wear limits of .300-inch for the B.F. Goodrich landing gear brake assemblies, part numbers 2–1203 and 2–1203–01. The proposed AD would establish these limits at .250-inch to coincide with the part number 2–1203–03 landing gear brake assemblies.

Cost Impact

How many airplanes does the proposed AD impact? The FAA estimates that 330 airplanes in the U.S. registry would be affected by the proposed AD.

What is the cost impact of the initial inspection on owners/operators of the affected airplanes? We estimate that it would take approximately 6 workhours per airplane to accomplish the modification and proposed initial inspection, and that the average labor rate is approximately $60 an hour. Parts to accomplish the proposed modification cost approximately $500 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $283,800, or $860 per airplane.

What about the cost of repetitive inspections?: The figures above only take into account the cost of the proposed initial inspection and do not take into account the cost of proposed repetitive inspections. The FAA has no way of determining how many repetitive inspections each owner/operator of the affected airplanes would incur.

What is the cost if I already accomplished the initial inspection and modification as required by AD 92–01–02?: The only impact for those airplane owners/operators who already complied with both the initial inspection and modification requirements of AD 92–01–02 would be the cost of the repetitive inspections. The only difference between the proposed AD and AD 92–01–02 is the addition (to the inspection requirement) of the B.F. Goodrich landing gear brake assemblies, part numbers 2–1203 and 2–1203–01.

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 proposed rule would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 14 CFR part 39 of the Federal Aviation Regulations 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 Airworthiness Directive (AD) 92–01–02, Amendment 398125 (56 FR 65824, December 19, 1991), and by adding a new AD to read as follows:

Fairchild Aircraft, Inc.: Docket No. 99–CE–62–AD; Supersedes AD 92–01–02, Amendment 39–8125.

(a) *What airplanes are affected by this AD?* The following airplane models and serial numbers, certificated in any category.

Model	Serial Numbers
SA226-T	T201 through T275, and T277 thru T291
SA226-T(B).	T(B) 276 and T(B) 292 through T(B) 417
SA226-AT.	AT001 through AT074
SA226-TC.	TC201 through TC419
SA227-TT.	TT421 through TT555
SA227-AT.	AT423 through AT599
SA227-AC.	AC406, AC415, AC416, and AC420 through AC599

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent brake system malfunctions. This could result in a fire in the brake area.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

(1) For all affected airplanes, modify the parking brake system; and (2) For all affected airplanes equipped with at least one B.F. Goodrich landing gear brake assembly, part number 2–1203, 2–1203–1, or 2–1203–3, inspect and conduct measurements of the brake wear and clearance limits. If wear measure exceeds the maximum allowable clearance (0.250-inch (6.35 millimeter)), overhaul or replace the landing gear brake assembly.

(e) *What are the compliance times of this AD?*

The compliance times for each of the actions of this AD are as follows: (1) Modification: Within 90 calendar days after January 16, 1992 (the effective date of AD 92–01–02, Amendment 39–8125).

(2) Inspections: At whichever of the following that applies.

(i) For any installed B.F. Goodrich landing gear brake assembly, part number 2–1203–3: Within 100 hours time-in-service (TIS) after January 16,

1992 (the effective date of AD 92–01–02, Amendment 39–8125), and thereafter at intervals not to exceed 250 hours TIS.

(ii) For any installed B.F. Goodrich landing gear brake assembly, part number 2–1203 or 2–1203–1: Within 100 hours TIS after the effective date of this AD, and thereafter at intervals not to exceed 250 hours TIS.

(3) Overhaul or replacement, as necessary: Prior to further flight after the inspection where the wear or the maximum clearance limit is exceeded.

(f) *What procedures must I use to accomplish the actions required in this AD?*

(1) Modification: The instructions included in either Fairchild Service Bulletin (SB) 227–32–017 or Fairchild SB 226–32–049, both Issued: November 14, 1984, as applicable.

(2) Inspections: The instructions included in B.F. Goodrich No. 1498, Issued: October 26, 1989. The wear and maximum clearance limits specified in this AD take precedence over those specified in the service information.

(3) Overhaul or replacement: The instructions included in the applicable maintenance manual.

(g) *Can I comply with this AD in any other way?* Yes.

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Fort Worth Airplane Certification Office, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager.

(2) 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 (g)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(3) Alternative methods of compliance approved in accordance with AD 92–01–02, which is superseded by this AD, are approved as alternative methods of compliance with this AD.

(h) *Where can I get information about any already-approved alternative methods of compliance?* Contact the Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

(i) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(j) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; and B.F. Goodrich Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373. You may examine these documents at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(k) *Does this AD action affect any existing AD actions?* Yes. This amendment supersedes AD 92–01–02, Amendment 39–8125.

Issued in Kansas City, Missouri, on February 8, 2000.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–3621 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–01–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger to a cargo-carrying (''freighter'') configuration. This proposal would require a revision to the Airplane Flight Manual Supplement to ensure that the main deck cargo door is closed, latched, and locked; an inspection of the door wire bundle; and repair or replacement of discrepant parts. This proposal also would require, among other actions, modification of the hydraulic and indication systems of the main deck cargo door, and installation of a means to prevent pressurization to an unsafe level if the main deck cargo door is not closed, latched, and locked. This proposal is prompted by the FAA's determination that certain main deck cargo door systems do not provide an adequate level of safety, and that the means to prevent pressurization to an unsafe level if the main deck cargo door is not closed, latched, and locked is inadequate. The actions specified by the proposed AD are intended to prevent opening of the cargo door while the airplane is in flight, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage.

DATES: Comments must be received by April 3, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–01–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.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5320; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the

closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–01–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. 2000–NM–01–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Supplemental Type Certificate (STC) SA1832SO [originally issued to Monarch, Inc. and currently held by National Aircraft Service, Inc. (NASI)] specifies a design for installation of a main deck cargo door, associated door cutout in the fuselage, door hydraulic and indication systems, and Class ''E'' cargo interior with a cargo barrier on McDonnell Douglas Model DC–8 series airplanes. The FAA has conducted a design review of Model DC–8 series airplanes modified in accordance with STC SA1832SO and has conducted discussions regarding the design with the STC holder. From the design review and these discussions, the FAA has identified several potential unsafe conditions. [Results of this design review are contained in ''DC–8 Cargo Modification Review Team Review of Monarch (ATAZ) Supplemental Type Certificate SA1832SO-Installation of a Cargo Door and Interior, Final Report, Revision A, dated January 7, 2000,'' hereinafter referred to as ''the Design Review Report,'' which is included in the Rules Docket for this NPRM.]

This NPRM proposes corrective actions for those potential unsafe conditions that relate to the hydraulic and indication systems of the main deck cargo door and a means to prevent pressurization to an unsafe level if the main deck cargo door is not fully closed, latched, and locked. These conditions, if not corrected, could result in opening of the main deck cargo door while the airplane is in flight, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage.

Other Related Rulemaking

The FAA is considering further rulemaking to address the remaining potential unsafe conditions relating to the unreinforced main deck floor, main deck cargo door hinge, and fuselage structure in the area modified by installation of a main deck cargo door, 9g crash barrier, and fire/smoke detection system.

Main Deck Cargo Door Systems

In early 1989, two transport airplane accidents were attributed to cargo doors coming open during flight. The first accident involved a Boeing Model 747 series airplane in which the cargo door separated from the airplane, and damaged the fuselage structure, engines, and passenger cabin. The second accident involved a McDonnell Douglas DC–9 series airplane in which the cargo door opened but did not separate from its hinge. The open door disturbed the airflow over the empennage, which resulted in loss of flight control and consequent loss of the airplane. Although cargo doors have opened occasionally without mishap shortly after the airplane was in flight, these two accidents served to highlight the extreme potential dangers associated with the opening of a cargo door while the airplane is in flight.

As a result of these cargo door opening accidents, the Air Transport Association (ATA) of America formed a task force, including representatives of the FAA, to review the design, manufacture, maintenance, and operation of airplanes fitted with outward opening cargo doors, and to make recommendations to prevent inadvertent cargo door openings while the airplane is in flight. A design working group was tasked with reviewing 14 CFR part 25.783 [and its accompanying Advisory Circular (AC) 25.783–1, dated December 10, 1986] with the intent of clarifying its contents and recommending revisions to enhance future cargo door designs. This design group also was tasked with providing specific recommendations regarding design criteria to be applied to existing outward opening cargo doors to ensure that inadvertent openings would not occur in the current transport category fleet of airplanes.

The ATA task force made its recommendations in the ''ATA Cargo Door Task Force Final Report,'' dated May 15, 1991 (hereinafter referred to as ''the ATA Final Report''). On March 20, 1992, the FAA issued a memorandum to the managers of the Transport Airplane Directorate (TAD) and Los Angeles, Seattle, and Atlanta Aircraft Certification Offices (hereinafter referred to as ''the FAA Memorandum''), acknowledging ATA's recommendations and providing additional guidance for purposes of assessing the continuing airworthiness of existing designs of outward opening doors. The FAA Memorandum was not intended to upgrade the certification basis of the various airplanes, but rather to identify criteria to evaluate potential unsafe conditions identified on in-service airplanes. Appendix 1 of this proposed AD contains the specific paragraphs from the FAA Memorandum that set forth the criteria to which the outward opening doors should be shown to comply.

Utilizing the applicable requirements of Civil Air Regulations (CAR) part 4b and the design criteria provided by the FAA Memorandum, the FAA has reviewed the original type design of major transport airplanes, including McDonnell Douglas Model DC–8 airplanes equipped with outward opening doors, for any design deficiency or service difficulty. Based on that review, the FAA identified unsafe conditions and issued, among others, the following AD's and NPRM:

- For certain McDonnell Douglas Model DC–9 series airplanes: AD 89–11–02, amendment 39–6216 (54 FR 21416, May 18, 1989);
- For all Boeing Model 747 series airplanes: AD 90–09–06, amendment 39–6581 (55 FR 15217, April 23, 1990);
- For certain McDonnell Douglas Model DC–8 series airplanes: AD 89–17–01 R1, amendment 39–6521 (55 FR 8446, March 8, 1990);
- For certain Boeing Model 747–100 and -200 series airplanes: AD 96–01–51, amendment 39–9492 (61 FR 1703, January 23, 1996);
- For certain Boeing Model 727–100 and -200 series airplanes: AD 96–16–08, amendment 39–9708 (61 FR 41733, August 12, 1996); and
- For certain McDonnell Douglas Model DC–8 series airplanes: NPRM Rules Docket No. 99–NM–338–AD (64 FR 245, December 22, 1999).

In late 1997, the FAA informed the STC holders and operators of Model DC–8 series airplanes that it was embarking on a review of Model DC–8 series airplanes that have been converted from a passenger to a cargo-carrying (''freighter'') configuration by STC. The FAA proposed at a subsequent industry sponsored meeting in early 1998, that DC–8 operators and STC holders work together to identify and address potential safety concerns. This suggestion to the affected industry resulted in the creation of the DC–8

Cargo Conversion Joint Task Force (JTF) (hereinafter referred to as ''the JTF'').

The current composition of the JTF includes holders of each of the six STC's that addresses the installation of a main deck cargo door in Model DC–8 series airplanes and operators and lessors of those modified airplanes. At the JTF's request, the FAA participates in its meetings to offer counsel and guidance with respect to the FAA's regulatory processes. The JTF is a clearinghouse for the gathering and sharing of information among the parties affected by the FAA review of STC cargo conversions of Model DC–8 series airplanes. The JTF also is a liaison between the FAA, operators, and STC holders.

The JTF has been working with the FAA to provide data relating to the number of STC modified Model DC–8 series airplanes and operators of those airplanes, and identified which airplanes are modified by each STC. It also was instrumental in polling the operators and providing maintenance schedules and locations to the FAA, which helped the FAA arrange visits to operators of airplanes modified by each of the STC's. These visits allowed the FAA to review both the available data supporting each STC and modified airplanes and to identify potential safety concerns with each of the STC modifications. Additionally, the JTF has coordinated funding of the industry review of the data supporting the STC's and ongoing efforts to resolve safety issues identified by the FAA.

Using the applicable requirements of CAR part 4b and the criteria specified in the FAA Memorandum as evaluation guides, the FAA, in collaboration with the JTF, conducted an engineering design review and inspection of an airplane modified in accordance with STC SA1832SO. The FAA identified a number of design features of the main deck cargo door systems of this STC that are unsafe and do not meet the applicable requirements of CAR part 4b or the criteria specified in the FAA Memorandum. These systems include the door indication and hydraulic systems, and the means to prevent pressurization of the airplane to an unsafe level if the door is not fully closed, latched, and locked. The FAA design review team also determined that the design data of this STC did not include an adequate safety analysis of the main deck cargo door systems.

For airplanes modified in accordance with STC SA1832SO, the FAA considers the following five specific design deficiencies of the main deck cargo door systems to be unsafe:

1. Indication System.

The main deck cargo door indication system for STC SA1832SO utilizes door warning lights at the door operator's control panel and the flight engineer's panel. There are also indication lights on the door operator's control panel. These lights indicate the status of the cargo door center latch and lock positions, but do not indicate either the door open or closed status. All three conditions (i.e., door closed, latched, and locked) must be monitored directly so that the door indication system cannot display either ''latched'' before the door is closed or ''locked'' before the door is latched. If a sequencing error caused the door to latch and lock without being fully closed, the subject indication system, as currently designed, would not alert the door operator or the flight engineer of this condition. As a result, the airplane could be dispatched with the main deck cargo door unsecured, which could lead to the cargo door opening while the airplane is in flight.

The light on the flight engineer's panel is labeled ''Cargo Door'' and is displayed in red since it indicates an event that requires immediate pilot action. However, if the flight engineer is temporarily away from his station, a door unsafe warning indication could be missed by the pilots. In addition, the flight engineer could miss such an indication by not scanning the panel. As a result, the pilots and flight engineer could be unaware of or misinterpret an unsafe condition and could fail to respond in the correct manner. The warning lights have a ''Press-to-Test'' feature which is adequate to check the light bulb functionality, but is not adequate to check the cargo door closed, latched, and locked functions. Therefore, an indicator light that monitors all three conditions (i.e., door closed, latched, and locked) must be located in front of and in plain view of both pilots since one of the pilot's stations is always occupied during flight operations.

During an FAA review of STC modified airplanes, instances of distress of the wire bundle between the fuselage and main deck cargo door and the associated attach hardware were noted. Therefore, a one-time general visual inspection of this area to detect crimped, frayed, or chafed wires is necessary to ensure the electrical continuity of the existing door indication system during the interim period.

2. Means to Visually Inspect the Locking Mechanism.

The locking system of STC SA1832SO consists of a lock pin installed at each of the seven latches of the main deck cargo door. The single view port of the main deck cargo door installed in accordance with STC SA1832SO is intended to allow the flight crew to conduct a visual inspection of a single lock pin at the center latch of the main deck cargo door. Monitoring of a single lock pin does not ensure that all the lock pins are in the locked position. As such, this view port is inadequate to ensure that the door is fully closed, latched, and locked. Therefore, a means to visually inspect the door locking mechanism must be installed to ensure that the door is fully closed, latched, and locked.

As discussed in the ATA Final Report and the FAA Memorandum, there should be a means of directly inspecting each lock or, at a minimum, the locks at each end of the lock shaft of certain designs, such that a failure condition in the lock shaft would be detectable.

3. Means to Prevent Pressurization to an Unsafe Level

McDonnell Douglas Model DC–8 series airplanes modified in accordance with STC SA1832SO are configured to utilize the existing fuselage pressurization outflow valve for the purpose of preventing pressurization of the airplane to an unsafe level in the event that the main deck cargo door is not fully closed, latched, and locked. The FAA has determined, however, that the existing means to prevent pressurization is inadequate because the outflow valve can be manually closed to allow pressurization of the airplane regardless of the condition of the main deck cargo door. Therefore, a means must be installed to prevent pressurization of the airplane to an unsafe level in the event that the main deck cargo door is not fully closed, latched, and locked.

4. Powered Lock Systems

In addition to the master control switch for the main deck cargo door, STC SA1832SO utilizes a nose gear squat switch to remove door control power (i.e., electrical and hydraulic) while the airplane is in flight. The FAA finds that a single point failure in the ''up relay circuit'' of the main deck cargo door could result in inadvertent door opening irrespective of the squat switch position. Therefore, a means must be provided to remove power from the door while the airplane is in flight. The FAA has determined that the three

phase (10A) circuit breaker for the cargo door hydraulic pump must be pulled prior to flight as an interim action to prevent inadvertent main cargo door opening while the airplane is in flight.

A systems safety analysis would normally evaluate and resolve the potential for these types of unsafe conditions. However, the design data for STC SA1832SO do not include a systems safety analysis to specifically identify these failure modes and do not show that an inadvertent main cargo door opening is extremely improbable. The need for a system safety analysis is identified in the ATA Final Report and the FAA Memorandum.

5. Lock Strength

Analysis of the existing latching and locking mechanism of the main deck cargo door indicates that in the event of a system jam, continued operation of the hydraulic cylinders could result in structural deformation of elements of the latching and locking mechanisms. Structural deformation of the locking mechanisms could result in the door latches not being locked and erroneous indication to the flightcrew that the latches are locked properly. Therefore, the latching and locking systems for the main deck cargo door must be modified to prevent structural deformation, which could result in incorrect indication to the pilots that the door is not fully closed, latched, and locked.

Explanation of Requirements of Proposed Rule

Since unsafe conditions have been identified that are likely to exist or develop on other products of this same type design, the proposed AD would require, within 60 days after the effective date of this AD, a general visual inspection of the wire bundle of the main deck cargo door between the exit point of the cargo liner and the attachment point on the main deck cargo door to detect crimped, frayed, or chafed wires; a general visual inspection for damaged, loose, or missing hardware mounting components; and repair, if necessary. These actions would be required to be accomplished in accordance with FAA-approved maintenance procedures.

The proposed AD also would require, within 60 days after the effective date of this AD, a revision of the Limitations Section of the appropriate FAA-approved Airplane Flight Manual Supplement (AFMS) for STC SA1832SO by inserting therein procedures to ensure that the main deck cargo door is closed, latched, and locked prior to dispatch of the airplane; and installation of any associated placards. These procedures shall include pulling the three phase (10A) circuit breaker for the cargo door hydraulic pump. These actions would be required to be accomplished in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

The proposed AD also would require, within 18 months after the effective date of this AD, the following actions:

- Modification of the indication system of the main deck cargo door to indicate to the pilots whether the main deck cargo door is fully closed, latched, and locked;
- Modification of the mechanical and hydraulic systems of the main deck cargo door to eliminate detrimental deformation of the elements of the door latching and locking mechanisms;
- Installation of a means to visually inspect the locking mechanism of the main deck cargo door;
- Installation of a means to remove power to the door while the airplane is in flight; and
- Installation of a means to prevent pressurization to an unsafe level if the main deck cargo door is not fully closed, latched, and locked.

The modifications and installations would be required to be accomplished in accordance with a method approved by the Manager, Los Angeles ACO. Accomplishment of the modifications and installations would constitute terminating action for the inspections, AFMS revision, and placards described previously.

Cost Impact

There are approximately 6 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 6 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the general visual inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the general visual inspections proposed by this AD on U.S. operators is estimated to be $360, or $60 per airplane, per inspection cycle.

It would take approximately 1 work hour per airplane to accomplish the AFMS revision and installation of associated placards, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AFM revision and installation of associated placards proposed by this AD on U.S. operators is estimated to be $360, or $60 per airplane.

The FAA estimates that it would take approximately 210 work hours per airplane to accomplish the modification required by paragraph (c) of the proposed AD, at an average labor rate of $60 per work hour. The FAA also estimates that required parts would cost approximately $45,000 per airplane. Based on these figures, the cost impact of this modification proposed by this AD on U.S. operators is estimated to be $345,600, or $57,600 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have 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:

McDonnell Douglas: Docket 2000–NM–01–AD.

Applicability: Model DC–8 series airplanes that have been converted from a passenger to a cargo-carrying (''freighter'') configuration in accordance with Supplemental Type Certificate (STC) SA1832SO; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent opening of the cargo door while the airplane is in flight, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage, accomplish the following:

Actions Addressing the Main Deck Cargo Door

(a) Within 60 days after the effective date of this AD, perform a general visual inspection of the wire bundle of the main deck cargo door between the exit point of the cargo liner and the attachment point on the main deck cargo door to detect crimped, frayed, or chafed wires; and perform a general visual inspection for damaged, loose, or missing hardware mounting components. If any crimped, frayed, or chafed wire, or damaged, loose, or missing hardware mounting component is detected, prior to further flight, repair in accordance with FAA-approved maintenance procedures.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(b) Within 60 days after the effective date of this AD, revise the Limitations Section of the appropriate FAA-approved Airplane Flight Manual Supplement (AFMS) for STC SA1832SO by inserting therein procedures to ensure that the main deck cargo door is fully closed, latched, and locked prior to dispatch of the airplane, and install any associated placards. These procedures shall include pulling the three phase circuit breaker for the cargo door hydraulic pump. The AFMS revision procedures and installation of any associated placards shall be accomplished in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Actions Addressing the Main Deck Cargo Door Systems

(c) Within 18 months after the effective date of this AD, accomplish the actions specified in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), and (c)(5) of this AD in accordance with a method approved by the Manager, Los Angeles ACO.

(1) Modify the indication system of the main deck cargo door to indicate to the pilots whether the main deck cargo door is fully closed, latched, and locked;

(2) Modify the mechanical and hydraulic systems of the main deck cargo door to eliminate detrimental deformation of elements of the door latching and locking mechanism;

(3) Install a means to visually inspect the locking mechanism of the main deck cargo door;

(4) Install a means to remove power to the door while the airplane is in flight; and

(5) Install a means to prevent pressurization to an unsafe level if the main deck cargo door is not fully closed, latched, and locked.

(d) Compliance with paragraphs (c)(1), (c)(2), (c)(3), (c)(4), and (c)(5) of this AD constitutes terminating action for the requirements of paragraphs (a) and (b) of this AD, and the required AFMS revision and placards may be removed.

Alternative Methods of Compliance

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

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

Special Flight Permit

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

Appendix 1—Excerpt from an FAA Memorandum to Director-Airworthiness and Technical Standards of ATA, dated March 20, 1992

''(1) *Indication System:*

(a) The indication system must monitor the closed, latched, and locked positions, directly.

(b) The indicator should be *amber* unless it concerns an outward opening door whose opening during takeoff could present an immediate hazard to the airplane. In that case the indicator must be *red* and located in plain view in front of the pilots. An aural warning is also advisable. A display on the master caution/warning system is also acceptable as an indicator. For the purpose of complying with this paragraph, an immediate hazard is defined as significant reduction in controllability, structural damage, or impact with other structures, engines, or controls.

(c) Loss of indication or a false indication of a closed, latched, and locked condition must be improbable.

(d) A warning indication must be provided at the door operators station that monitors the door latched and locked conditions directly, unless the operator has a visual indication that the door is fully closed and locked. For example, a vent door that monitors the door locks and can be seen from the operators station would meet this requirement.

(2) *Means to Visually Inspect the Locking Mechanism*:

There must be a visual means of directly inspecting the locks. Where all locks are tied to a common lock shaft, a means of inspecting the locks at each end may be sufficient to meet this requirement provided no failure condition in the lock shaft would go undetected when viewing the end locks. Viewing latches may be used as an alternate to viewing locks on some installations where there are other compensating features.

(3) *Means to Prevent Pressurization*:

All doors must have provisions to prevent initiation of pressurization of the airplane to an unsafe level, if the door is not fully closed, latched and locked.

(4) *Lock Strength*:

Locks must be designed to withstand the maximum output power of the actuators and maximum expected manual operating forces treated as a limit load. Under these conditions, the door must remain closed, latched and locked.

(5) *Power Availability*:

All power to the door must be removed in flight and it must not be possible for the flight crew to restore power to the door while in flight.

(6) *Powered Lock Systems*:

For doors that have powered lock systems, it must be shown by safety analysis that inadvertent opening of the door after it is fully closed, latched and locked, is extremely improbable.''

Issued in Renton, Washington, on February 10, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–3690 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–311–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 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 Lockheed Model L–1011–385 series airplanes. This proposal would require repetitive inspections to detect cracking of the fuselage skin in the areas of the left- and right-hand stringerless sidewall window belts, and repair, if necessary. This proposal is prompted by reports of fatigue cracks found in the fuselage skin where the skin thickness steps from 0.40 to 0.23 inch. The actions specified by the proposed AD are intended to detect and correct cracking of the fuselage skin, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by April 3, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–311–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 Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–311–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–311–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that an 8-inch crack in the fuselage skin was found on a Model L–1011 series airplane in the stringerless sidewall window belt at fuselage station (FS) 1283 on the left-hand side. The fatigue crack occurred along a machined radius in the area where the sidewall skin thickness decreases from 0.40 inch to 0.23 inch. This condition, if not corrected, could result in cracking of the fuselage skin, which could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Lockheed Service Bulletin 093–53–279, dated May 6, 1998, which describes procedures for repetitive ultrasonic and low frequency eddy current inspections to detect cracking of the fuselage skin in the areas of the left-hand and right-hand stringerless sidewall window belts. Repair for cracking consists of installing external skin doublers (on the fuselage outer skin) and internal straps and angle fittings. The service bulletin describes 6 inspection zones, which are located at FS 1243, 1263, and 1283, and between waterlines 224.5 and 253, on the left-hand and right-hand sides of the fuselage. The specific areas of inspection are the radii on both the forward and aft sides of the machined cutout where the fuselage skin steps from 0.40 to 0.23 inch. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

This AD specifies that flight with a crack is allowed, provided that cracking is within prescribed limits. The FAA has determined that this allowance provides an acceptable level of safety because (1) the crack growth is easily detectable, and (2) the established repetitive inspection procedures would detect cracked structure at an interval that would permit repairs to be accomplished before the structure's strength falls below ultimate load carrying capability.

Differences Between the Proposed AD and the Service Bulletin

Operators should note that, although the service bulletin recommends that operators contact Lockheed Martin Engineering for assistance in the event that crack repair is required in two adjacent frames, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA. The generic repairs specified by the service bulletin may not be adequate if they are installed in two adjacent locations. Therefore, the FAA has determined that a unique repair would be necessary under these circumstances.

Further, unlike the procedures described in the service bulletin, this proposed AD would provide for terminating action for the repetitive inspections for repaired inspection zones.

Cost Impact

There are approximately 235 airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 48 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $336,960, or $2,880 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have 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:

Lockheed: Docket 98–NM–311–AD.

Applicability: Model L–1011–385 series airplanes, as listed in Lockheed Service Bulletin 093–53–279, dated May 6, 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 (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the fuselage skin, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Perform an ultrasonic inspection on the fuselage skin in the area of the stringerless sidewall window belts, at the radii on both the forward and aft sides of the machined cutout where the fuselage skin steps from 0.40 to 0.23 inch, to detect cracking in the base of the radii. Accomplish the inspection in accordance with Lockheed Service Bulletin 093–53–279, dated May 6, 1998, at each of the 6 specific inspection zones identified in the service bulletin at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Prior to the accumulation of 20,000 total flight cycles; or

(2) Within 600 flight cycles or 6 months after the effective date of this AD, whichever occurs first.

(b) For readings of less than 20 percent obtained at all 6 inspection zones during the ultrasonic inspection required by paragraph (a) of this AD: Repeat the ultrasonic inspection thereafter at intervals not to exceed 1,500 flight cycles.

(c) Except as provided by paragraph (e) of this AD: For any reading of 20 percent or greater and less than or equal to 50 percent obtained at any inspection zone during the ultrasonic inspection required by paragraph (a) of this AD, prior to further flight, perform a low frequency eddy current (LFEC) inspection to measure the depth of the cracking, in accordance with Lockheed Service Bulletin 093–53–279, dated May 6, 1998.

(1) If the results of the LFEC inspection are outside the reject zone, as defined in the service bulletin: Within 1,500 flight cycles, repeat both the ultrasonic and LFEC inspections specified by paragraphs (a) and (c), respectively, of this AD.

(i) If the results of the LFEC inspection specified by paragraph (c)(1) of this AD are outside the reject zone: Within 1,800 flight cycles after the initial crack finding, as detected during the ultrasonic inspection specified in paragraph (a) of this AD, repair any affected inspection zone in accordance with Part II of the Accomplishment Instructions of the service bulletin. Such repair constitutes terminating action for the repetitive inspection requirements of this AD for the repaired inspection zone only.

(ii) If the results of the LFEC inspection specified by paragraph (c)(1) of this AD are within the reject zone: Prior to further flight, repair any affected inspection zone in accordance with Part II of the Accomplishment Instructions of the service bulletin. Such repair constitutes terminating action for the repetitive inspection requirements of this AD for the repaired inspection zone only.

(2) If the results of the LFEC inspection are within the reject zone, as defined in the service bulletin: Prior to further flight, repair any affected inspection zone in accordance with Part II of the Accomplishment Instructions of the service bulletin. Such repair constitutes terminating action for the repetitive inspection requirements of this AD for the repaired inspection zone only.

(d) Except as provided by paragraph (e) of this AD: For any reading of 50 percent or greater obtained at any inspection zone during the ultrasonic inspection required by paragraph (a) of this AD, prior to further flight, perform a LFEC inspection to measure the depth of the cracking, in accordance with Lockheed Service Bulletin 093–53–279, dated May 6, 1998.

(1) If the results of the LFEC inspection are outside the reject zone, as defined in the service bulletin: Within 300 flight cycles, repeat both the ultrasonic and LFEC inspections specified in paragraphs (a) and (c), respectively, of this AD.

(i) If the results of the LFEC inspection specified by paragraph (d)(1) of this AD are outside the reject zone: Within 600 flight cycles after the initial crack finding, as detected during the ultrasonic inspection specified in paragraph (a) of this AD, repair any affected inspection zone in accordance with Part II of the Accomplishment Instructions of the service bulletin. Such repair constitutes terminating action for the repetitive inspection requirements of this AD for the repaired inspection zone only.

(ii) If the results of the LFEC inspection specified by paragraph (d)(1) of this AD are within the reject zone: Prior to further flight, repair any affected inspection zone in accordance with Part II of the Accomplishment Instructions of the service bulletin. Such repair constitutes terminating action for the repetitive inspection requirements of this AD for the repaired inspection zone only.

(2) If the results from the LFEC inspection are within the reject zone, as defined in the service bulletin: Prior to further flight, repair any affected inspection zone in accordance with Part II of the Accomplishment Instructions of the service bulletin. Such repair constitutes terminating action for the repetitive inspection requirements of this AD for the repaired inspection zone only.

(e) For any inspection results that require repair in two adjacent zones: Prior to further flight, repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on February 10, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–3689 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM00–5–000]

Optional Certificate and Abandonment Procedures for Applications for New Service Under Section 7 of the Natural Gas Act

Issued February 9, 2000.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to remove its optional certificate regulations. On September 15, 1999, the Commission issued a policy statement to provide the industry with guidance with respect to how the Commission will evaluate new proposals for pipeline construction projects to take account of changes in the natural gas industry in recent years. The Policy Statement provides that pipelines should not rely on existing customers to subsidize new projects that do not benefit them, and also provides that the Commission will only certificate new projects where it finds that, on balance, the public benefits outweigh any adverse effects. The Policy Statement did not include applications for new construction projects filed under the optional certificate rules, however. The Commission is proposing to remove the optional certificate regulations because it believes that a uniform regulatory scheme applicable to all certificate applications will best accomplish the Commission's goals, as set out in the Policy Statement, of assuring that all relevant interests and circumstances are considered and balanced in assessing the public convenience and necessity.

DATES: Written comments are due on or before April 3, 2000.

ADDRESSES: File comments with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

William L. Zoller, Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–1203.

Joseph B. O'Malley, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, (202) 208–0088.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission proposes to remove its optional certificate regulations in Subpart E of Part 157 of the Commission's regulations.[1] The policies embedded in these regulations have been overtaken by subsequent policy developments—most particularly the Commission's September 15, 1999 Policy Statement.[2] The optional certificate regulations, promulgated in 1985, established procedures whereby an eligible applicant may obtain, for purposes of providing new service, a certificate authorizing: the transportation of natural gas; sales of natural gas; the construction and operation of natural gas facilities; the acquisition and operation of natural gas facilities; and conditional pre-granted abandonment of such activities and facilities. On September 15, 1999, the Commission issued a policy statement to provide the industry guidance with respect to how the Commission will evaluate new proposals for pipeline construction projects to take account of changes in the natural gas industry in recent years. The Policy Statement provides that pipelines may not rely on existing customers to subsidize new projects that will not benefit them and that construction projects will be approved only where the public benefits outweigh any adverse effects. The optional regulations do not provide for consideration and weighing of public interest factors, and are thus inconsistent with current Commission policy.

II. Background

Before a pipeline may construct any natural gas facilities subject to the Commission's Natural Gas Act (NGA) jurisdiction, it must obtain a certificate of public convenience and necessity authorizing such construction under section 7 of the NGA. In conjunction with the open access transportation program that the Commission established in Order No. 436, the Commission adopted the optional certificate regulations in 1985 as an alternative to the conventional certificate process. A key goal of the optional certificate program was to provide the full benefits of competition to consumers by facilitating easier pipeline entry and exit from markets.[3]

The optional certificate regulations establish a rebuttable presumption that, subject to review under the National Environmental Policy Act, an application is required by the public convenience and necessity if the applicant is willing to assume all the economic risk of a new service.[4] To assure that the applicant shoulders the project risk, the optional regulations prohibit cost shifting[5] and any reduction in the certificated level of billing determinants used to design initial rates for a project or service.[6] In addition, the Commission requires maximum demand and usage recourse rates in optional certificates based on

[1] 18 CFR 157.100 *et seq.*

[2] Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶61,227 (1999) (Policy Statement)

[3] *See* Order No. 436, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 50 FR 42408 (Oct. 18, 1985), 50 FR 45907 (Nov. 5,1985); FERC Stats. & Regs. ¶30,665 (1985), at p. 31,570.

[4] *See* Order No. 436, at p. 31,584.

[5] Section 157.103(d)(8) provides that no costs originally allocated to the new service (or facility) by the certificate holder may thereafter be shifted by the certificate holder to any other service without a filing under Part 154 and a determination by the Commission that the costs sought to be reallocated are in fact being incurred for the benefit of the other services.

[6] Section 157.103(d)(4) provides that any rate filed for new service must be designed to recover costs on the basis of projected units of service. The units projected for the new service in the filed initial may be increased in a subsequent rate filing (in effect, decreasing rates) but may not be decreased.

100 percent and 95 percent of the project's design capacity, respectively.[7]

The Commission's September 15, 1999 Policy Statement

In a Notice of Inquiry issued July 29, 1998,[8] the Commission revisited its section 7 certificate policy in view of the continuing changes taking place in the natural gas industry. After conducting a comprehensive review, with considerable input from the public, the Commission issued its September 15, 1999 Policy Statement, *Certification of New Interstate Natural Gas Pipeline Facilities,* to provide guidance on how the Commission will evaluate proposals for certificating new construction in the future. The Policy Statement did not adopt new rules for filing applications; rather, the Policy Statement is intended to provide an analytical framework for determining when a particular pipeline project is required by the public convenience and necessity.

The threshold requirement of the new policy is that the pipeline must be prepared to develop the project without relying on subsidization by its existing customers.[9] The Policy Statement also encourages pipelines seeking a certificate to resolve potential issues very early in the process by submitting applications designed to avoid or minimize adverse effects on such groups as existing customers of the applicant, existing pipelines serving the market and their captive customers, and affected landowners and other community interests. After the applicant makes efforts to minimize adverse effects, construction projects that have residual unresolved issues will be approved only where the public benefits of the projects are found to outweigh the adverse effects. An applicant may submit evidence of the public benefits to be achieved by the proposed project, such as contracts, precedent agreements, studies of projected demand in the market to be served, or other evidence of public benefit of the project.

III. Discussion

The Commission is proposing to remove the optional certificate regulations because it believes that a uniform regulatory scheme applicable to all certificate applications will best accomplish the Commission' s goals, as set out in the Policy Statement, of assuring that all relevant interests and circumstances are considered and balanced in assessing the public convenience and necessity.

The Commission's Policy Statement established a core set of principles and considerations for evaluating new pipeline construction projects that is in part consistent with the policies that underlie the optional certificate procedures. By precluding subsidization of new projects, the Policy Statement provides that existing customers are protected from assuming the risk of a project that was not designed for their benefit. Similarly, under the optional certificate program, the applicant cannot look to subsidization from customers.[10] In other respects, however, current policy is inconsistent with the optional certificate regulations. Because the optional certificates operate under a rebuttable presumption that they are in the public interest, the Commission does not weigh the public benefits against the adverse effects in considering such applications. The Commission believes that at this point it is better to consider all certificate applications under the recently articulated Policy Statement.[11]

IV. Environmental Analysis

Commission regulations describe the circumstances where preparation of an environmental assessment or an environmental impact statement will be required.[12] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[13] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural, or that does not substantially change the effect of legislation or regulations being amended.[14]

This proposed rule removal is procedural in nature. Applicants for pipeline construction authority must satisfy the same environmental requirements under either the optional or Policy Statement procedure. Thus, no environmental assessment or environmental impact statement is necessary for the requirements proposed in the rule.

V. Regulatory Flexibility Impact Statement

The Regulatory Flexibility Act of 1980 (RFA)[15] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such analysis if a rule would not have such an effect.[16]

The Commission does not believe that removal of the optional certificate rules would have such an impact on small entities. The proposed removal of regulations would have impact only on interstate pipelines, which generally do not fall within the RFA's definition of small entity.[17] Accordingly, pursuant to Section 605(a) of the RFA, the Commission proposes to certify that the removal of regulations proposed here will not have a significant economic impact on a substantial number of small entities.

VI. Information Collection Statement

The following collection of information is being forwarded to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995.[18] The collection of information related to the subject involved here falls under FERC–537, Gas Pipeline Certificates: Construction, Acquisition, and Abandonment.[19]

The action proposed here will remove a heretofore little used alternative to the conventional section 7(c) application

[7] *See, e.g.,* Mojave Pipeline Company, 47 FERC ¶ 61,200 (1989) and Delta Pipeline Company, 52 FERC ¶ 61,004 (1989). The Commission found that design of rates on a lower load factor has the effect of shielding the pipeline from the risks of underutilization of capacity. The 95% load factor used to design usage rates recognizes that the design capacity of the capacity is not always available due to maintenance considerations and compressor outages.

[8] Notice of Inquiry, Regulations of Interstate Natural Gas Transportation Services, 84 FERC ¶ 61,087 (1998).

[9] Policy Statement, at p. 61,750.

[10] The Commission notes that the optional certificate regulations have not resulted in faster issuance of certificates, as originally anticipated. There has been little or no difference between the two programs in Commission review and processing time. Environmental review is the driving force in total processing time, and environmental review requirements are the same under either program.

[11] In its order clarifying the Policy Statement, which is being issued contemporaneously with this NOPR, the Commission provides that, pending a final rule in this proceeding, the presumption in favor of an application filed under the optional certificate regulations will be considered rebutted if the adverse affects of the proposed project are found to outweigh its benefits. This is an interim solution, however. In the long run, the Commission believes that the better course is to treat all applications under one set of procedures.

[12] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), codified at 18 CFR Part 380.

[13] 18 CFR 380.4(a)(2)(ii).

[14] 18 CFR 380.4.

[15] 5 U.S.C. 601–612.

[16] 5 U.S.C. 605(b).

[17] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small business concern'' as a business which is independently owned and operated and which is not dominant in its field of operations.

[18] 44 U.S.C. 3507(d).

[19] The current burden estimate for FERC–537 is 138,264 hours. This number is based on an average of 50 respondents (companies making filings), 11.2 responses (filings per respondent), and 246.9 hours of preparation time per response.

process. While the optional certificate process does arguably offer pipelines a less burdensome process, in practice the overwhelming majority of applications for construction authority since adoption of the optional certificate rules have been filed under the conventional application process. What we are intending to accomplish is not to impose new information burdens on pipeline applicants, but to maintain the informational *status quo.* As a practical matter, our action should not have any appreciable effect on the collection of data from the pipeline industry. Nevertheless, we invite parties submitting comments to address this matter. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected , and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

The OMB regulations require OMB to approve certain information collection requirements imposed by agency rule.[20] Accordingly, pursuant to OMB regulations, the Commission is providing notice of its proposed information collection to OMB.

Title: FERC–537, Gas Pipeline Certificates: Construction, Acquisition, and Abandonment.

Action: Proposed Data Collection.

OMB Control No. 1902–0060. The respondent shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

Respondents: Business or other for profit.

Frequency of Responses: On occasion.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 208–2425, e-mail: mike.miller@ferc.fed.us]

For submitting comments concerning the collection of information and the associated burden estimate, please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285]

[20] 5 CFR 1320.11.

VII. Comment Procedure

The Commission invites interested persons to submit written comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss.

The original and 14 copies of such comments must be received by the Commission before 5:00 p.m. April 3, 2000. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426 and should refer to Docket No. RM00–5–00.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet E-Mail. Comments may be filed in the following formats: WordPerfect 8.0 or below, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM00–5–000; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-Mail submittal, comments should be submitted to ''comment.rm@ferc.fed.us'' in the following format. On the subject line, specify Docket No. RM00–5–000. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comment to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at 202–501–8145, E-Mail address brooks.carter@ferc.fed.us.

Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, NE, Washington, DC 20426, during regular business hours. Additionally, comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS or CIPS links. RIMS contains all comments but only those comments submitted in electronic format are available on CIPS. User assistance is available at 202–208–2222, or by E-Mail to rimsmaster@ferc.fed.us.

VIII. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.fed.us*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room. User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E-Mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

List of Subjects in 18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

By direction of the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 157—Chapter I, Title 18, Code of Federal Regulations, as follows.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

1. The authority citation for Part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717W, 3301–3432; 42 U.S.C. 7101–7352.

Subpart E of Part 157—[Removed and Reserved]

2. Remove and reserve subpart E, consisting of § § 157.100 through 157.106.

[FR Doc. 00–3597 Filed 2–15–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 94P–0036]

RIN 0910–AB66

Food Labeling: Trans Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening for 60 days the comment period for the submission of comments and other related information regarding the proposed rule on *trans* fatty acids in nutrition labeling, nutrient content claims, and health claims. This proposed rule was announced in the **Federal Register** of November 17, 1999 (64 FR 62746). This action is being taken in response to requests for more time to submit comments to FDA.

DATES: Submit written comments on the proposal by April 17, 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: Susan Thompson, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5587.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 17, 1999 (64 FR 62746), FDA proposed to amend its regulations on nutrition labeling to require that the amount of *trans* fatty acids present in a food, including dietary supplements, be included in the amount and percent Daily Value declared for saturated fatty acids. FDA proposed that when *trans* fatty acids are present, the declaration of saturated fatty acids shall bear a symbol that refers to a footnote at the bottom of the nutrition label that states the number of grams (g) of *trans* fatty acids present in a serving of the product. FDA also proposed that, wherever saturated fat limits are placed on nutrient content claims, health claims, or disclosure and disqualifying levels, the amount of *trans* fatty acids be limited as well. In addition, the agency proposed to define the nutrient content claim ''*trans* fat free.'' The proposal responded, in part, to a citizen petition on *trans* fatty acids in food labeling from the Center for Science in the Public Interest. This action was taken to prevent misleading claims and to provide information to assist consumers in maintaining healthy dietary practices. Interested persons were given until February 15, 2000, to comment on the proposed rule.

The agency has received requests to reopen the comment period for the November 17, 1999, proposal to allow additional time for interested persons to comment.

National trade associations representing manufacturers, processors, retailers, and other industry groups assert that the complexity of the issue requires a thorough and thoughtful analysis to prepare meaningful comments. They believe that the comment deadline of February 15, 2000, does not provide the time necessary to accomplish this task. Also, industry reported that the comment period covered several major holidays and the critical Y2K period, in which many people had limited time or simply were not available to work on this important issue. The trade associations indicate they are currently gathering comments and surveying their members on the effect of the proposal and that many members are small businesses that do not have the resources to respond quickly. The trade associations assert that they and their members need time to: (1) Test their products to determine whether they contain 0.5 g *trans* fat per serving; (2) investigate appropriate analytical methods; (3) evaluate options such as product reformulation with alternative fat and oil sources; (4) review data bases and food product formulations; (5) review scientific evidence included and omitted from the proposal; (6) review labeling options and the costs of label changes; (7) establish economic models and evaluate them; and (8) assess the implementation costs relative to the length of the implementation period.

Additionally, the trade associations believe that they need to determine the number of food products affected because they think that FDA's estimate is low. Also, they note that the agency's estimate of zero for discarding label and package inventory is based on a 2-year compliance period. They point out the compliance period could be closer to 1 year. Also, they state that trade associations must have time to resolve member differences to present a consensus position for the industry.

In its proposal, FDA tentatively concluded that the proposed action, if finalized, will have a significant impact on consumers ability to use the food label to maintain healthy dietary practices. The agency also acknowledged that the proposed rule is economically significant under Executive Order 12866 and would have a major economic impact under the Small Business Regulatory Enforcement and Fairness Act (Public Law 104–121). In addition, the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has determined that the proposed rule would be a major rule for the purpose of congressional review. It is therefore important that adequate time be allowed to appropriately address the many issues involved in this proposed rulemaking. Accordingly, the agency has decided to reopen the comment period on the November 17, 1999, proposal for 60 days in response to the requests.

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this proposal by April 17, 2000. 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.

Dated: February 11, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–3787 Filed 2–14–00; 12:00 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–116733–98]

RIN 1545–AW79

Guidance Under Section 355(e); Recognition of Gain on Certain Distributions of Stock or Securities in Connection With an Acquisition; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Change of date and time of public hearing.

SUMMARY: This document contains a notice of date and time change of a public hearing on proposed regulations relating to recognition of gain on certain distributions of stock or securities of a controlled corporation in connection with an acquisition.

DATES: The public hearing originally scheduled for Wednesday, January 26, 2000, is rescheduled for Thursday, March 2, 2000, at 10 a.m. The due date for outlines of topics to be discussed at the hearing was January 5, 2000.

ADDRESSES: The public hearing is being held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building.

FOR FURTHER INFORMATION CONTACT: Concerning the hearing, and/or to be placed on the building access list to attend the hearing LaNita VanDyke, (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations (REG–116733–98) that was published in the **Federal Register** on Thursday, August 24, 1999 (64 FR 46155).

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

A period of 10 minutes is allotted to each person for presenting oral comments.

After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 00–3565 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AJ59

Claims Based on the Effects of Tobacco Products

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) adjudication regulations governing determinations of whether disability or death is service-connected. The proposed changes appear necessary to implement a recent statutory amendment providing with certain exceptions that a disability or death will not be service-connected on the basis that it resulted from injury or disease attributable to a veteran's use of tobacco products during service.

DATES: Comments must be received on or before April 17, 2000.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate they are submitted in response to RIN 2900-AJ59. All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Donald England, Chief, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: Section 9014(a) of the ''Internal Revenue Service Restructuring and Reform Act of 1998,'' Public Law 105–206, amended section 8202 of the ''Transportation Equity Act for the 21st Century,'' Public Law 105–178, by adding section 1103 to title 38, United States Code. Subsection (a) of section 1103 provides that ''a veteran's disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in the line of duty in the active military, naval, or air service for purposes of this title on the basis that it resulted from injury or disease attributable to the use of tobacco products by the veteran during the veteran's service.''

Subsection (b) of section 1103 provides that subsection (a) does not preclude service connection for disability or death that is otherwise shown to have been incurred or aggravated during service or that becomes manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of title 38, United States Code.

This document proposes to amend VA regulations by adding new § 3.300 to title 38, Code of Federal Regulations, to implement the provisions of 38 U.S.C. 1103. Section 3.300(a) provides that, for claims received by VA after June 9, 1998, a disability or death will not be considered service-connected on the basis that it resulted from injury or disease attributable to the veteran's use of tobacco products during service.

Section 3.300(a) also defines ''tobacco products'' to mean ''cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.'' This definition is based on the definition of the same term in 26 U.S.C. 5702(c). Under the rule of statutory construction of statutes in pari materia, statutes which relate to the same person or thing or class of persons or things, or which have the same purpose or object, should be construed together. Further, the meaning of words in one statute which are capable of more than one meaning may be determined by referring to another statute relating to the same subject matter in which the same words are used. We believe that, based upon these rules of statutory construction, it is appropriate to define the term ''tobacco products'' in a manner consistent with 26 U.S.C. 5702(c).

Section 3.300(b) provides that § 3.300(a) does not prohibit service connection for a disability or death if it resulted from a disease or injury otherwise shown to have been incurred or aggravated during service, or that became manifest to the required degree of disability within a period that establishes eligibility for a presumption of service connection under 38 CFR 3.307, 3.309, 3.313, or 3.316, or that may be secondarily service-connected under § 3.310(b).

Sections 3.307 and 3.309 implement the statutory presumptions of 38 U.S.C. 1112 and 1116, which are specifically mentioned at 38 U.S.C. 1103(b). These sections of the statute govern the presumptions that the following diseases are service-connected: chronic and tropical diseases (section 1112(a)); diseases appearing in former prisoners of war (section 1112(b)); diseases appearing in radiation-exposed veterans (section 1112(c)); and diseases associated with exposure to certain herbicide agents (section 1116).

Sections 3.313 and 3.316 are regulatory, rather than statutory, presumptions issued pursuant to the general rulemaking authority of the Secretary of Veterans Affairs. 38 U.S.C. 501(a). They govern, respectively, service connection for non-Hodgkins' lymphoma developing subsequent to service in Vietnam and service connection for diseases developing subsequent to exposure to mustard gas and Lewisite. Also, § 3.310(b), a regulatory presumption, governs secondary service connection of ischemic heart disease and other cardiovascular disease as the proximate result of certain service-connected amputations of the lower extremities. 38 U.S.C. 1103(b) explicitly provides that nothing in section 1103(a) shall be construed as precluding establishment of service connection if disability or death resulted from a disease or injury otherwise shown to have been incurred or aggravated during service or that appeared to the required degree within a statutory presumptive period.

In our view, 38 U.S.C. 1103 was not intended to affect a veteran's ability to establish service connection on the basis of any legal presumption, including regulatory presumptions authorized by 38 U.S.C. 501(a) as well as statutory presumptions. Section 1103(a) only precludes establishment of service connection for a disability or death ''on the basis that'' it resulted from injury or disease attributable to the veteran's use of tobacco products. We believe that section 1103(b) was enacted as a safeguard to assure that VA did not misinterpret section 1103(a) as barring otherwise valid claims for service connection. Based on our interpretation of section 1103, new § 3.300(b) specifies that if disability or death can be service-connected under the regulatory presumptions of § 3.310(b), 3.313, or 3.316, a claim will not be denied on the basis of § 3.300(a).

New § 3.300(c) provides that, for claims received by VA after June 9, 1998, a disability that is proximately due to or the result of an injury or disease previously service-connected on the basis of the veteran's use of tobacco products during service will not be service-connected. According to current § 3.310(a), ''[d]isability which is proximately due to or the result of a service-connected disease or injury shall be service connected.'' Section 3.310(a) provides for service connection of disability not itself incurred or aggravated in service but nevertheless resulting from a disease or injury incurred or aggravated in service. Just as with directly service-connected disabilities, secondarily service-connected disabilities are the result of service-incurred or service-aggravated injury or disease, only they are somewhat more remotely related to such disease or injury. When a disability is proximately due to or the result of an injury or disease previously service-connected on the basis of the veteran's use of tobacco products during service, the secondary condition results from a disease or injury attributable to the use of tobacco products. Consequently, service connection of such a condition is barred by 38 U.S.C. 1103(a). New § 3.300(c) therefore provides that secondary service connection may not be established under § 3.310(a) in a claim received by VA after June 9, 1998, for a disability proximately due to or the result of an injury or disease previously service-connected on the basis that it is attributable to a veteran's tobacco use during service. Under § 3.300(c), a condition cannot be service-connected under § 3.310(a) as secondary to a disease such as nicotine dependence, for example, that was previously service-connected solely on the basis that it resulted from the veteran's use of tobacco products during service. We also propose to amend § 3.310(a) to make explicit that it is subject to the provisions of § 3.300(c).

Section 8202 of Public Law 105–178, as amended (38 U.S.C. 1103 note), provides that 38 U.S.C. 1103 shall apply to claims received by VA after June 9, 1998.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of the proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that the proposed rule would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: February 3, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is proposed to be amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.300 is added under the undesignated centerheading ''Ratings and Evaluations; Basic Entitlement Considerations'' to read as follows:

§ 3.300 Claims based on the effects of tobacco products.

(a) For claims received by VA after June 9, 1998, a disability or death will not be considered service-connected on the basis that it resulted from injury or disease attributable to the veteran's use of tobacco products during service. For the purpose of this section, the term ''tobacco products'' means cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

(b) The provisions of paragraph (a) of this section do not prohibit service connection if:

(1) The disability or death resulted from a disease or injury that is otherwise shown to have been incurred or aggravated during service;

(2) The disability or death resulted from a disease or injury that appeared to the required degree of disability within any applicable presumptive period under §§ 3.307, 3.309, 3.313, or 3.316; or

(3) Secondary service connection is established for ischemic heart disease or other cardiovascular disease under § 3.310(b).

(c) For claims for secondary service connection received by VA after June 9, 1998, a disability that is proximately due to or the result of an injury or disease previously service-connected on the basis that it is attributable to the veteran's use of tobacco products during service will not be service-connected under § 3.310(a).

(Authority: 38 U.S.C. 501(a), 1103, 1103 note)

§ 3.310 [Amended]

3. In § 3.310, paragraph (a) is amended by removing ''Disability'' and adding, in its place, ''Except as provided in § 3.300(c), disability''.

[FR Doc. 00–3662 Filed 2–15–00; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–6538–2]

RIN 2050–AE76

Deferral of Phase IV Standards for PCB's as an Underlying Hazardous Constituent in Soil

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to temporarily defer a portion of the rule applying Land Disposal Restrictions (LDR) under the Resource Conservation and Recovery Act (RCRA) to underlying hazardous constituents (UHC) in soils contaminated with certain characteristic hazardous wastes. EPA promulgated this rule on May 26, 1998. Specifically, EPA is proposing to temporarily defer the requirement that polychlorinated biphenyls (PCBs) be considered a UHC when they are present in soils that exhibit the Toxicity Characteristic for metals. EPA is proposing this action because the regulation appears to be discouraging generators from cleaning up contaminated soils, which is contrary to what EPA intended when we promulgated alternative treatment standards for contaminated soils. In addition, EPA needs more time to restudy the issue of appropriate treatment standards for metal-contaminated soils which also contain PCBs as UHC. If this proposal is finalized, the Agency would still require generators to treat these soils to meet LDR standards for all hazardous constituents except PCBs. Generators would also be required to treat PCBs if the total concentration of halogenated organic compounds in the soil equals or exceeds 1000 parts per million.

DATES: Submit comments on or before April 3, 2000.

ADDRESSES: Address written comments on this proposed rule to the docket clerk at the following address: RCRA Information Center (RIC), Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F–2000–PCBP–FFFFF. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, the Agency recommends that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the Supplementary Information section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C. metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of this rulemaking, contact Ernesto Brown, Office of Solid Waste, Mail Code 5303W, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave NW, Washington, D.C. 20460–0002, (703) 308–8608, brown.ernie@epa.gov

SUPPLEMENTARY INFORMATION: You can find the index and the following supporting materials on the Internet at: http://www.epa.gov/epaoswer/hazwaste/ldr/index.htm

Preamble Outline:

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I. Authority

EPA is proposing these regulations under the authority of sections 1006(B), 2002, and 3004 of RCRA, as amended, 42 U.S.C. 6905, 6012(a), 6921, and 6924.

II. Purpose

EPA is proposing this action because the existing regulation appears to discourage remediation of certain contaminated soils, contrary to EPA's intent in promulgating alternative treatment standards for contaminated soils. In addition, EPA needs more time to review the issue of appropriate treatment standards for metal-contaminated soils that also contain PCBs as UHC.

III. How Can I Influence EPA's Thinking on this Rule?

In developing this proposal, we tried to address the concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide different views on options we propose, new approaches we haven't considered, new data, how this rule may affect you, or other relevant information. We welcome your views on all aspects of this proposed rule. Your comments will be most effective if you follow the suggestions below:

- Explain your views as clearly as possible and why you feel that way.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Tell us which parts you support, as well as those you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the proposal, such as the units or page numbers of the preamble, or the regulatory sections.
- Make sure to submit your comments by the deadline in this notice.
- Be sure to include the name, date, and docket number with your comments.

IV. Background

A. Land Disposal Restrictions Program

The LDR program requires that generators of hazardous wastes pretreat the wastes before they can be disposed of on land. The treatment must substantially reduce the toxicity or mobility of the hazardous waste to minimize short-and long-term threats to human health and the environment posed by the waste's disposal. EPA typically accomplishes this objective by requiring that hazardous constituents in the wastes be treated to, or be present at levels no greater than levels that can be achieved using the Best Demonstrated Available Technology for the waste.

B. Soils Subject to LDR Requirements

The rule subjects soils contaminated with hazardous wastes to LDR requirements when a generator excavates soils from an area of contamination and disposes of it in a land disposal unit. (See RCRA sections 3004(d)(3) and (e)(3); 63 FR 28602) [1]. Before the Agency promulgated LDR Phase IV standards, the Agency subjected contaminated soil to the same land disposal restriction treatment standards that apply to industrial process waste. EPA, however, has promulgated different treatment standards for contaminated soils than for process wastes. The Agency did so because:

Soils are physically different from process wastes, so that the same treatment standards may not be technically appropriate. See 63 FR 28603.

When generators apply treatment standards for process wastes to contaminated soils, environmentally counterproductive results can ensue, because generators often choose not to undertake remediation such as the exhumation and treatment of contaminated soils, even though the Agency feels is the most permanent approach. See 63 FR 28603–28604. This is because EPA cannot always compel generators of contaminated soil to exhume, treat and redispose the soils.

The relevant statutes and rules often allow generators to remediate soils by leaving contaminated soil in place and providing controls on possible human exposure to those soils, (for example, capping) which can be much less expensive than requiring that generators excavate and treat the soil. See 63 FR 28603–28604; *see also Louisiana Environmental Action Network v. EPA*, 172 F. 3d 65, 67, 70 (D.C. Cir. 1999) which upheld EPA's authority to develop more lenient treatment standards for contaminated soils and other remediation wastes in order to encourage remediation involving exhumation and treatment of these wastes, since ''the agency's authority to compel high-quality disposition of such waste is not as great as it is for as yet undisposed waste.''

C. Alternative Treatment Standards for Contaminated Soils

Generators have the option of complying either with the existing treatment standards for industrial process waste or with the new soil treatment standards. The purpose for these new standards is to encourage generators to remediate and treat contaminated soil, and in particular, to avoid discouraging such remediation when soil is contaminated with organic hazardous constituents. See 63 FR 28603. For soils contaminated with organic hazardous constituents, this choice posed special potential to discourage aggressive remediation because the Agency treatment standards for organic hazardous constituents in process wastes are based on performance of combustion technology. Generators often cannot achieve these standards except by combusting the wastes—a very expensive remedy for soils, and not always technically appropriate. See 63 FR 28603–28604. In recognition of this limitation, EPA established the special soil treatment standards for organics at levels that generators may achieve by technologies other than combustion; that is, EPA established the standards based on the performance of non-combustion technologies. See 63 FR 28614–28617.

D. Underlying Hazardous Constituents

Importantly for the present proposal, the existing standards further require that generators treat all UHC in contaminated soils. See 63 FR 28608–28609; 40 CFR 268.49(d). A ''UHC,'' for this purpose, is any hazardous constituent that might be present in the soil at levels exceeding 10 times the Universal Treatment Standard for that constituent. See 40 CFR 268.49(d). In the Phase IV rule, EPA imposed this requirement for the first time on soils exhibiting the Toxicity Characteristic (TC) for metals, and on soils containing listed hazardous wastes. [2]

PCBs can be an example of UHC in contaminated soils, including metal-containing soils. Where this occurs, the Phase IV rule establishes an alternative treatment standard of 100 ppm total PCBs in soil (10 times the Universal Treatment Standard) or 90 percent reduction of total PCB concentrations in the soil, whichever is higher. See 40 CFR 268.49(c). The other option available to generators is to treat soils to the standards applicable to process wastes, although in that instance as well, soils that exhibit a hazardous characteristic must achieve treatment standards for UHCs before they are disposed on land. 40 CFR 268.40(e). EPA found that generators can achieve these standards without applying combustion technology, see 63 FR 28616 Table 4, although treatment often requires that heat be applied to the waste, as occurs with thermal desorption technology.

The statutory provisions potentially address PCBs in soils in other way. The so-called California list provision, RCRA section 3004(d)(2)(E), provides that hazardous wastes that contain halogenated organic compounds at concentrations equal to or exceeding 1000 ppm cannot be land disposed. Congress specified this level (and the other California list levels) as a starting point in the land disposal prohibition process, prohibiting land disposal of wastes that pose the most obvious hazards. See 51 FR 44718 (Dec.11, 1986). PCBs are a type of halogenated organic compound. Consequently, in the absence of the Phase IV PCB standards, the 1000 ppm level would be the upper bound of PCBs that can be in contaminated soil without triggering LDR treatment requirements (i.e., contaminated soils could not be land disposed equal to or greater than 1000 ppm).

V. Need to Defer the Phase IV Rule

A. Why Has Remediation Stopped?

Unfortunately, initial indications are that the requirement that PCBs be treated as a UHC in soils exhibiting the TC for metals is having an effect opposite to what EPA intended. Cleanups of sites with metal characteristic soils where PCBs are now a UHC and where the remedy was to involve soil exhumation, treatment and redisposal have stopped, or been seriously delayed. See Letter from Phillip Comella Esq. to Steven

[1] Technically, the soils which are subject to LDRs, are a) soil which contains a listed hazardous waste, and b) soil which exhibits (or, in some cases, exhibited) a characteristic of hazardous waste. See discussion at 63 FR 28617–28619. This notice applies to subsets of each of these types of contaminated soils, as explained later in this notice. This notice also uses the term ''contaminated soils'' to refer to soils which may potentially be subject to LDRs.

[2] The requirement already applied, however, to soils exhibiting the ignitability, corrosivity, reactivity, or organic toxicity characteristics.

Silverman, EPA Office of General Counsel, April 21, 1999 detailing experiences of private entities, including waste generators, treaters and disposers; Memorandum to Administrative Record, November 2, 1999 (detailing experiences of EPA site managers). As set out in more detail in these communications, the reason is that as a practical matter a choice is now being presented between combustion and leaving soils in place. Some of the reasons attributed for this are:

- limited effective non-combustion treatment presently available for PCBs, and what there is involves mobile units which face potential permitting delays at non-Superfund sites.
- lack of State authorization to implement the amended soil standards, thus retaining PCBs as a UHC, without the option of treating to 10 times the Universal Treatment Standards or 90 percent reduction from initial concentration.

Commenters further note that at least some of these situations could be eligible for a treatment variance under 40 CFR 268.44. Such situations can occur when the standard is demonstrably not achievable using non-combustion technology, or when treatment to LDR levels would discourage aggressive remediation. See *LEAN v. EPA*, 172 F. 3d at 70 (upholding EPA authority to issue treatment variances for remediation wastes where existing treatment standard discourages aggressive remediation). But there are undesirable delays attendant in the variance process, and EPA in any case believes that if a problem with a rule is widespread, it is appropriate to amend the rule rather than issuing variances piecemeal.

EPA does not necessarily agree with all of these comments, but does believe that remediations involving soils contaminated with both PCBs and metals are being delayed or stopped. This has taken place after promulgation of the new Phase IV requirements respecting these soils, and it appears that at least some of the reasons for these delays are legitimate. Thus, this aspect of the Phase IV rule appears to be having an environmentally counterproductive effect of delaying cleanups and discouraging aggressive remediation.

B. Why is EPA Considering Temporary Deferral?

EPA believes it is appropriate to temporarily defer the requirement that PCBs be treated as an underlying hazardous constituent in TC soils under RCRA 1006(b) in order to investigate how best to integrate the RCRA LDR requirements for PCBs with the cleanup programs under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and RCRA (both the specific ''corrective action'' requirements of RCRA 3004 (u) and (v) and 3008(h), and the cleanup requirements applying to RCRA regulated units, e.g., during closure).

An additional reason EPA is considering a temporary deferral is to investigate further the relationship of the RCRA rules with those for PCB remediation wastes EPA issued under the authority of the Toxic Substances Control Act (TSCA) not long after EPA promulgated the Phase IV rule. See 63 FR 35384 (June 29, 1998). TSCA allows ''bulk PCB remediation wastes'' including soils containing 50 ppm PCBs or greater to be disposed without treatment in a TSCA disposal facility or an RCRA subtitle C landfill. See 40 CFR 761.61(b)(2)(i). These TSCA standards, which allow disposal without treatment of soils containing any concentrations of PCBs greater or equal to 50 ppm, were not established to represent levels at which threats posed by land disposal of PCB-containing soils are minimized. Furthermore, those rules require persons disposing of PCBs to comply with all other applicable Federal, State, and local laws and regulations. These regulations consequently cannot be read as preempting RCRA requirements. Nonetheless, the TSCA rule serves a similar purpose as the RCRA Phase IV rule—an attempt to encourage aggressive remediation of contaminated soil (see 63 FR 35386) and reflects the Agency's judgment that land disposal of these soils is reasonably protective. Certainly as an interim measure EPA believes it appropriate to seek to coordinate better the two sets of rules, and thus to defer the Phase IV rule while we further evaluate the workings and actual effect of the two sets of rules.

C. What is the Effect of the Deferral?

Should EPA adopt a temporary deferral, the statutory California list provision mentioned above (RCRA section 3004(d)(2) (E)) would create an upper bound on the concentration of PCBs in soil that could be disposed without treatment. As explained earlier, that upper bound would be 1,000 ppm, the statutory limit for halogenated organic compounds. This means that a temporary deferral would only affect a relatively narrow class of wastes: soils exhibiting the TC for metals and containing PCBs in concentration between 100 ppm and 1000 ppm.

RCRA allows temporary deferral of the Phase IV requirement. As in the temporary deferral of RCRA requirements to accommodate a potentially overlapping regulatory regime for underground storage tanks at issue in *Edison Electric Inst.* v. *EPA*, 2 F. 3d 438 (D.C. Cir. 1993), EPA here needs to investigate further the relationship of different sets of rules addressing PCB-contaminated soil disposal. These soils will be managed protectively during a deferral period, either in RCRA subtitle C or TSCA-approved landfills, and there is a reasonable upper bound on the concentration of PCBs that could be disposed of without treatment. See 2F.3d at 452–53 citing these factors as a reasonable justification for a comparable temporary deferral. Moreover, EPA may permissibly alter land disposal restriction treatment standards for remediation wastes in order to encourage aggressive remediations. See *LEAN*, 172 F. 3d at 69–70.

A final note: The Agency is not contemplating any type of deferral for other organic hazardous constituents in TC metal soils. Nor is EPA accepting comments on the requirement to treat PCBs present as underlying hazardous constituents in soil exhibiting the TC due to organics. This requirement has been in place without significant issue since 1994 and so is unrelated to the Phase IV rule. The scope of today's document thus is exclusive to soils exhibiting the TC for metals containing PCBs as an underlying hazardous constituent.

The requirement to treat PCBs as a UHC also can apply to soils containing a listed hazardous waste, where the generator elects to comply with the alternative soil standard of 10 times Universal Treatment Standard or 90 percent reduction of initial concentrations. See 40 CFR 268. 49(d). Although the comments EPA has received to this point have dealt exclusively with situations involving soils exhibiting the TC for metals, EPA also solicits comment on whether PCBs should continue to be considered a potential UHC for listed wastes being treated to comply with the alternative soil standards. It should be noted, however, that a generator would have the option of treating the soil to the standards for process wastes, see 40 CFR 268.49(b), in which case there is no requirement to treat UHCs. Thus, generators would not appear to be facing the same quandary as they do with TC soils with PCBs as a UHC.

VI. State Authorization

Under section 3006 of RCRA, EPA may authorize qualified States to

administer and enforce the RCRA hazardous waste program within the State. Following authorization, we maintain independent enforcement authority under sections 3007, 3008, 3013, and 7003 of RCRA, although authorized States have enforcement responsibility. A State would become authorized for today's proposed PCB treatment standard for contaminated soil by following the approval process described under 40 CFR 271.21. See 40 CFR part 271 for the overall standards and requirements for authorization.

Like all land disposal restriction treatment standards, today's changes are proposed under the authority of 3004(g) and (m) of RCRA. These statutory provisions were enacted as part of the Hazardous and Solid Waste Amendments (HSWA) of 1984. Under section 3006(g) of RCRA, new requirements promulgated under the authority of statutory provisions added by HSWA go into effect in authorized States at the same time as they do in unauthorized States—as long as the new requirements are more stringent than the requirements a State is currently authorized to implement.

However, none of the provisions in today's proposed rule are more stringent than the existing Federal requirements. Authorized States are not required to modify their programs when we promulgate changes to Federal requirements that are less stringent than existing Federal requirements. This is because RCRA section 3009 allows the States to impose (or retain) standards that are more stringent than those in the Federal program. (See also 40 CFR 271.1(i)). Therefore, States that are authorized for the LDR program would not be required to adopt today's proposed changes, and these changes would not go into effect until the State revised its LDR program accordingly. However, if EPA finalizes the proposed temporary deferral, we would encourage States to allow compliance with today's proposed PCB treatment standard for contaminated soil if they have the ability under State law to waive existing land disposal restriction treatment standards, or if they have adopted them but are not yet authorized. Again, if a State were not currently authorized for the LDR program, we would implement this proposed treatment standard in that State.

VII. Regulatory Assessments

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

''It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.''

Economic Assessment

We estimated the costs of today's final rule to determine if it is a significant regulation as defined by the Executive Order. The analysis considered compliance cost savings from the deferral and resulted in cost savings. A detailed discussion of the methodology used for estimating the costs, economic impacts and the benefits attributable to today's final rule, followed by a presentation of the cost, economic impact and benefit results were prepared and documented in the following report: ''Economic Assessment of the Deferral of Phase IV Land Disposal Restriction Treatment Standards for Polychlorinated Biphenyls (PCBs) as an Underlying Hazardous Constituent in Contaminated Soils.'' This report can be found in its entirety in the docket for today's proposed rule. A summary of the report is provided below.

Methodology

To estimate the cost savings associated with today's proposed deferral of UHC requirements for PCB-containing hazardous soils, the Agency estimated the difference between the costs that would have been incurred in the absence of the deferral and the costs estimated under the post-regulatory environment with the deferral. The cost savings are reported in a range of savings based upon two baseline scenarios: one baseline scenario compels incineration or other thermal treatment for TC metal PCB-containing hazardous waste soils followed by immobilization of the residue; a second baseline scenario is based upon a number of compliance alternatives, including (1) thermal treatment (e.g., incineration/thermal desorption, other); (2) nonthermal treatment (e.g., solvent extraction/soil washing, chemical dechlorination, ex-situ bioremediation, immobilization); (3) source controls (e.g., capping); (4) no site remediation; and, (5) treatability variances. The second baseline scenario models soil washing, chemical dechlorination and immobilization of the soil for half of the affected soils. The other half of the soils are modeled to be treated through thermal treatment. This baseline scenario will result in lower cost savings because the range of remedies is largely less expensive than thermal treatment.

Volume Results

The procedure for estimating the volumes of PCB-containing hazardous wastes affected by today's proposed rule is detailed in the background document ''Economic Assessment of the Deferral of Phase IV Land Disposal Restriction Treatment Standards for Polychlorinated Biphenyls (PCBs) as an Underlying Hazardous Constituent in Contaminated Soils,'' which was placed in the docket for today's proposed rule. The Agency has assumed that 60 percent of all TC metal soils with organic UHCs (104,730 tons) contain PCBs.

Estimated Cost Savings

The extent of the cost savings from the proposed deferral of LDR treatment standards for TC metal PCB-containing hazardous waste soils depends on the decision whether to remediate the site, the decision to switch to in-situ clean-up remedies (avoiding LDR treatment standards) and the decision to pursue other administrative remedies such as treatability variances. As the result, EPA has estimated the incremental treatment cost savings attributable to the deferral of the Phase IV LDR treatment standards for PCBs as a UHC in hazardous soils to total between $35.3 million and $86 million annually for the thermal treatment baseline—post regulatory scenario and $33.2 million and $55.3 million annually for the multiple remedy/response baseline-post regulatory scenario.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, when an agency publishes a notice of rulemaking, for a rule that will have a

significant effect on a substantial number of small entities, the agency must prepare and make available for public comment a regulatory flexibility analysis that considers the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The overall economic impact of today's proposed rule to defer LDR treatment standards for TC metal PCB-containing hazardous waste soils results in cost savings ranging from $33.2 million to $86 million. For the reasons stated above in the estimated cost savings discussion of section X.A.3, the Agency does not believe that today's proposed rule will have a significant impact on a substantial number of small entities.

C. 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 one 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.

EPA has determined that this rule does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate. The rule would not impose any federal intergovernmental mandate because it imposes no enforceable duty upon state, tribal or local governments. States, tribes and local governments would have no compliance costs under this rule. It is expected that states will adopt this rule, and submit it for inclusion in their authorized RCRA programs, but they have no legally enforceable duty to do so. For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of UMRA.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* EPA has prepared and Information Collection Request (ICR) document: OSWER ICR No. 1442.15 (LDR PhaseIV), and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, D.C. 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr.

EPA believes the changes in this proposed rule to the information collection do not constitute a substantive or material modification. This proposed rule would not change any of the information collection requirements that are currently applicable RCRA Land Disposal Restrictions Phase IV except to possibly reduce those requirements by requiring fewer references to PCBs. There is no net increase in recordkeeping and reporting requirements (if anything, there may be a slight decrease, as just noted). As a result, the reporting, notification, or recordkeeping (information) provisions of this rule will not need to be submitted for approval to the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*

E. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

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 the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The public is invited to submit or identify peer-reviewed studies and data, of which the agency may not be aware, that assessed results of early life exposure that may result from this activity.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 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., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

G. Executive Order 12898: Environmental Justice

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income

Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities. To address this goal, EPA considered the impacts of this final rule on low-income populations and minority populations and concluded.

Today's proposed rule is intended to encourage aggressive remediation of contaminated soils, and thus, and to benefit all populations. As such, this rule is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities versus non-minority or affluent communities.

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'' are 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. 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 proposed rule does not have federalism implications. It 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. EPA has determined that this proposed rule, if adopted, would not have ''federalism implications'' within the meaning of Executive Order 13132. This is because the proposal would not impose any direct effects on States, would not preempt State law, and would not constrain State administrative discretion. In fact, States need not even adopt this proposal as part of their authorized programs. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

I. 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 the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Today's proposal does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste.

Dated: February 9, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, chapter I, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart C—[Amended]

2. Section 268.32 is added to subpart C to read as follows:

§ 268.32 Waste specific prohibitions—California list waste.

Effective **[insert effective date of final rule]**, hazardous wastes containing halogenated organic compounds in total concentrations greater than or equal to 1,000 mg/kg are prohibited from land disposal.

Subpart D—[Amended]

3. Section 268.49 is amended by revising paragraph (d) to read as follows:

§ 268.49 Alternative LDR treatment standards for contaminated soil.

* * * * *

(d) *Constituents subject to treatment.* When applying the soil treatment standards in paragraph (c) of this section, constituents subject to treatment are any constituents listed in 40 CFR 268.48 Table UTS-Universal Treatment Standards that reasonable expected to be present in any given volume of contaminated soil, except flouride, selenium, sulfides, vanadium, zinc, and PCB's when present in soils exhibiting the characteristic of toxicity solely because of presence of metals, at concentrations greater than ten times the universal treatment standard.

* * * * *

[FR Doc. 00–3672 Filed 2–15–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–172, MM Docket No. 00–18, RM–9790]

Radio Broadcasting Services; Douglas, Pembroke and Willacoochee, GA; Barnwell, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Bullie Broadcasting Corporation, licensee of Station WBAW–FM, Barnwell, SC, seeking: The substitution of Channel 257C1 for Channel 256C3 at Barnwell, SC, the reallotment of Channel 257C1 from Barnwell, SC to Pembroke, GA, as the community's first local aural service, and the modification of Station WBAW–FM's license accordingly; the reallotment of Channel 258C1 from Douglas, GA, to Willacoochee, GA, as the community's first local aural service, and the modification of Station WDMG–FM's license accordingly, and the allotment of Channel 256C3 to Barnwell, SC, as a ''back-fill'' channel. Channel 257C1 can be allotted to Pembroke in compliance with the Commission's minimum distance separation requirements with a site restriction of 17.8 kilometers (11.1 miles) south, at coordinates 32–11–13 NL; 81–48–04 WL, to avoid a short-spacing to Station WYKZ, Channel 254C1, Beaufort, SC, and Station WQIK–FM, Channel 256C, Jacksonville, FL, and to accommodate petitioner's desired transmitter site. Channel 258C1 can be allotted to Willacoochee with a site restriction of 34.5 kilometers (21.4 miles) west, at coordinates 31–20–27 NL; 83–24–30 WL, to avoid a short-spacing to proposed Channel 257C1 at Pembroke and accommodate petitioner's desired site. Channel 256C3 can be reallotted to Barnwell with a site restriction of 19.6 kilometers (12.2 miles) north, at coordinates 33–24–29 NL; 81–16–43 WL, to avoid a short-spacing to Channel 257C1 at Pembroke.

DATES: Comments must be filed on or before March 23, 2000, and reply comments on or before April 7, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: J. Geoffrey Bently, P.C., P.O. Box 807, Herndon, VA 20172–0807 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–18, adopted January 27, 2000, and released February 1, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3633 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–166, MM Docket No. 99–118, RM–9549]

Radio Broadcasting Services; Logandale, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of.

SUMMARY: The Commission denies the request of Mountain West Broadcasting to allot Channel 291C1 to Logandale, NV, as its first local aural service, finding that the petitioner failed to provide a sufficient showing to determine that it is a ''community'' for allotment purposes.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–118, adopted January 27, 2000, and released February 1, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3634 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–142, MM Docket No. 00–12, RM–9706]

Radio Broadcasting Services; West Rutland, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Great Casco Bay Wireless Talking Machine Limited Liability Company, licensee of Station WTHT, Channel 298C1, Lewiston, ME, to substitute Channel 298A for Channel 298C3 at West Rutland, VT, and the modification of Station WRUT's construction permit for Station WRUT to specify the Class A channel. This action could enable Station WTHT to improve its facilities to 100 kW. Channel 298A can be allotted to West Rutland in compliance with the Commission's minimum distance separation requirements and at the transmitter site specified in Station WRUT's construction permit, 43–34–04 NL; 73–00–30 WL, which is 4.1 kilometers (2.6 miles) southeast of West Rutland. West Rutland is located within 320 kilometers (200 miles) of the U.S.-Canadian border. However, because this

is a proposal to downgrade the allotment, notification to but not prior approval of the Canadian government is required.

DATES: Comments must be filed on or before March 23, 2000, and reply comments on or before April 7, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dan J. Alpert, 2120 N. 21st Road, Arlington, VA 22201 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–12, adopted January 19, 2000, and released February 1, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3635 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–167; MM Docket No. 00–13, RM–9679; MM Docket No. 00–14, RM–9803]

Radio Broadcasting Services; Aberdeen, Elma and Montesano, WA; Elkhorn City and Coal Run, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes two reallotments. The Commission requests comments on a joint petition filed by KAYO Broadcasting and Marrow, Inc. proposing the reallotment of Channel 257C1 from Aberdeen to Elma Washington, and the modification of Station KAYO–FM's license accordingly; the substitution of Channel 271C2 for Channel 271C3 at Elma, the reallotment of Channel 271C2 from Elma to Montesano, Washington, and the modification of Station KAPV(FM)'s license accordingly. The Commission also requests comments on a petition filed by East Kentucky Broadcasting Corporation proposing the reallotment of Channel 276A from Elkhorn City to Coal Run, Kentucky, and the modification of Station WPKE–FM's license accordingly. Channel 257C1 can be reallotted to Elma in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.5 kilometers (9.0 miles) west to avoid a short-spacing to the licensed site of Station KWJJ–FM, Channel 258C1, Portland, Oregon.

DATES: Comments must be filed on or before March 20, 2000, and reply comments on or before April 4, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Peter Gutmann, Esq., Pepper & Corazzini, 1776 K Street, NW., Suite 200, Washington, DC 20006 (Counsel for KAYO Broadcasting and Marrow, Inc.); Patricia M. Chuh, Pepper & Corazzini, L.L.P., 1176 K Street, NW., Suite 200, Washington, DC. (Counsel for East Kentucky Broadcasting Corporation).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–13; and MM Docket No. 00–14, adopted January 28, 2000 and released February 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

The coordinates for Channel 257C1 at Elma are 46–57–31 North Latitude and 123–35–18 West Longitude. An engineering analysis has determined that proposed allotment meets domestic spacing requirements, and that Channel 257C1 can be reallotted to Elma as a specially-negotiated, short-spaced allotment because it is short-spaced to the licensed site of Station CFOX(FM), Channel 257C, Vancouver, British Columbia, and to the proposed allotment of Channel 258A at Metchosin/Sooke, British Columbia Likewise, Channel 271C2 can be allotted to Montesano with a site restriction of 14.5 kilometers (9.0 miles) northwest to avoid a short-spacing to the licensed site of KINK–FM, Channel 270C, Portland, Oregon. The coordinates for Channel 271C2 at Montesano are 47–03–44 North Latitude and 123–44–44 West Longitude. Since Elma and Montesano, Washington are located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence has been requested. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest for use of Channel 257C1 at Elma, Washington, or for Channel 271C2 at Montesano, Washington, or require petitioner to demonstrate the availability of an equivalent class channel at Montesano for use by such parties.

Additionally, Channel 276A can be reallotted to Coal Run without the imposition of a site restriction. The coordinates for Channel 276A at Coal Run are 37–23–57 North Latitude and 82–30–32 West Longitude. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 276A at Coal Run, Kentucky.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3640 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–212, MM Docket No. 00–20, RM–9733]

Radio Broadcasting Services; Paris and Mount Pleasant, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Carephil Communications requesting the reallotment of Channel 270C2 from Paris, Texas, to Mount Pleasant, Texas, and modification of the license for Station KBUS(FM) to specify Mount Pleasant, Texas, as the community of license. The coordinates for Channel 270C2 at Mount Pleasant are 33–11–47 and 95–06–10. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 270C2 at Mount Pleasant.

DATES: Comments must be filed on or before March 27, 2000, and reply comments on or before April 11, 2000.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, S.W., Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Greg P. Skall, Pepper & Corazzini, L.L.P., 1776 K Street, N.W., Suite 200, Washington, D. C. 20006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–20, adopted January 27, 2000, and released February 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcast.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3641 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–171; MM Docket No. 00–17; RM–9814]

Radio Broadcasting Services; Andalusia, AL and Holt, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Capstar TX Limited Partnership, licensee of Station WTKE(FM), Channel 251C1, Andalusia, Alabama, requesting the reallotment of Channel 251C1 to Holt, Florida, as that locality's first local aural transmission service, and modification of its authorization accordingly. Coordinates used for Channel 251C1 at Holt, Florida, are 30–59–57 NL and 86–41–20 WL.

DATES: Comments must be filed on or before March 27, 2000, and reply comments on or before April 11, 2000.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Gregory L. Masters and E. Joseph Knoll, III, Esqs., Wiley, Rein & Fielding, 1776 K Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–17, adopted January 19, 2000, and released February 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR part 73

Radio Broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–3642 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF56

Endangered and Threatened Wildlife and Plants; Notice of Reopening of Comment Period on the Proposed Rule To List the Alabama Sturgeon as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: We, the Fish and Wildlife Service (Service), give notice that the public comment period on the proposed rule to list the Alabama sturgeon (*Scaphirhynchus suttkusi*) as endangered is reopened. We are reopening the comment period in order to obtain comments on a Conservation Agreement and Strategy for the Alabama sturgeon (both documents will be referred to hereafter as the 2000 Strategy), which were signed by the Alabama Department of Conservation and Natural Resources (ADCNR), the Service, the U.S. Army Corps of Engineers (Corps), and the Alabama-Tombigbee Rivers Coalition on February 9, 2000, and on their relevance and significance to the proposed listing of the Alabama sturgeon as endangered. The goal of the 2000 Strategy is ''. . . to eliminate or significantly reduce current threats to the Alabama sturgeon and its habitat. . . . '' Reopening the comment period will allow all interested parties to submit comments on the 2000 Strategy and its relevance and significance to the proposed listing of the Alabama sturgeon as endangered. The 2000 Strategy is available for review (See the **SUPPLEMENTARY INFORMATION** section under Comment Procedures for how to obtain these documents).

DATES: We will accept comments until March 17, 2000.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail or hand-deliver comments to Mitch King, at U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 415, Atlanta, Georgia 30345. You may also comment via the Internet to mitch__king@fws.gov. See the **SUPPLEMENTARY INFORMATION** section for Comment Procedures.

FOR FURTHER INFORMATION CONTACT: Mr. Mitch King, (see**''ADDRESSES''** section), 404–679–7180 (phone), 404–679–4180 (facsimile).

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1999, we published a rule proposing endangered status for the Alabama sturgeon in the **Federal Register** (64 FR 14676). On January 11, 2000, we published a notice in the **Federal Register** (65 FR 1583), reopening the comment period through February 10, 2000. On February 7, 2000, we published a second notice in the **Federal Register** (65 FR 5848), reopening the comment period through March 8, 2000. With this notice, we are reopening the comment period through March 17, 2000, to obtain comments on the substance of the 2000 Strategy and on the relevance and significance of the 2000 Strategy for the Alabama sturgeon on the listing decision.

In 1997, a voluntary conservation effort was implemented and coordinated by ADCNR in order to address the primary threats to the Alabama sturgeon, which was identified as its small numbers and its apparent inability to offset mortality rates with reproduction and recruitment rates. The primary focus of this effort was to remedy the small population size through a captive breeding and restocking program. Secondarily, the effort provided habitat restoration measures and research to determine life history information essential to effective conservation and management of the species. A variety of public and private entities, including the Service, the Corps, the Rivers Coalition, the Geologic Survey of Alabama, and the Mobile River Basin Coalition participated in the implementation of this effort.

During the three years of this effort, the participants had less success capturing Alabama sturgeon than was initially expected. The capture effort produced five Alabama sturgeon, two of which currently survive at the Marion State Fish Hatchery. The three year effort provided needed experience in the capture of Alabama sturgeon, especially with respect to the best method for collecting, the areas on the river most likely to yield Alabama sturgeon, and the best time of year to collect. The capture effort also resulted in the establishment of protocols for handling, transporting, and propagating Alabama sturgeon. In addition, collection efforts and work on other sturgeon species are producing information that could be valuable regarding the Alabama sturgeon. For example, recent collection efforts on the pallid sturgeon indicate that manipulating flows out of water control structures can increase collection success for that species.

On February 9, 2000, the Service, ADCNR, the Corps, and the Rivers Coalition entered into the 2000 Strategy that expands upon the initial efforts undertaken in 1997. The 2000 Strategy includes a substantial change to the capture program. During the three years that the 1997 effort was underway, a total of 250 field days were spent in the capture effort. Under the 2000 Strategy, a minimum total of 548 field days will be expended each year for the first three years.

The parties to the 2000 Strategy signed the documents on February 9, 2000, because of a desire to have implementation begin immediately while we are in a period of the year that has the best chance of capturing sturgeon. The 2000 Strategy is subject to amendment by consent of the parties.

The reason the comment period has been reopened through March 17, 2000, is to obtain public comment on the 2000 Strategy's relevance and significance to the upcoming listing decision. How the 2000 Strategy is relevant or significant (i.e., its effect on the underlying analysis of the listing factors in the proposed rule) should be a primary focus of comment during the public comment period. Any comments received concerning the 2000 Strategy will be fully considered by us in our final determination.

Public Comments Solicited

We are seeking comments on the relevance and signficance of the 2000 Strategy to the listing decision. Specifically, we are seeking input on whether:

(1) The 2000 Strategy addresses the factors identified in the proposed listing rule to a degree that there is no longer a basis for listing the Alabama sturgeon;

(2) The 2000 Strategy addresses the factors identified in the proposed listing rule to a degree that the listing determination would more appropriately be threatened instead of endangered. The Conservation Strategy could also be linked to a 4(d) rule;or,

(3) The 2000 Strategy fails to address the factors sufficiently to have an effect on the listing determination, but still form the basis for a Section 7(a)(1) program, a Section 7(a)(2) consultation, a Section 10 permit for non-federal entities, and/or the core of a species recovery plan.

We request comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the 2000 Strategy and its relevance and significance to the proposed listing of the Alabama sturgeon as endangered.

Comment Procedures

Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Please also include ''Attention: [Alabama sturgeon]'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at the address given in the **ADDRESSES** section or by telephone at 404-679–7180. Finally, you may also hand-deliver comments to the address given in the **ADDRESSES** Section. Our practice is to make comments, including names and home addresses of

respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address. To obtain copies of the 2000 Strategy, you can download or print one from http://endangered.fws.gov/listing/index.html (under Announcements) or contact Kelly Bibb at 404/679–7132 (phone) or 404/679–7081 (facsimile) to receive a faxed or mailed copy. All questions related to this notice should be directed to Mr. Mitch King at the address or phone number listed in the **ADDRESSES** section of this notice.

Author

The primary author of this notice is Mitch King (see **ADDRESSES** section).

Authority: The authority for this notice is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: February 11, 2000.

Sam D. Hamilton,

Regional Director, Fish and Wildlife Service.

[FR Doc. 00–3782 Filed 2–14–00; 12:13 pm]

BILLING CODE 4310–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[I.D. 081699C, 092199A, 092799G]

Endangered and Threatened Species; Notice of an Additional Public Hearing for Proposed Rules Governing Take of West Coast Chinook, Chum, Coho and Sockeye Salmon and Steelhead Trout

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

ACTION: Proposed rule; notification of public hearing.

SUMMARY: NMFS is announcing an additional public hearing for the following: Proposed Rule Governing Take of Seven Threatened Evolutionarily Significant Units (ESUs) of West Coast Salmonids; Proposed Rule Governing Take of Threatened Snake River, Central California Coast, South/Central California Coast, Lower Columbia River, Central Valley California, Middle Columbia River, and Upper Willamette River Evolutionarily Significant Units (ESUs) of West Coast Steelhead; and Limitation on Section 9 Protections Applicable to Salmon Listed as Threatened under the Endangered Species Act (ESA), for Actions Under Tribal Resource Management Plans. NMFS is holding this additional public hearing for all three rules to facilitate public participation in this regulatory process.

DATES: The meeting date is February 22, 2000, 6:00 p.m.–9:00 p.m.

ADDRESSES: The meeting will be held at Whitman College, Cordiner Hall, 345 Boyer Avenue, Walla Walla, WA.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, (503) 231-2005; Craig Wingert, (562) 980–4021; or Chris Mobley, (301) 713–1401. Copies of the **Federal Register** documents cited herein and additional salmon-related materials are available via the Internet at www.nwr.noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Under section 4(d) of the Endangered Species Act (ESA), the Secretary of Commerce (Secretary) is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. On December 30, 1999 (64 FR 73479), NMFS issued a proposed rule under section 4(d) of the ESA which contains the regulations that it believes, are necessary and advisable to conserve threatened Snake River, Central California Coast, South/Central California Coast, Lower Columbia River, Central Valley California, Middle Columbia River, and Upper Willamette River ESUs of West Coast Steelhead. The proposed rule applies ESA section 9(a)(1) prohibitions to the previously mentioned steelhead ESUs, but proposes not to apply the take prohibitions to 13 specific programs which limit impacts on listed steelhead to an extent that makes added protection through Federal regulation not necessary and advisable for the conservation of these ESUs (see 64 FR 73479).

On January 3, 2000 (65 FR 170), NMFS issued a proposed rule under section 4(d) of the ESA which was nearly identical to the December 30, 1999, proposal except that it applied to the following species of salmon: Oregon Coast Coho, Puget Sound, Lower Columbia and Upper Willamette Chinook, Hood Canal Summer-run and Columbia River Chum, and Ozette Lake Sockeye.

Also on January 3, 2000 (65 FR 108), NMFS issued a proposed rule under section 4(d) of the ESA that would not impose the section 9(a)(1) prohibitions on take when impacts on threatened salmonids result from implementation of a tribal resource management plan, where the Secretary has determined that implementing that Tribal Plan will not appreciably reduce the likelihood of survival and recovery for the listed species. This proposal applies to threatened salmonids that are currently subject to ESA section 9(a)(1) take prohibitions: Snake River spring/summer chinook salmon; Snake River fall chinook salmon; Central California Coast (CCC) coho salmon; and Southern Oregon/Northern California Coast (SONCC) coho salmon. This proposed limitation on take prohibitions would also be available for all other threatened salmonid ESUs whenever final ESA section 9(a) prohibitions are made applicable to those ESUs.

On February 14, 2000, NMFS published a **Federal Register** document under the Proposed Rules section which extended the public comment periods for all 3 proposed rules and announced additional public hearings in Washington and Idaho. Because these closely related rules had public comment periods that ended on different dates (February 22, 2000, for the steelhead proposal and March 3, 2000, for the other 2 proposals, respectively), NMFS extended the comment period for all three rules to March 6, 2000, to avoid confusion and to facilitate public participation.

NMFS has received a request for an additional public hearing to allow further opportunity for the public to participate in the exchange of information and opinion among interested parties and to provide oral and written testimony. NMFS finds that the request is reasonable and has scheduled the meeting accordingly (see **DATES** and **ADDRESSES**).

NMFS is soliciting specific information, comments, data, and/or recommendations on any aspect of the December 30, 1999, and January 3, 2000, proposals from all interested parties.

This information is considered critical in helping NMFS make final determinations on the proposals. NMFS will consider all information, comments, and recommendations received during the comment period and at the public hearings before reaching a final decision.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language or other aids should be directed to Garth Griffin (see **ADDRESSES**) 7 days before the meeting date.

Dated: February 10, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

[FR Doc. 00–3725 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 991104295–9295–01; I.D. 100599D]

RIN 0648–AM74

Fisheries of the Northeastern United States; Dealer and Vessel Reporting Requirements; Reopening of Comment Period

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

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: NMFS reopens the public comment period on a proposed rule to amend the existing reporting requirements for dealers and for vessels issued a Federal permit to operate in the summer flounder, scup, black sea bass, Atlantic sea scallop, Northeast (NE) multispecies, monkfish, Atlantic mackerel, squid and butterfish, surf clam or ocean quahog fisheries. The provisions of this proposed rule would also be applicable to dealers of spiny dogfish, Atlantic herring and Atlantic bluefish and vessels federally permitted in the spiny dogfish, Atlantic bluefish, and Atlantic herring fisheries when regulations implementing the Spiny Dogfish FMP, Amendment 1 to the Atlantic Bluefish FMP, and the Atlantic Herring FMP go into effect. NMFS is reopening the comment period to ensure that affected fishers and dealers are aware of the proposed reporting changes and have an opportunity to provide comments. Proposed changes include: Increasing the retention schedule for dealer and vessel records; requiring federally-permitted dealers to complete all sections of the Annual Processed Products Report; clarifying that a vessel logbook report must be submitted for each trip taken, not for each day fished; amplifying the existing requirement that vessel logbook reports must be completed prior to entering port with fish; specifying that the pounds recorded on the vessel logbook reports should be the hail weight, by species, of all fish landed or discarded; adding definitions for ''hail weight,'' ''serial number,'' and ''trip identifier;'' requiring vessel owners/operators to provide trip identifier information to dealers; and clarifying the submission schedule for surf clam and ocean quahog dealer and vessel reports.

DATES: Comments must be received on or before 5:00 p.m., local time, on March 2, 2000.

ADDRESSES: Written comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Proposed Rule for Dealer and Vessel Reporting.'' Comments also may be sent via facsimile (fax) to (978) 281–9161. Comments will not be accepted if submitted via e-mail or Internet.

Comments on the burden hour estimates for collection-of-information requirements contained in this proposed rule should be sent to Patricia A. Kurkul and to the Office of Information and Regulatory Affairs, Attention: NOAA Desk Officer, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kelley McGrath, (978) 281–9307 or Gregory Power, (978) 281–9304.

SUPPLEMENTARY INFORMATION: Regulations implementing the FMPs for fisheries of the Northeastern United States were prepared under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and are found at 50 CFR part 648. The provisions of this proposed rule, if approved and implemented, would also be applicable to dealers of spiny dogfish, herring, and bluefish, and to vessels federally permitted in the spiny dogfish, Atlantic bluefish and Atlantic herring fisheries when regulations implementing the Spiny Dogfish FMP, Amendment 1 to the Atlantic Bluefish FMP, and Atlantic Herring FMP go into effect.

The proposed rule for this action was published in the **Federal Register** on December 2, 1999 (64 FR 67551). The comment period on the proposed rule ended on January 3, 2000. During the public comment period, NMFS received two comments from dealers and no comments from fishers regarding the proposed changes to the reporting regulations. Because the lack of industry response may be an indication that industry members were not sufficiently aware of the proposed reporting changes, NMFS is reopening the comment period to allow the public additional time to review and comment on the proposed rule. The public comment period is reopened for the period February 16, 2000, through March 2, 2000.

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

Dated: February 10, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–3724 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 020900B]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting; public scoping hearings; public hearing.

SUMMARY: The Western Pacific Fishery Management Council will hold its 102nd meeting in Honolulu, HI. A public hearing will be held on alternatives for managing sharks and creating area closures in American Samoa. These measures will be implemented by amendments to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (Pelagics FMP). A public scoping hearing will be held on the intent to prepare an Environmental Impact Statement (EIS) for the Fishery Management Plan for the Precious Corals Fisheries of the Western Pacific Region (Precious Corals FMP).

DATES: The Council's Standing Committees will meet on February 28, 2000. The full Council meeting will be held on February 29, 2000 and March 1, and 2, 2000. The public hearings will be

held on March 1 and 2, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times for these meetings and hearings.

ADDRESSES: The Council meeting will be held at the Hibiscus Ballroom I at the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, HI 96814; telephone: 808–955–4811.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI, 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION:

Dates and Times

Committee Meetings

The following Council's Standing Committees will meet on February 28, 2000. Enforcement/Vessel Monitoring System (VMS) (including meeting with industry) from 7:30 a.m. to 9:30 a.m.; International Fisheries/Pelagics from 9:30 a.m. to 11:30 a.m.; Bottomfish, Crustaceans, and Ecosystem & Habitat from 1:00 p.m. to 3:00 p.m.; Native and Indigenous Rights from 3:00 p.m. to 4:00 p.m; Precious Corals from 3:00 p.m. to 4:00 p.m.; and Executive/Budget and Program from 4:00 p.m. to 6:00 p.m.

Full Council meeting

The full Council will meet on February 29, and March 1–2, 2000, from 8:30 a.m. to 5:00 p.m., each day.

Public Hearings

The public hearing on shark management options and area closures around American Samoa will be held on Wednesday, March 1, 2000, at 4:00 p.m. The scoping hearing to add the Commonwealth of the Northern Mariana Islands (CNMI) and the Pacific Remote Island Areas (PRIA) to the Fishery Management Plan for the Bottomfish Fisheries of the Western Pacific Region (Bottomfish FMP) will be held on March 2, 2000, at 9:30 a.m.The scoping hearing to add the CNMI and the PRIA to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (Crustacean FMP) will be held on Thursday, March 2, 2000, at 4:00 p.m. The scoping hearing on the intent to prepare an EIS and to add the CNMI and the PRIA to the Precious Corals FMP will

Agenda

The agenda during the full Council meeting will include the items below. The order in which agenda items are addressed may change. The Council will meet as late as necessary to complete scheduled business.

1. Introductions
2. Approval of Agenda
3. Approval of 101st Meeting Minutes
4. Island Reports
A. American Samoa
B. Guam
C. Hawaii
D. Commonwealth of the Northern Mariana Islands (CNMI)
5. Fishery Agency and Organization Reports
A. DOC
(1) NMFS
(a) Southwest Region, Pacific Island Area Office
(b) Southwest Fisheries Science Center La Jolla and Honolulu Laboratories
(2) NOAA General Counsel, Southwest Region
B. Department of the Interior, Fish and Wildlife Service (FWS)
6. Enforcement
A. U.S. Coast Guard (USCG) activities
B. NMFS activities
C. Cooperative agreements for Guam/CNMI
D. Status of violations
7. VMS
A. Regional VMS report
B. National VMS efforts
C. Report on FFA VMS program
8. Ecosystems and Habitat
A. Draft Coral Reef Ecosystem FMP/Preliminary DEIS
(1) Review of Council's preferred alternative
(a) fishing permit and reporting
(b) restriction of gear and methods
(c) marine protected areas
(d) framework provision
(e) process for Plan Team (PT) coordination
(2) Review of comments from region-wide public meetings
(3) Federal initiatives
(a) Congressional coral reef bills
(b) U.S. Coral Reef Task Force action plan
(4) Agency research plans for coral reefs
B. Northwestern Hawaiian Islands (NWHI)
(1) Concerns regarding existing fisheries
(a) status of monk seals
(b) Marine Mammal Commission
(c) Monk Seal Recovery Team
(d) agencies:
(1) NMFS
(2) Coral Reef Task Force
(3) FWS
(4) Hawaii Department of Land and Natural Resources (HDLNR)
(5) U.S. Navy/USCG
2. Hawaii advisory body recommendations
(a) Coral Reef Ecosystem PT
(b) Ecosystem and Habitat Advisory Panel (AP)
(c) Bottomfish PT/AP
(d) Crustacean PT/AP
(e) Precious Corals PT/AP
9. Fishery Rights of Indigenous People
A. Status of Marine Conservation Plans (MCPs)
B. Status of eligibility criteria for Community Development Program CDP and Demonstration Projects
C. Limited entry permits for CDP
10. Pelagic Fisheries
A. 3rd and 4th quarters 1999 Hawaii and American Samoa longline fishery reports
B. American Samoa, Framework measure (see agenda item under 10.H)

The Council will hold a public hearing and take final action on a framework measure under the Pelagics FMP to implement a closed area for pelagic fishing vessels around the islands of American Samoa. In December 1997, at its 94th meeting, the Council voted to recommend a closed area from which large (greater than 50 ft (15.24 m)) pelagic fishing vessels would be excluded to protect the small vessel longline fishery in American Samoa. That proposed revision was adopted under the two meeting framework process. That measure would have established a 50– nautical mile (nm) closure to pelagic fishing vessels larger than 50 ft (15.24 m) around Tutuila and Manua Islands, and a 30–nm closure around Swains Island. The recommended closure was sent to the NMFS Southwest Regional Administrator in October 1998 but was disapproved in March 1999, with the advice that it could be revised to include greater justification for closed areas under National Standard 8 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Subsequently, a revised draft of the framework measure has been drafted which includes a preferred alternative which would implement a 50–nm closure to pelagic fishing vessels larger than 50 ft (15.24 m) around Tutuila and Manua Islands, and a 30–nm closure around Swains Island. A copy of the draft document is available from the Council office.

(2) MCP

C. Shark management

(1) Shark catch and disposition in 1999 in Hawaii longline fishery

(2) Blue shark stock assessment

(3) Report of cultural study of sharks and shark finning in the western Pacific region

(4) National Plan of Action-Sharks

(5) Proposals for shark management

(6) Pelagics FMP amendment for shark management

D. Seabird interactions in the Hawaii longline fishery
(1) Status of amendment
(2) Biological opinion
(3) National Plan of Action-Seabirds
E. Turtle management
(1) Imposition of longline closed area north of Hawaii
(2) Status of lawsuit
F. International
(1) Multilateral High Level Conference 6
(2) International Pelagic Shark Workshop
G. National Plan of Action-Fishing Capacity
H. Public hearing, shark management options

At its 101st Meeting, the Council voted to take action on the retention of sharks by the Hawaii longline fishery by setting an annual fleetwide harvest guideline (quota) of 50,000 sharks through an amendment to the Pelagics FMP. The need for a quota was generated by concerns about the level of blue shark mortality in the Hawaii-based longline fishery, since virtually all the shark catch comprises blue shark and the level of retention had risen from less than 14,000 in 1993 to 60,000 in 1998. The same amendment will also develop regulations to ban demersal longline fishing for pelagic management unit species in the Hawaii exclusive economic zone (EEZ). In 1998 and 1999, a fishing vessel from the U.S. mainland fished for sharks with a demersal longline in Hawaii in nearshore coastal waters. This type of longline fishing was not regulated by state and Federal regulations. Various Council advisory bodies found this type of longline fishing inappropriate for Hawaii but recognized that other islands in the western Pacific Region may wish to make use of this gear to exploit their shark stocks. Consequently, the Council was asked to ban its use in Hawaii, but not elsewhere in the region. A copy of the draft amendment is available from the Council office (see **ADDRESSES**).

11. Bottomfish Fisheries
A. Status of the fishery
B. Review of public scoping comments on EIS alternatives
C. Addition of CNMI and PRIA to FMP
D. New entry to Mau Zone
E. Public comment and scoping hearing on addition of fisheries off CNMI and PRIA to the FMP.

The Council intends to develop amendments to the Fishery Management Plan for the Bottomfish FMP, and the Precious Corals FMP. In developing these amendments, the Council will consider a range of alternatives and impacts for management of bottomfish, crustacean, and precious coral fisheries of the PRIA and the CNMI. The PRIAs are defined as Kingman Reef, Johnston Atoll, and Howland, Baker, Jarvis, Wake, Midway, and Palmyra islands. The Council is evaluating the need to amend the bottomfish, crustacean, and precious corals FMPs to better achieve the management objectives of these FMPs. Currently, no Federal regulations are in place to manage the bottomfish, crustacean, and precious coral fishery resources in the EEZ waters surrounding the CNMI. There are also no Federal regulations for the bottomfish and crustacean fisheries for the EEZ waters surrounding the PRIAs. The amendments will be developed by considering a wide range of management alternatives to address data shortfalls and possible impacts from the bottomfish, crustacean, and precious coral fisheries in the PRIAs and the CNMI. The Council seeks to solicit public comment and input on a wide range of management alternatives, including, but not limited to, the following: Federal permit and data reporting requirements; limited access; VMS; observer program; closed season; closed areas; gear restrictions; size limits; catch quotas; and prohibitions on the use of destructive fishing techniques, including the use of explosives, poisons, bottomset gill-nets, bottom trawls, and tangle nets.

12. Crustacean Fisheries
A. Status of the stocks
B. Harvest Guideline
C. Review of public scoping comments on EIS alternatives
D. Addition of the fisheries off the CNMI and PRIA to FMP
E. Status of state regulations for NWHI import license
F. Lawsuit to close lobster and bottomfish fisheries
G. Public comment and scoping hearing on addition of the fisheries off the CNMI and PRIA (see agenda item 11.E)

The Council intends to discuss the bank-specific harvest guidelines calculated by NMFS for the year 2000 lobster fishery in the NWHI, review new information presented by NMFS on the status of lobster stocks, and conservation and management issues raised by its advisory groups. In 1999, there was an estimated 20–30 percent decline in the NWHI exploitable lobster population (spiny and slipper lobster combined) based on commercial catch-per-unit-effort (CPUE) data. The overall drop is attributed to lower commercial CPUE in Area 4 which had a considerable increase in effort that was largely exploratory and unsuccessful. Between 1998 to 1999, the commercial CPUE in Area 4 lobster fishing grounds decline from 1.0 to 0.6. The Council will consider whether changes to the existing regulatory regime governing the NWHI crustacean fishery is needed, and if appropriate, may take action, possibly under FMP framework procedures, requesting NMFS to implement management measures. Alternative measures could include additional restrictions or a moratorium on lobster fishing NWHI-wide or at certain lobster fishing grounds.

13. Precious Corals

A. Status of the fishery

B. Status of framework amendment

C. Review of public scoping comments on EIS alternatives

D. Addition of the fisheries off the CNMI to FMP

E. Public scoping hearing on the EIS and public hearing on addition of the fisheries off the CNMI to FMP.

The Council intends to prepare an EIS on the Federal management of precious corals in the western Pacific Region. The scope of the EIS analysis will include all activities related to the conduct of the fisheries and will examine the impacts of precious coral harvest on, among other things, protected species. A summary of the current Federal management system for precious corals in the western Pacific Region will be reviewed during the public scoping hearing. A principal objective of the scoping and public input process is to identify a reasonable set of management alternatives that, with adequate analysis, will sharply define critical issues and provide a clear basis for choice among the alternatives. The intent of the EIS is to present an overall picture of the environmental effects of fishing as conducted under the FMP. The EIS will discuss the impacts of potential precious coral harvest on the human environment and consider a range of alternatives. Alternatives will be assessed for impacts on essential fish habitat, target and non-target species of fish, discarded fish, marine mammals (Hawaiian monk seals and cetaceans), and other protected species present in the Western Pacific ecosystem. In addition, the environmental consequences section will contain an analysis of socio-economic impacts of the fishery on the following groups of individuals: (1) Those who participate in harvesting the fishery resources and other living marine resources; (2) those who process and market the fish and fish products; (3) those who are involved in allied support industries; (4) those who consume fish products; (5) those who rely on living marine resources in the management area either for subsistence needs or for recreational benefits; (6) those who benefit from non-

consumptive uses of living marine resources; (7) those involved in managing and monitoring fisheries; and (8) fishing communities. (Also see agenda item 11.E. for adding CNMI to the FMP)

14. Program Planning

A. Magnuson-Stevens Act changes

B. Report on program planning initiatives

C. AP modifications

D. WPacFIN

E. Fisheries Data Coordinating Committee

F. Recreational Fisheries Data Task Force

15. Administrative Matters

A. Administrative reports

B. Advisory body membership changes

C. Meetings and workshops

D. 103rd Council meeting

16. Other Business

A. Election of Council Officers

Although non-emergency issues not contained in this agenda may come before the Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this document and any issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 1801 *et seq.*

Dated: February 11, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–3720 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 32
Wednesday, February 16, 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.

ADVISORY COMMISSION ON ELECTRONIC COMMERCE

Meetings

The Advisory Commission on Electronic Commerce was established by Public Law 105–277 to conduct a thorough study of federal, state, local and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable intrastate, interstate or international sales activities. The Commission is to report its findings and recommendations to Congress no later than April 21, 2000. Notice is hereby given, that the Advisory Commission on Electronic Commerce will hold a meeting Monday, March 20, 2000, from 1 p.m. to 5:30 p.m., CST, and Tuesday, March 21, 2000, from 8:30 a.m. to 5:30 p.m. CST, in the International Ballroom of the Fairmont Hotel, 1717 North Akard Street, Dallas, Texas. The meetings of the Commission shall be open to the public. This meeting will be broadcast live on the World Wide Web. Instructions for accessing this broadcast can be found at the Commission Web site: www.ecommercecommission.org. A verbatim transcript of this meeting will be available on the same Web site.

Oral comments from the public will be excluded at this meeting.

Records shall be kept of all Commission proceedings and shall be available for public inspection, given adequate notice, at the Commission's offices at 3401 North Fairfax Dr., Arlington, Virginia 22201–4498.

A listing of the members of the commission and details concerning their appointment were published in the Federal Register on June 9, 1999, at 64 FR 30958. Additional information concerning the Commission can be found on its Web site. The agenda for the Dallas meeting will also be published on the Web site.

Heather Rosenker,
Executive Director.
[FR Doc. 00–3605 Filed 2–15–00; 8:45 am]
BILLING CODE 0000–00–M

DEPARTMENT OF AGRICULTURE

Farm Service Agency

National Drought Policy Commission

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of Commission Meeting and Release of Draft Report.

SUMMARY: The National Drought Policy Commission (Commission) shall conduct a thorough study and submit a report to the President and Congress on national drought policy. This notice announces a meeting to be held on March 1, 2000, in Scottsdale, Arizona, and seeks comments on issues that the Commission should address and recommendations that the Commission should consider as part of its report. The meeting is open to the public.

This notice also announces that the Commission will make its draft report available on the Commission's web site, http://www.fsa.usda.gov/drought/, about the second week in March, to solicit public review and comments.

DATES: The Commission will conduct a meeting on March 1, 2000, from 9:00 a.m. to 5:00 p.m. at the Tournament Players Club of Scottsdale, 17020 North Hayden Road, Scottsdale, Arizona. All times are Mountain Standard Time.

Persons with disabilities who require accommodations to attend or participate in this meeting should contact Leona Dittus, on 202–720–3168, Federal Relay Service at 1-800–877–8339, or Internet: leona.dittus@usda.gov, by COB February 23, 2000.

COMMENTS: The public is invited to respond and/or to submit comments, concerns, and issues for consideration by the Commission no later than 21 days after release of the draft report.

ADDRESSES: Comments and statements should be sent to Leona Dittus, Executive Director, National Drought Policy Commission, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 6701-S, STOP 0501, Washington, DC 20250–0501.

FOR FURTHER INFORMATION CONTACT: Leona Dittus (202) 720–3168; FAX (202) 720–9688; Internet: leona.dittus@usda.gov.

SUPPLEMENTARY INFORMATION: The purpose of the Commission is to provide advice and recommendations to the President and Congress on the creation of an integrated, coordinated Federal policy, designed to prepare for and respond to serious drought emergencies. Tasks for the Commission include developing recommendations that will (a) better integrate Federal laws and programs with ongoing State, local, and tribal programs, (b) improve public awareness of the need for drought mitigation, prevention, and response and (c) determine whether all Federal drought preparation and response programs should be consolidated under one existing Federal agency, and, if so, identify the agency.

The Commission's draft vision statement is of a well-informed, involved U. S. citizenry and its governments prepared for and capable of lessening the impacts of drought—consistently and timely. Drought policy should improve national security and foster economic prosperity, environmental quality, and social well being. It should also benefit future generations as well as our own.

In addition to your views and thoughts regarding a national drought policy, as you review the draft vision statement, the Commission would be interested in your thoughts regarding the following questions:

1. What is the best means for informing the public of Federal assistance for drought planning and mitigation?

2. What type of information do you need for responding to drought?

3. What needs do you or your organization presently have with respect to addressing drought conditions?

4. What do you see as the role of State, local, and Federal Governments and regional and tribal entities with respect to drought preparedness? Drought response? Should Federal emergency assistance be contingent on advance preparedness?

5. Are there any ways you feel that the Federal Government could better coordinate with State, regional, tribal, and local governments in mitigating or responding to droughts?

6. What lessons have you or your organization learned from past drought experiences that would be beneficial in the creation of a national drought policy?

Signed at Washington, D.C., on February 10, 2000.

George Arredondo,

Administrator, Farm Service Agency.

[FR Doc. 00–3688 Filed 2–11–00; 4:54 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Senior Community Service Employment Program

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to reinstate a previously approved information collection. The collected information will help the agency determine the eligibility of applicants who are 55 or older and who apply for employment with the Forest Service through the Senior Community Service Employment Program. Information will be collected from prospective applicants and/or enrollees 55 years of age or older.

DATES: Comments must be received in writing on or before April 17, 2000.

ADDRESSES: All comments should be addressed to Director, Senior, Youth, and Volunteer Programs Staff, (Mail Stop 1136), Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090.

Comments also may be submitted via facsimile to (703) 605–5115 or by e-mail to: syvp/wo@fs.fed.us.

The public may inspect comments received at the Office of the Director, Senior, Youth, and Volunteer Programs Staff, Forest Service, USDA, Room 1010, 1621 North Kent Street, Arlington, Virginia. Visitors are asked to call ahead to facilitate entrance into the office.

FOR FURTHER INFORMATION CONTACT: Priscella McCray, Senior, Youth, and Volunteer Programs Staff, at (703) 605–4853.

SUPPLEMENTARY INFORMATION:

Background

The Older Americans Act of 1965 (42 U.S.C. 3056 *et seq.*) authorizes the Forest Service to provide part-time employment opportunities and training to low-income and disadvantaged persons 55 years of age or older through the Senior Community Service Employment Program. Upon request, a Forest Service employee will provide the Application for the Senior Community Service Employment Program to potential applicants.

The application is divided into five sections. The first two sections will be completed by the prospective applicant or enrollee and will provide the information the agency will use to determine the applicant's eligibility to participate in the Program. The last three sections of the application will be completed by an authorized Forest Service employee and will provide information for a quarterly progress report the agency must provide to the Department of Labor. The description of the information collection will focus on the first two sections of the Application.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: Application for the Senior Community Service Employment Program.

OMB Number: 0596–0099.

Expiration Date of Approval: August 31, 1994.

Type of Request: Reinstatement of an information collection previously approved by the Office of Management and Budget.

Abstract: An authorized Forest Service employee will evaluate the data to determine the eligibility of applicants to participate in the Senior Community Service Employment Program. The Program is designed to provide part-time employment opportunities and training to low-income and disadvantaged persons who meet the criteria for eligibility.

The Application for the Senior Community Service Employment Program is divided into five sections. Applicants must complete Sections I and II.

In Section I of the Application, individuals will provide information that includes the type of enrollment (first-time enrollment, re-certification for present enrollment, or re-enrollment), their name, date of birth, social security number, home address, and home telephone number.

In Section II, individuals will provide information that includes the name of their head of household, the number of people in their family, whether the family is receiving public assistance, their family income, their employment status, the date of their last physical examination, and if they have previously enrolled in this or other Senior Community Service Employment Programs.

Data gathered in this information collection are not available from other sources.

Estimate of Annual Burden: 10 minutes.

Type of Respondents: Economically disadvantaged individuals, including legal aliens, age 55 or older.

Estimated Annual Number of Respondents: 6,500.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,083 hours.

Comment is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including names and addresses when provided, will become a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: February 10, 2000.

Ronald E. Hooper,

Acting Deputy Chief for Business Operations.

[FR Doc. 00–3593 Filed 2–15–00; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Agency Information Collection Activities; Comment Request

ACTION: Request for OMB emergency approval.

The U.S. Commission on Civil Rights, Office of Civil Rights Evaluation has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section

1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The Office of Civil Rights Evaluation has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, OMB approval has been requested by February 25, 2000. If granted, the emergency approval is only valid until September 30, 2000. All comments and/or questions pertaining to this pending request and emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Mr. Stuart Shapiro 202–395–7316, Commission on Civil Rights Desk Officer, Washington, DC 20503, before February 25, 2000. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to Mr. Shapiro at 202–395–6784.

During the first 40 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the Commission on Civil Rights requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until April 5, 2000. During the 40-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mireille Zieseniss, 202–376–6243, Civil Rights Analyst, Office of Civil Rights Evaluation, U.S. Commission on Civil Rights, 624 Ninth Street, NW, Suite 740, Washington, DC 20425. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. The burden of the collection of information on this 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.

Overview of This Information Collection

1. *Type of Information Collection:* New, one-time collection.

2. *Title of the Form/Collection:* U.S. Commission on Civil Rights Survey of Actual and Alleged Victims of Employment Discrimination.

3. *Agency form number, if any, and the applicable component of the U.S. Commission sponsoring the collection:* No agency form number exists. Component: Office of Civil Rights Evaluation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: private individuals who have contacted the EEOC to allege employment discrimination within the last five years. This survey will be used for the purpose of learning how certain protected groups are affected by employment discrimination, and how the EEOC enforces laws protecting these groups.

5. *Estimate the total number of respondents and the amount of time estimated for an average respondent to respond:* 905 respondents at 1 hour per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* 905 hours.

CONTACT PERSON FOR FURTHER INFORMATION: Mireille Zieseniss, Civil Rights Analyst, Office of Civil Rights Evaluations, U.S. Commission on Civil Rights, 624 Ninth Street, NW, Suite 740, Washington, DC 20425.

Edward A. Hailes, Jr.,

Acting Solicitor.

[FR Doc. 00–3712 Filed 2–15–00; 8:45 am]

BILLING CODE 6335–01–M

COMMISSION ON CIVIL RIGHTS

Agency Information Collection Activities; Comment Request

ACTION: Request for OMB emergency approval.

The U.S. Commission on Civil Rights, Office of Civil Rights Evaluation has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) for the Paperwork Reduction Act of 1995. The Office of Civil Rights Evaluation has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, OMB approval has been requested by February 25, 2000. If granted, the emergency approval is only valid until September 30, 2000. All comments and/or questions pertaining to this pending request and emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Mr. Stuart Shapiro 202–395–7316, Commission on Civil Rights Desk Officer, Washington, DC, 20503, before February 25, 2000. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to Mr. Shapiro at 202–395–6784.

During the first 40 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the Commission on Civil Rights requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until April 5, 2000. During the 40-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mireille Zieseniss, 202–376–6243, Civil Rights Analyst, Office of Civil Rights Evaluation, U.S. Commission on Civil Rights, 624 Ninth Street, NW, Suite 740, Washington, DC 20425. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. 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.

Overview of This Information Collection

1. *Type of Information Collection:* New, one-time collection.
2. *Title of the Form/Collection:* U.S. Commission on Civil Rights Survey of Private Sector Employers.
3. *Agency form number, if any, and the applicable component of the U.S. Commission sponsoring the collection:* No agency form number exists. Component: Office of Civil Rights Evaluation.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: private employers. This survey will be completed by private employers that have responded to a complaint of employment discrimination within the last five years.
5. *Estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 employers at 1 hour per response.
6. *An estimate of the total public burden (in hours) associated with the collection:* 100 hours.

CONTACT PERSON FOR FURTHER INFORMATION: Mireille Zieseniss, Civil Rights Analyst, Office of Civil Rights Evaluation, U.S. Commission on Civil Rights, 624 Ninth Street, NW, Suite 740, Washington, DC 20425.

Edward A. Hailes, Jr.,

Acting Solicitor.

[FR Doc. 00–3713 Filed 2–15–00; 8:45 am]

BILLING CODE 6335–01–M

COMMISSION ON CIVIL RIGHTS

Agency Information Collection Activities; Comment Request

ACTION: Request for OMB emergency approval.

The U.S. Commission on Civil Rights, Office of Civil Rights Evaluation has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The Office of Civil Rights Evaluation has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, OMB approval has been requested by February 25, 2000. If granted, the emergency approval is only valid until September 30, 2000. All comments and/or questions pertaining to this pending request and emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Mr. Stuart Shapiro 202–395–7316, Commission on Civil Rights Desk Officer, Washington, DC 20503, before February 25, 2000. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to Mr. Shapiro at 202–395–6784.

During the first 40 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the Commission on Civil Rights requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until April 5, 2000. During the 40-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mireille Ziesensis, 202–376–6243, Civil Rights Analyst, Office of Civil Rights Evaluation, U.S. Commission on Civil Rights, 624 Ninth Street, NW, Suite 740, Washington, DC 20425. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. The quality, utility, and clarity of the information to be collected; and
4. 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, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* New, one-time collection.
2. *Title of the Form/Collection:* U.S. Commission on Civil Rights Survey of Employment Discrimination Attorneys and Mediators.
3. *Agency form number, if any, and the applicable component of the U.S. Commission sponsoring the collection:* No agency form number exists. Components: Office of Civil Rights Evaluation.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: employment discrimination attorneys and mediators. This survey will be completed by employment discrimination attorneys and mediators in an attempt to gather their perspectives on EEOC charge processing.
5. *Estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 200 at 1 hour per response.
6. *An estimate of the total public burden (in hours) associated with the collection:* 200 hours.

CONTACT PERSON FOR FURTHER INFORMATION: Mireille Zieseniss, Civil Rights Analyst, Office of Civil Rights Evaluation, U.S. Commission on Civil Rights, 624 Ninth Street, NW, Suite 740, Washington, DC 20425.

Edward A. Hailes, Jr.,

Acting Solicitor.

[FR Doc. 00–3714 Filed 2–15–00; 8:45 am]

BILLING CODE 6335–01–M

COMMISSION ON CIVIL RIGHTS

Agency Information Collection Activities; Comment Request

ACTION: Request for OMB emergency approval.

The U.S. Commission on Civil Rights, Office of Civil Rights Evaluation has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The Office of Civil Rights Evaluation has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, OMB approval has been requested by February 25, 2000. If granted, the emergency approval is only valid until September 30, 2000. All comments and/or questions pertaining to this pending request and emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Mr. Stuart Shapiro 202–395–7316, Commission on Civil Rights Desk

Officer, Washington, DC 20503, before February 25, 2000. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to Mr. Shapiro at 202–395–6784.

During the first 40 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the Commission on Civil Rights requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until April 5, 2000. During the 40-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mireille Zieseniss, 202–376–6243, Civil Rights Analyst, Office of Civil Rights Evaluation, U.S. Commission on Civil Rights, 624 Ninth Street, NW., Suite 740, Washington, DC 20425. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. 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.

Overview of This Information Collection

1. *Type of Information Collection:* New, one-time collection.

2. *Title of the Form/Collection:* U.S. Commission on Civil Rights Survey of Employment Discrimination Research Organizations, Advocacy Groups, and Experts.

3. *Agency form number, if any, and the applicable component of the U.S. Commission sponsoring the collection:* No agency form number exists. Component: Office of Civil Rights Evaluation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: non-profit organizations and academicians. This survey will be completed by organizations and academicians who study employment discrimination.

5. *Estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 at 1 hour per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* 100 hours.

CONTACT PERSON FOR FURTHER INFORMATION: Mireille Zieseniss, Civil Rights Analyst, Office of Civil Rights Evaluation, U.S. Commission on Civil Rights, 624 Ninth Street, NW., Suite 740, Washington, DC 20425.

Edward A. Hailes, Jr.,

Acting Solicitor.

[FR Doc. 00–3715 Filed 2–15–00; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 000207031–0031–01]

RIN 0607–XX55

Manufacturers' Shipments, Inventories and Orders (M3) Survey Supplement: Unfilled Orders Benchmark Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of consideration.

SUMMARY: The Bureau of the Census (Census Bureau) is planning to initiate a supplement, the Unfilled Orders Benchmark survey, to the monthly Manufacturers' Shipments, Inventories and Orders survey for 1999. The data received from this supplement will provide the information necessary to benchmark the monthly estimates of unfilled orders in manufacturing. The unfilled orders series is an important indicator of economic activity. These data have significant application to the needs of the public and industry. They are not available from non-governmental or other governmental sources.

DATE: Written comments must be submitted on or before March 17, 2000.

ADDRESS: Direct all written comments to the Director, U.S. Census Bureau, Room 2049, Federal Building 3, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Lee Wentela, Chief, Manufacturers' Shipments, Inventories and Orders Branch, Manufacturing and Construction Division, on (301) 457–4832.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to conduct surveys necessary to furnish current data on subjects covered by the major censuses authorized by Title 13, United States Code, Sections 182, 224, and 225. The Unfilled Orders Benchmark survey will provide continuing and timely national statistical data for the period between the economic censuses. The next Economic Census will occur in the year 2002. Data collected in this survey will be within the general scope, type, and character of those inquiries covered in the Economic Census.

This Unfilled Orders Benchmark survey is a supplement to the Manufacturers' Shipments, Inventories and Orders survey and will request end-of-year unfilled orders and annual sales data for 1999. The survey will include a sample of about 10,000 companies classified in industries for which unfilled orders are normally maintained longer than one month. The survey will be mailed in spring 2000 and require responses within 45 days after receipt.

The resulting unfilled orders estimates will be used to revise the levels currently being published for the monthly survey and will improve the accuracy of the data. The current estimates are based on a small sample and are subject to error.

Beginning with the survey year 2001, we will publish the M3 Survey data using the new North American Industry Classification System (NAICS). The data collected in this survey will help establish new levels of unfilled orders for NAICS industries. The structure of NAICS was developed in a series of meetings between the United States, Canada, and Mexico in the early to middle 1990s. NAICS recognizes the rapid changes in both the United States and world economies by providing a means to classify new and emerging industries. The system was constructed on a production-oriented, or supply-based, conceptual framework.

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 current valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., Chapter 35, we will submit the survey to OMB for approval. We will furnish report forms to organizations included in the survey, and additional copies are

available on written request to the Director, U.S. Census Bureau (see **ADDRESS** section).

Dated: February 10, 2000.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 00–3677 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

President's Export Council, Subcommittee on Export Administration; Notice of Partially Closed Meeting

The President's Export Council Subcommittee on Export Administration (PECSEA) will meet on March 15, 2000, 9:30 a.m., at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4832, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC. The PECSEA provides advice on matters pertinent to those portions of the Export Administration Act, as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

General Session

1. Opening remarks by the Chairman.

2. Presentation of papers or comments by the public.

3. Update on Administration export control initiatives.

4. Task Force reports.

Closed Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting is open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the PECSEA. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to PECSEA members, the PECSEA suggests that public presentation materials or comments be forwarded before the meeting to the address listed below: Ms. Lee Ann Carpenter, Advisory Committees, MS: 3876, Bureau of Export Administration, 15th St. & Pennsylvania Ave., NW, U.S. Department of Commerce, Washington, DC. 20230.

A Notice of Determination to close meetings, or portions of meetings, of the PECSEA to the public on the basis of 5 U.S.C. 522(c)(1) was approved October 25, 1999, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information, contact Ms. Lee Ann Carpenter on (202) 482–2583.

Dated: February 10, 2000.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 00–3648 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–007, C–357–004]

Revocation of Antidumping Duty Order and Termination of Suspended Countervailing Duty Investigation: Carbon Steel Wire Rod From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of revocation of antidumping duty order and termination of suspended countervailing duty investigation: Carbon steel wire rod from Argentina.

SUMMARY: Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the United States International Trade Commission (''the Commission'') determined that revocation of the antidumping duty order and termination of the suspended countervailing duty investigation on carbon steel wire rod from Argentina is not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (65 FR 5368 (February 3, 2000)). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), the Department of Commerce (''the Department'') is revoking the antidumping duty order and terminating the suspended countervailing duty investigation on carbon steel wire rod from Argentina. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2) the effective date of revocation and termination is January 1, 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 Ave., NW, Washington, D.C. 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: January 1, 2000.

Background

On November 2, 1998, the Department initiated, and the Commission instituted, sunset reviews (63 FR 58709 and 63 FR 58756, respectively) of the antidumping duty order and the suspended countervailing duty investigation on carbon steel wire rod from Argentina, pursuant to section 751(c) of the Act. As a result of the reviews, the Department found that revocation of the antidumping duty order and termination of the suspended countervailing duty investigation would be likely to lead to continuation or recurrence of dumping and a countervailable subsidy, respectively, and notified the Commission of the magnitude of the margin and the net countervailable subsidy likely to prevail were the antidumping order revoked and the suspended countervailing duty investigation terminated (*see Final Results of Full Sunset Review: Carbon Steel Wire Rod from Argentina,* 64 FR 53321 (October 1, 1999); and *Final Results of Full Sunset Review: Carbon Steel Wire Rod from Argentina,* 64 FR 53331 (October 1, 1999)).

On February 3, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order and termination of the suspended countervailing duty investigation on carbon steel wire rod from Argentina would not likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see Carbon Steel Wire Rod From Argentina,* 65 FR 5368 (February 3, 2000), and USITC Pub. 3270, Investigations Nos. 701–TA–A (Review) and 731–TA–157 (Review)).

Scope

The merchandise subject to this antidumping duty order and suspended countervailing duty investigation is carbon steel wire rod, both high carbon and low carbon, manufactured in Argentina and exported, directly or indirectly from Argentina to the United States. The term ''carbon steel wire rod'' covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inches nor over 0.74 inches in diameter, not tempered, not treated, and not partly

manufactured, and valued at over 4 cents per pound. The merchandise subject to this order is currently classifiable under item numbers 7213.20.00, 7213.31.30, 7213.39.00, 7213.41.30, 7213.49.00, and 7213.50.00 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.

Determination

As a result of the determination by the Commission that revocation of this antidumping duty order and termination of this suspended countervailing duty investigation are not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), is revoking the antidumping duty order and terminating the suspended countervailing duty investigation on carbon steel wire rod from Argentina. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), this revocation and termination is effective January 1, 2000. The Department will instruct the U.S. Customs Service to discontinue the suspension of liquidation and collection of cash deposit rates on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date). The Department will complete any pending administrative review of this order and suspension agreement and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation and termination in response to appropriately filed requests for review.

February 10, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–3691 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Final Results of Five-Year (''Sunset'') Reviews, Revocation of Antidumping Duty Order on Defrost Timers from Japan (A–588–829), and Termination of Suspended Antidumping Duty Investigations on Color Negative Photo Paper & Chemical Components from Japan (A–588–832), and Color Negative Photo Paper & Chemical Components from the Netherlands (A–421–806)

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On December 1, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty order on defrost timers from Japan, and the suspended antidumping duty investigations on color negative photo paper and chemical components from Japan and the Netherlands. Because no domestic party responded to the sunset review notice of initiation by the applicable deadline, the Department is revoking this order and terminating these suspended investigations.

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, D.C. 20230; telephone: (202) 482–5050 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 1994, the Department issued the antidumping duty order on defrost timers from Japan (59 FR 9957). On August 24, 1994, the Department suspended the antidumping duty investigations on color negative photo paper and chemical components from Japan and from the Netherlands (59 FR 43547, 43539, respectively). Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department initiated sunset reviews of this order and these suspended investigations by publishing notice of the initiations in the **Federal Register**, December 1, 1999 (64 FR 67247). 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 these proceedings to inform them of the automatic initiation of the sunset reviews on this order and these suspended investigations.

No domestic interested parties in the sunset review on this order and these suspended investigations responded to the notice of initiation by the December 16, 1999, deadline (*see* section 351.218(d)(1)(i) of *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13520 (March 20, 1998) (''*Sunset Regulations*'')).

Determination To Revoke

Pursuant to section 751(c)(3)(A) of the Act and section 351.218(d)(1)(iii)(B)(*3*) of the *Sunset Regulations*, if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the finding or order or terminating the suspended investigation. Because no domestic interested party responded to the notice of initiation by the applicable deadline, December 16, 1999, we are revoking this antidumping order and terminating these suspended antidumping investigations.

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 these suspended investigations and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed request for review.

Dated: February 10, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–3692 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

FEDERAL TRADE COMMISSION

Public Workshop: Alternative Dispute Resolution for Consumer Transactions in the Borderless Online Marketplace

AGENCY: International Trade Administration, Department of Commerce; Federal Trade Commission.

ACTION: Initial Notice Requesting Public Comment and Announcing Public Workshop

SUMMARY: The United States Department of Commerce (the ''Department'') and the Federal Trade Commission (the ''FTC''), will hold a public workshop to examine developments, gain further understanding, and identify potential issues associated with the use of alternative dispute resolution for online consumer transactions. This Notice is also seeking public comments to inform the discussion that will take place at the workshop.

DATES: Written comments and requests to participate as a panelist in the workshop must be submitted on or before March 21, 2000. The workshop will be held in spring 2000. The exact date and location of the workshop will be announced at a later date.

ADDRESSES: Mail written comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUBMISSION OF DOCUMENTS: Comments should be captioned ''Alternative Dispute Resolution for Consumer Transactions in the Borderless Online Marketplace.'' To enable prompt review and public access, paper submissions should include a version on diskette in ASCII, WordPerfect (please specify version), or Microsoft Word (please specify version) format. Diskettes should be labeled with the name of the party and the name and version of the word processing program used to create the document. As an alternative to paper submissions, email comments to: adr@ftc.gov. Messages to that address will receive a reply in acknowledgment. Comments submitted in electronic form should be in ASCII, WordPerfect (please specify version), or Microsoft Word (please specify version) format.

Written comments will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552 and Commission regulations, 16 CFR Part 4.9, on normal business days between the hours of 8:30 a.m. and 5:00 p.m. at 1401 Constitution Avenue, N.W., Washington, D.C. 20230 and at 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The Department and the FTC will make this notice, and, to the extent possible, all papers or comments received in response to this notice available to the public through the Internet at *www.ita.doc.gov* and *www.ftc.gov.* Paper submissions should include three paper copies and a version on diskette in a format specified above.

FOR FURTHER INFORMATION CONTACT: Kate Rodriguez, International Trade Administration, phone (202) 482–2145; email: *kate__rodriguez@ita.doc.gov* or Maneesha Mithal, Federal Trade Commission, phone: (202) 326–2771; email: *mmithal@ftc.gov.*

SUPPLEMENTARY INFORMATION: In November 1998, the President directed the Secretary of Commerce, in consultation with the Federal Trade Commission and other relevant Federal agencies, to foster consumer confidence in e-commerce by working to ensure effective consumer protection online. Included in this directive was the mandate to facilitate partnerships between industry and consumer advocates to develop redress mechanisms for online consumers. Since the President's Directive was released, broad interest in the development of one redress mechanism, alternative dispute resolution (ADR), has been expressed in the Organization for Economic Cooperation and Development (OECD) and the June 1999 FTC Workshop on consumer protection in the global electronic marketplace. Numerous private sector groups have also expressed interest in alternative dispute resolution, including the Global Business Dialogue on Electronic Commerce, Internet Law and Policy Forum, Trans-Atlantic Business Dialogue and Trans-Atlantic Consumer Dialogue.

To begin an open discussion of how alternative dispute resolution programs may contribute to fostering consumer confidence without unnecessarily burdening business, the Department of Commerce and the Federal Trade Commission will hold a public workshop to examine the use of alternative dispute resolution as one means of providing transparent, effective, quick, and inexpensive redress for consumers engaging in online transactions. The workshop aims to explore the use and development of alternative dispute resolution programs in a variety of contexts; to identify obstacles to and potential issues arising from more widespread use of alternative dispute resolution for online consumer transactions; and to examine incentives for creating such programs. The agencies seek a balanced discussion about the potential of alternative dispute resolution to facilitate the growth of electronic commerce by providing consumers and business with greater confidence and predictability for resolving disputes arising in the online environment. The agencies also wish to explore existing and emerging models for fair and effective alternative dispute resolution for online consumer transactions.

Background

The electronic marketplace offers consumers unprecedented choice and 24-hour accessibility and convenience, and it offers businesses low-cost access to an enormous customer base. It also poses new challenges, however. Consumers must be confident that the goods and services offered online are fairly represented and the merchants with whom they are dealing, who may be located in another part of the world, deliver on their commitments. Consumer confidence also requires that consumers have access to fair and effective redress for problems arising in the online marketplace. In many instances, consumers face unique difficulties in resolving problems arising out of online transactions, such as language and cultural differences, and the inconvenience and expense that may result from the fact that the consumer and seller may be in entirely different locales, possibly thousands of miles apart. Where resort to litigation becomes necessary, consumers may also encounter difficulties in establishing jurisdiction, determining the applicable law, and enforcing judgments.

At the same time, it is important to encourage the growth of this new marketplace and to avoid unduly burdening businesses, particularly small- and medium-sized enterprises, who will face similar difficulties in resolving problems arising out of online transactions. In addition, businesses face burdens in determining where they could be subject to jurisdiction and which laws might apply to them. Complying with the laws of numerous jurisdictions and being vulnerable to lawsuits in multiple courts could significantly increase the cost of doing business online.

One way to address business and consumer concerns regarding dispute resolution for online transactions is to work toward the development of effective alternative methods of dispute resolution. Broad interest in the development of alternative dispute resolution mechanisms in this arena has

already also been expressed in other important international fora:

OECD Guidelines on Consumer Protection in the Context of Electronic Commerce

During 1998 and 1999, the Consumer Policy Committee of the OECD drafted Guidelines on Consumer Protection in the Context of Electronic Commerce, which were approved by the OECD Council on December 9, 1999 (see text of the Guidelines at http://www.oecd.org/dsti/sti/it/consumer/prod/guidelines.htm). The Guidelines address the prevention of fraud, deception and unfairness in electronic commerce; provide guidance to industry on fair business practices; and emphasize the need for global cooperation among governments, consumers and businesses. In addition, the Guidelines seek to address how effective redress could be provided to consumers.

The Guidelines section on Dispute Resolution and Redress provides that ''[c]onsumers should be provided meaningful access to fair and timely alternative dispute resolution and redress without undue cost or burden.'' To accomplish this goal, the Guidelines call on business and consumer representatives to establish mechanisms to address consumer complaints and assist consumers in resolving disputes. In addition, they encourage businesses, consumer representatives and governments to ''work together to continue to provide consumers with the option of alternative dispute resolution mechanisms that provide effective resolution of the dispute in a fair and timely manner and without undue cost of burden to the consumer.''

June 1999 FTC Workshop

Last June, the FTC convened a public workshop on consumer protection in the global electronic marketplace, which aimed to facilitate an ongoing dialogue on how governments, industry and consumers could work together to encourage the development of a global marketplace that offered safety, transparency and legal certainty for consumers. One of the issues addressed at the workshop was how to provide consumers with meaningful access to redress in the event of a dispute arising from an electronic transaction. A consensus emerged at the workshop that out-of-court avenues for consumer redress should be explored. Participants at the workshop agreed that one of the most effective ways to ensure meaningful access to redress for consumers is through innovative forms of alternative dispute resolution, such as online dispute resolution. Through alternative dispute resolution, consumers could obtain quick, inexpensive, and effective redress without having to resort to courts, while at the same time, ensuring that businesses' exposure to lawsuits in multiple jurisdictions would be reduced.

Private International Fora

Numerous private organizations, including both business and consumer organizations, have advocated the development of alternative dispute resolution mechanisms to provide easy and inexpensive remedies to e-consumers. For example, the Transatlantic Business Dialogue and the Transatlantic Consumer Dialogue have both recommended that US and EU governments encourage the development of alternative dispute resolution mechanisms. Consensus emerged at the July meeting of the Internet Law and Policy Forum, a group of worldwide companies engaging in e-commerce, that alternative dispute resolution mechanisms for online consumers should be explored. In addition, at its meeting in September, the Global Business Dialogue on Electronic Commerce encouraged businesses to take the lead in providing alternative, easy and inexpensive systems to deliver remedies to e-consumers, and governments to promote alternative dispute resolution mechanisms for online consumer transactions by legally authorizing such mechanisms and developing legal frameworks to recognize and enforce such mechanisms. At that meeting, Secretary of Commerce Daley emphasized the need to develop effective alternative dispute resolution mechanisms.

The Department and the FTC recognize that the use of alternative dispute resolution mechanisms has been widespread for some time in a variety of contexts. It has also been the subject of international arrangements developed by international organizations such as the World Intellectual Property Organization (WIPO). The Department and the FTC recognize that these arrangements may offer lessons learned for examining ADR in the context of online consumer transactions.

To inform the Department and the FTC prior to the workshop, these agencies seek the views and additional information on this subject from industry, consumer representatives, the academic community and the larger public from the United States and other countries, including views on the elements of fair and effective alternative dispute resolution for online consumer transactions. Views are welcome on any aspect of this subject, though the following questions are offered to help organize the comments:

Existing Alternative Dispute Resolution Programs

(1) What types of ADR are there? Are certain types better suited for online transactions?

(2) Under what circumstances is ADR used to resolve disputes about consumer transactions today? How does ADR work in such cases? How are decisionmakers or mediators selected under an ADR program? What lessons can be taken from such a mechanism?

(3) What ADR programs currently exist for online consumer transactions? Do these programs address cross-border transactions? Please describe these programs and how they work. In describing the programs, please address issues such as fairness, effectiveness, affordability, accessibility, and due process concerns.

(4) Does this ADR program provide information to a consumer before he or she is asked to agree to submit disputes to the program? At what point and how is this information provided?

(5) What are the procedural effects of this program, for example, to what extent are decisions binding? To what extent are they appealable for a decision? Is participation in the program a prerequisite to filing a law suit?

(6) How are decisions enforced under this ADR program?

(7) What are the costs to the parties engaging in ADR? Who funds these costs? Is this program cost-effective? Is it suitable for small-dollar transactions? Does this program handle a large volume of disputes? Is it capable of doing so?

(8) Is ADR for online consumer transactions better suited to certain situations than others, for example, cross-border disputes or cases limited to a certain monetary amount? Are there any other factors relevant to determining whether ADR is suited to particular online consumer transactions?

Development of Alternative Dispute Resolution Programs for Online Consumer Transactions

(9) Describe alternative dispute resolution programs for online consumer transactions that are being developed by businesses, consumer representatives or other groups.

(10) What are the obstacles, if any, to the implementation of alternative dispute resolution programs for online consumer transactions? What are the

incentives and disincentives for businesses and consumers to use such programs?

(11) A variety of arrangements have been developed through international organizations and private sector bodies to facilitate ADR, particularly in a commercial global context. What lessons have been learned from these experiences that might contribute to better understanding of this area in the context of consumer online transactions?

(12) To what extent are mechanisms that have been designed to prevent disputes from arising in online consumer transactions, such as escrow accounts, being used in the online world? Are there legal or other obstacles to the development of these types of mechanisms?

Elements of Fair and Effective Dispute Resolution Programs for Online Consumer Transactions

(13) The OECD ''Guidelines on Consumer Protection in the Context of Electronic Commerce'' encourage businesses, consumer representatives and governments to ''work together to continue to provide consumers with the option of alternative dispute resolution mechanisms that provide effective resolution of the dispute in a fair and timely manner and without undue cost of burden to the consumer.'' What are some steps that could be taken to implement this principle? How can issues such as those raised in questions 4 through 7 (above) be considered in this context?

(14) What issues are raised or created for ADR, if any, by online consumer transactions that do not exist in the traditional, offline environment?

Role of Governments

(15) What should be the role of governments, if any, in connection with the use and/or development of alternative dispute resolution programs for online consumer transactions?

(16) What, if any, U.S. laws or international treaties to which the United States is a member, would have to be examined as potential barriers to implement effective alternative dispute resolution programs for online consumer transactions?

Workshop

(17) What should be the primary focus and scope of the public workshop on alternative dispute resolution for online consumer transactions?

(18) Are there any other interests not previously described in this notice that should be represented at the workshop?

By direction of the Commission.

Dated: February 11, 2000.

Donald S. Clark,

Secretary.

Barbara S. Wellbery

Counsellor to the Under Secretary for Electronic Commerce, International Trade Administration, Department of Commerce.

[FR Doc. 00–3742 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–25–U; 6750–01–U

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 88–3A012.''

The National Tooling and Machining Association (''NTMA'') original Certificate was issued on October 18, 1988 (53 FR 43140, October 25, 1988), and was last amended on September 2, 1993 (58 FR 47868, September 13, 1993). A summary of the application for an amendment follows.

Summary of the Application:

Applicant: National Tooling and Machining Association (''NTMA''), 9300 Livingston Road, Ft. Washington, Maryland 20744–4998.

Contact: Thomas H. Garcia, Manager, Marketing Programs.

Telephone: (301) 248–6200.

Application No.: 88–3A012.

Date Deemed Submitted: February 3, 2000

Proposed Amendment: NTMA seeks to amend its Certificate to include the attached list of companies as ''Members'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)).

Dated: February 10, 2000.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

Attachment

b & b Tool Company, Inc., Rockford, IL
A & A Industries, Inc., Peabody, MA
A & A Machine Company, Inc., Southampton, PA
A & A Machine Shop, Inc., La Marque, TX
A & B Machine, Van Nuys, CA
A & B Machine Shop, Rockford, IL
A & B Tool & Manufacturing Corp., Toledo, OH
A & D Precision, Fremont, CA
A & E Custom Manufacturing, Kansas City, KS
A & E Machine Shop, Inc., Lone Star, TX
A & G Machine, Inc., Auburn, WA

A & S Tool & Die Company, Inc., Kernersville, NC
A A Precisioneering, Inc., Meadville, PA
A B A Division, Manchester, CT
A B C O Tool & Engineering, Phoenix, AZ
A B Heller, Inc., Milford, MI
A B N Industrial Co., Inc., Buena Park, CA
A B R Enterprises Inc., South Pasadena, CA
A C Machine, Inc., Akron, OH
A C Mfg. Co. Inc., Malden, MA
A E Cole Die & Engraving, Columbus, OH
A E Machine Works, Inc., Houston, TX
A F C Tool Company, Inc., Dayton, OH
A I M Tool & Die, Grand Haven, MI
A M C Precision, Inc., N. Tonawanda, NY
A M Design, E. Canton, OH
A M Machine Company, Inc., Baltimore, MD
A Mfg., Grand Terrace, CA
A S C Corporation, Owings Mills, MD
A T G, Inc., Houston, TX
A. C. Cut-Off, Inc., Azusa, CA
A+ Engineering, Ipswich, MA
A–G Tool & Die, Miamitown, OH
A-Line Tool & Die, Inc., Louisville, KY
A-RanD, Inc., Phoenix, AZ
A–W Engineering Company, Inc., Santa Fe Springs, CA
Abbott Machine & Tool, Inc., Toledo, OH
Abbott Tool, Inc., Toledo, OH
Ability Tool Company, Rockford, IL
Able Wire EDM, Inc., Brea, CA
Abrams Airborne Manufacturing, Tucson, AZ
Abrasive Machining Inc., Rockford, IL
Absolute Manufacturing, N. Chelmsford, MA
Absolute Turning & Machine, Tucson, AZ
Acadiana Hydraulic Works, Inc., New Iberia, LA
Accu Die & Mold Inc., Stevensville, MI
Accu-Right Laser Corporation, Villa Ridge, MO
Accu-Roll, Inc., Rochester, NY
Accudynamics, Inc., Middleboro, MA
Accudyne Aerospace & Defense, Palm Bay, FL
Accura Industries, Inc., Rochester, NY
Accurate Grinding & Mfg. Corp., Los Angeles, CA
Accurate Grinding Corp., Warwick, RI
Accurate Machine Co. Inc., Indianapolis, IN
Accurate MachineWorks, Inc., Newport Beach, CA
Accurate Machining, Mukilteo, WA
Accurate Manufacturing Company, Glendale, CA
Accurate Manufacturing Company, Alsip, IL
Accurate Products Co., Tucson, AZ
Accurite Machine & Mfg. Inc., Louisville, KY
Accutronics, Inc., Littleton, CO
AccuCraft, New Haven, MO
AccuRounds, Avon, MA
Ace Manufacturing Company, Cincinnati, OH
Ace Specialty Company, Inc., Tonawanda, NY
Ackley Machine Corporation, Moorestown, NJ
Acklin Stamping, Toledo, OH
Acme Brass & Machine Works, Inc., Kansas City, MO
Acra Aerospace, Inc., Anaheim, CA
Acraloc Corporation, Oak Ridge, TN
Acro Industries, Inc., Rochester, NY
Acro Tool & Die Company, Inc., Akron, OH
Actco Tool & Mfg. Co., Meadville, PA
Action Die & Tool Inc., Wyoming, MI
Action Mold & Machining, Inc., Grand Rapids, MI
Action Mold & Tool Co., Anaheim, CA
Action Precision Grinding Inc., North Tonawanda, NY
Action SuperAbrasive Products, Brimfield, OH
Action Tool & Die Inc., Rockford, IL
Action Tool & Manufacturing Inc., Dallas, TX
Active Tool Company, Meadville, PA
Acucut, Inc., Southington, CT
Acutec Precision Machining Inc., Saegertown, PA
Ada Machine Company, Inc., Santa Clara, CA
Adams Engineering, Division of Manufacturing Technology, Inc., South Bend, IN
Adaptive Technologies Inc., Springboro,OH
Addison Precision Mfg. Corp., Rochester, NY
Adena Tool Corporation, Dayton, OH
Admill Machine Company, Newington, CT
Adron Tool Corporation, Menomonee Falls, WI
Advance Gear & Machine Corp., Gardena, CA
Advance Manufacturing Corp., Cleveland, OH
Advance Manufacturing Technology, Salt Lake City, UT
Advanced Ceramic Technology, Orange, CA
Advanced Composite Products, Huntington Beach, CA
Advanced Cutting Tools, Inc., Clio, MI
Advanced Machine & Eng. Co., Rockford, IL
Advanced Machine Programming, Morgan Hill, CA
Advanced Machining Corporation, Salisbury, NC
Advanced Measurement Labs, Inc., Sun Valley, CA
Advanced Mold & Tooling Inc., Rochester, NY
Advanced Tooling Systems, Inc., Comstock Park, MI
Advantage Mold & Design, Meadville, PA
Aero Comm Machining, Wichita, KS
Aero Design & Manufacturing Co., Phoenix, AZ
Aero Engineering & Mfg. Company, Valencia, CA
Aero Gear, Inc., Windsor, CT
Aero Machining Company, Garden Grove, CA
Aero Mechanical Engineering, Inc., Huntington Beach, CA
Aero-Tech Engineering, Inc., Wichita, KS
Aerofab, Inc., Tucson, AZ
Aerofast Ltd., Scottsdale, AZ
Aerostar Aerospace Inc., Phoenix, AZ
Aetna Machine Company, Cochranton, PA
Aggressive Tool & Die, Inc., Coopersville, MI
Aggressive Tool & Die, Inc., Buckner, KY
Agrimson Tool Company, Brooklyn Park, MN
Ahaus Tool & Engineering, Inc., Richmond, IN
Aimco Precision, Inc., Phoenix, AZ
Airfoil Technology, Inc., Gilbert, AZ
Airmetal Corporation, Jackson, MI
Ajax Tool, Inc., Fort Wayne, IN
Akro Tool Co., Inc., Cincinnati, OH
Akron Steel Fabricators Company, Akron, OH
Akron Tool & Die Company, Inc., Akron, OH
Alamance Machine Company, Inc., Burlington, NC
Alart Tool & Die, Inc., Houston, TX
Albert Seisler Machine Corp., Mohnton, PA
Albertson & Hein, Inc., Wichita, KS
Albion Machine & Tool Company, Albion, MI
Alco Manufacturing, Inc., Santa Ana, CA
Alfred Manufacturing Company, Denver, CO
Alfro Custom Manufacturing, Waterbury, CT
Alger Machine Company, Inc., Rochester, NY
Alignment Engineering Co., Inc., Knoxville, TN
Alkron Manufacturing Corporation, Rochester, NY
All Five Tool Company, Inc., Bristol, CT
All Precision Mfg., LLC, Nokomis, IL
All Tool Company, Union, NJ
All Tools Company, Oklahoma City, OK
All Tools Texas, Inc., Houston, TX
All Weld Machine, Milpitas, CA
All-Tech Machine & Eng., Inc., San Jose, CA
All-Tech Machining, Inc., Wilmer, AL
Allen Aircraft Products, Inc., Ravenna, OH
Allen Precision Industries, Inc., Asheboro, NC

Allen Precision Machining Co., Angleton, TX
Allen Randall Enterprises, Inc., Akron, OH
Alliance Machine Tool Co., Inc., Louisville, KY
Allied Mechanical Products, Ontario, CA
Allied Screw Products, Inc., Mishawaka, IN
Allied Tool & Die Company, LLC, Phoenix, AZ
Allied Tool & Die, Inc., Cleveland, OH
Allied Tool & Machine Company, Kernersville, NC
Allied Tool & Machine, Inc., Saginaw, MI
Allied Tools Of Texas, Houston, TX
Alloy Metal Products, Hayward, CA
Alloy Tool Steel, Inc., Santa Fe Springs, CA
Allstate Tool & Die, Inc., Rochester, NY
Almar Mfg. & Engineering, Inc., Garden Valley, CA
Alpa Precision Machine Works, Houston, TX
Alpha Mold Inc., LLC, Huber Heights, OH
Alpha Mold West Inc., Broomfield, CO
Alpha Precision Machining Inc., Kent, WA
Alpha Tool & Machine Company, Bellmawr, NJ
Alpha Tooling, Inc., Santa Fe Springs, CA
Alpine Precision, Inc., North Billerica, MA
Alro Specialty Metals, St. Louis, MO
Alt's Tool & Machine, Inc., Santee, CA
Alta Engineering, Inc., Sun Valley, CA
Alton Products, Inc., Maumee, OH
Aluminum Precision Products, Inc., Santa Ana, CA
Alves Precision Engineered, Watertown, CT
Amatrol, Inc., Jeffersonville, IN
Ambel Precision Mfg. Corp., Bethel, CT
Ambox, Inc., Houston, TX
Amcraft Corporation, Oceanside, CA
American Machine & Gundrilling,Co., Maple Grove, MN
American Metal Masters, Inc., Plantsville, CT
American Mfg. & Machining, Inc., Racine, WI
American Mold & Engineering Co., Fridley, MN
American Precision Hydraulics, Huntington Beach, CA
American Precision Machining, Phoenix, AZ
American Precision Technologies, San Fernando, CA
American Tool & Die, Inc., Toledo, OH
American Wire EDM, Inc., Orange, CA
Amerimold, Inc., Mogadore, OH
Ameritech Die & Mold, Inc., Mooresville, NC
Ames Engineering Corp., Wilmington, DE
Amity Mold Company, Tipp City, OH
Ampswiss Engineering, Fremont, CA
Anchor Lamina Inc., Madison Heights, MI
Anchor Lamina Inc., Cheshire, CT
Anchor Tool & Die Company, Cleveland, OH
Anchor Tool & Die Company, Warren, MI
Anders Machine and Engraving, Rochester, NY
Anderson Tool & Engineering Co., Anderson, IN
Andrew Tool Company, Inc., Plymouth, MN
Anglo-American Mold, Inc., Louisville, KY
Angus Industries, LLC, Indianapolis, IN
Anmar Precision Components Inc., North Hollywood, CA
Anoplate Corporation, Syracuse, NY
Apex Machine Company, Ft. Lauderdale, FL
Apex Machine Tool Company, Inc., Farmington, CT
Apex Manufacturing, Inc., Phoenix, AZ
Apex Precision Technologies, Inc., Indianapolis, IN
Apex Tool & Manufacturing, Inc., Evansville, IN
Apollo E.D.M. Company, Fraser, MI
Apollo Precision, Inc., Plymouth, MN
Apollo Products Inc., Willoughby, OH
Applegate EDM, Inc., Dallas, TX
Applied Engineering, Inc., Yankton, SD
Applied Technology Manufacturing, Owego, NY
Applied Technology Manufacturing, Rochester, NY
Aram Precision Tool & Die, Inc., Chatsworth, CA
Arc Drilling Inc., Garfield Heights, OH
Arc Weld Inc./A.W.I., West Newton, PA
Arca Systems, Tacoma, WA
Arco Industries, Inc., Dayton, OH
Arco Metals Corporation, Baltimore, MD
Ardekin Machine Company, Rockford, IL
Area Tool & Manufacturing, Inc., Meadville, PA
Argo Tool Corporation, Twinsburg, OH
Argus Machine, Inc., Tucson, AZ
Aries Tool, Inc., New Berlin, WI
Arkansas Tool & Die, Inc., North Little Rock, AR
Arken Manufacturing, Inc., Cleveland, OH
Arlington Machine & Tool Company, Fairfield, NJ
Arma Tool & Die Company, Inc., Ridgefield, CT
Armin Tool & Manufacturing Co., South Elgin, IL
Armstrong Machine Works, Inc., Rogersville, TN
Armstrong Mold, Machining Div., East Syracuse, NY
Armstrong-Blum Mfg. Co., Mt. Prospect, IL
Arnett Tool, Inc., New Paris, OH
Arrington Supply House, Inc., Tuscaloosa, AL
Arro Tool & Die, Inc., Lakewood, NY
Arrow Diversified Tooling, Inc., Ellington, CT
Arrow Grinding, Inc., Tonawanda, NY
Arrow Tool & Gage Company, Inc., Tulsa, OK
Arrowsmith International, Inc., Southfield, MI
Arthur J. Evers Corporation, Riverton, NJ
Artisan Associates, Detroit, MI
Artisan Machining, Inc., Bohemia, NY
Ascension Industries, North Tonawanda, NY
Ash Machine Corporation, Pataskala, OH
Aspen Precision Technologies, Petaluma, CA
Associated Electro-Mechanics, Springfield, MA
Associated Gear, Inc., Santa Fe Springs, CA
Associated Technologies, Brea, CA
Associated Toolmakers, Inc., Keokuk, IA
Associates Commercial Corp., Irving, TX
Astley Precision Machine Co., Irwin, PA
Astro Automation, Inc., Irwin, PA
Astro Machine Works Inc., Ephrata, PA
Astrotronics Inc., Mesa, AZ
Atec Tool & Engineering, Inc., Santa Clara, CA
Athens Industries, Southington, CT
Atkins Tool Company, Riverton, NJ
Atlantic Alloys, Inc., Bristol, RI
Atlantic Precision Products Inc., Biddeford, ME
Atlantic Tool & Die Company, Strongsville, OH
Atlantis Tool Corporation, Rochester, NY
Atlas Die & Manufacturing Co., Rockford, IL
Atlas Machine & Supply, Inc., Louisville, KY
Atlas Tool, Inc., Roseville, MI
Atols Tool & Mold Corporation, Schiller Park, IL
August Machine, Inc., Phoenix, AZ
Austin Machine Company Inc., O'Fallon, MO
Austinburg Machine, Inc., Austinburg, OH
Austro Mold Incorporated, Rochester, NY
Autocam Corporation, Kentwood, MI
Automated Cells & Equipment, Inc., Painted Post, NY
Automated EDM Incorporated, Ramsey, MN
Automatic Stamp Products, Inc., Cleveland, OH
Automation Technologies Corp., Cranston, RI
Automation Tool & Die, Inc., Brunswick, OH
Automation Tool Company, Cookeville, TN

Axian Technology, Phoenix, AZ
Axis Machining Inc., Slatersville, RI
Ay Machine Company, Ephrata, PA
Ay-Mac Precision, Inc., Yorba Linda, CA
Azbill Tool & Die, Inc., Huntington Beach, CA
AAA Machine Inc., Rochester, NY
ABBEC Manufacturing, Rochester, NY
ACMT, Inc. dba A C Tool & Machine, Louisville, KY
ALKAB Contract Manufacturing, Inc., New Kensington, PA
AMA Plastics, Corona, CA
AMS Production Machining Inc., Plainfield, IN
AMT inc., Tullahoma, TN
APEC, LLC, Hingham, MA
AT Engineering & Mfg., Inc., Chatsworth, CA
B & A Design Inc., Vernon, CT
B & B Machine & Grinding Service, Denver, CO
B & B Manufacturing Company, Largo, FL
B & B Precision Mfg., Inc., Avon, NY
B & E Tool Company, Inc., Southwick, MA
B & G Quality Machine & Tool, Baltimore, MD
B & H Fabricators, Inc., Wilmington, CA
B & H Tool Co. Inc., San Marcos, CA
B & H Tool Works, Inc., Richmond, KY
B & K Engineering, Inc., Mountain View, CA
B & L Tool and Machine Company, Plainville, CT
B & R Mold, Inc., Simi Valley, CA
B & W Tool & Die, Inc., Dallas, TX
B C D Metal Products Inc., Malden, MA
B J Williams Machining Co., Edinboro, PA
B P I Corporation, Santa Clara, CA
B. Radtke & Sons, Inc., Round Lake Park, IL
B–W Grinding Service, Inc., Houston, TX
Babbitt Bearing, Inc., Syracuse, NY
Bachman Machine Company, Inc., St. Louis, MO
Bachmann Precision Machine, South El Monte, CA
Badge Machine Products, Inc., Canandaigua, NY
Baham & Sons Machine Works, Inc., Houston, TX
Bahrs Die & Stamping Company, Cincinnati, OH
Baker Hill Industries, Inc., Coral Springs, FL
Banner Machine Inc., Phoenix, AZ
Banner Tool & Die, Inc., Rockford, IL
Barberie Mold, Gardena, CA
Barile Precision Grinding Inc., Cleveland, OH
Basic VI, San Jose, CA
Bass Machining Inc., Baltimore, MD
Bateman Manufacturing Co., Inc., Hayward, CA
Baumann Engineering, Claremont, CA
Bawden Industries, Inc., Romulus, MI
Baxter Machine Products, Inc., Huntingdon, PA
Bay Industrial Machine, Green Bay, WI
Bayport Machine, Inc., La Porte, TX
Beach Mold & Tool, Inc., New Albany, IN
Beacon Tool Company, Inc., Whittier, CA
Beaver Fab Inc., Cedar Hill, TX
Beaver Tool & Machine Company, Inc., Feasterville, PA
Bechler Cams, Inc., Anaheim, CA
Beck Tool Incorporated, Edinboro, PA
Becker, Inc., Kenosha, WI
Becksted Machine, Inc., Tucson, AZ
Bedard Machine, Inc., Brea, CA
Beja Precision Manufacturing, Rochester, NY
Bel-Kur, Inc., Temperance, MI
Belco Tool & Mfg. Inc., Meadville, PA
Belgian Screw Machine Products, Jackson, MI
Bell Engineering, Inc., Saginaw, MI
Bell Tool, Inc., Germantown, WI
Bellco Precision Manufacturing, McKinney, TX
Beloit Precision Die Co. Inc., Beloit, WI
Benda Tool & Model Works, Hercules, CA
Bendon Gear Machine, Rockland, MA
Bennett Tool & Die Company, Nashville, TN
Bennett Tool & Machine, Fremont, CA
Benning Inc., Blaine, MN
Bent River Machine Inc., Clarkdale, AZ
Berman Tool & Die, Waldorf, MD
Bermar Associates, Inc., Troy, MI
Bertram Tool & Machine Co., Inc., Farrell, PA
Best Carbide Cutting Tools, Inc., Gardena, CA
Best Tool & Manufacturing Co., Kansas City, MO
Best Way Stamping Inc., La Mirada, CA
Bestway Industries, Inc., Cleveland, OH
Beta Machine Co. Inc., Cleveland, OH
Beta Tool & Mold/Dyna-Tech, Wadsworth, OH
Bilar Tool & Die Corporation, Warren, MI
Billet Industries, Inc., York, PA
Bishop Steering Technology, Inc., Indianapolis, IN
Blackburn Melton Mfg. Company, Houston, TX
Blackwood Grinding Inc., Hurst, TX
Blandford Machine & Tool Co., Louisville, KY
Blankinship Industries, Ltd., Kent, WA
Blue Chip Mold, Inc., Rochester, NY
Blue Chip Tool Company, Inc., New Castle, PA
Bluegrass Forging, Tool & Die, Shelbyville, KY
Bob's Tool & Cutter Grinding, Indianapolis, IN
Boehnen Tool Company, Cleveland, OH
Boice Industrial Corporation, Ruffsdale, PA
Bolttech Inc., West Newton, PA
Bopp-Busch Manufacturing Company, Au Gres, MI
Boring, Inc., Rockford, IL
Bosma Machine & Tool, Tipp City, OH
Boston Centerless Inc., Woburn, MA
Bowden Manufacturing Corp., Willoughby, OH
Boyce Machine, Inc., Cuyahoga Falls, OH
Boyle, Inc., Freeport, PA
Bra-Vor Tool & Die Company, Inc., Meadville, PA
Bradhart Products, Inc., Brighton, MI
Bramko Tool & Engineering, Inc., O'Fallon, MO
Bratt Machine Company Inc., No. Andover, MA
Brimar Products Inc., Fontana, CA
Brimfield Precision, Brimfield, MA
Brink's Machine Company, Inc., Alma, MI
Brinkman Tool & Die, Inc., Dayton, OH
Bristol Instrument Gears, Inc., Forestville, CT
Britt Tool Inc., Brazil, IN
Brittain Machine, Inc., Wichita, KS
Broadway Companies, Inc., Englewood, OH
Brogdon Tool & Die, Inc., Blue Springs, MO
Bromac, Inc., Mountain View, CA
Brookfield Machine, Inc., West Brookfield, MA
Brooklyn Machine & Mfg. Co. Inc., Cuyahoga Heights, OH
Brooklyn Scraping & Re-Machining, W. Lafayette, IN
Brown-Covey, Inc., Kansas City, MO
Brownstown Quality Tool & Design, Brownstown, IN
Budney Overhaul & Repair, LTD., Berlin, CT
Buerk Tool & Machine Corporation, Buffalo, NY
Buiter Tool & Die, Inc., Grand Rapids, MI
Bundy Manufacturing Inc., El Segundo, CA
Burckhardt America, Inc., Greensboro, NC
Burco Precision Products, Inc., Denton, TX
Burger Engineering, Inc., Olathe, KS
Burgess Brothers, Inc., Canton, MA
Burkland Textron Inc., Goodrich, MI
Burton Industries Inc., Mentor, OH
Burtree, Inc., Van Nuys, CA
BMCO Industries Inc., Cranston, RI
BNB Manufacturing Company, Inc., Winsted, CT
BT Laser, Inc., Santa Clara, CA
C+H Manufacturing Inc., Ontario, CA
C & C Machine Company, Akron, OH
C & C Manufacturing Corporation, Englewood, CO
C & J Industries Inc., Meadville, PA
C & M Machine Products, Inc., Willoughby, OH

C & R Manufacturing, Inc., Shawnee, KS
C & S Machine & Manufacturing, Louisville, KY
C & W Machine, Indianapolis, IN
CAR Engineering & Mfg., Victor, NY
CB Enterprises, Manchester, CT
CB Kaupp & Sons, Inc., Maplewood, NJ
CBS Manufacturing Company, Inc., Windsor, CT
CDM Tool & Mfg. Co., Inc., Hartford, WI
CFA Company, Inc., Milford, CT
CJ Winter Machine Technologies, Rochester, NY
CK Tool, Harborcreek, PA
CM Gordon Industries Inc., Santa Fe Springs, CA
CM Industries, Inc., Old Saybrook, CT
CM Smillie & Company, Ferndale, MI
CNC Machine & Engineering, Colorado Springs, CO
CNC Precision Machining, Inc., Comstock Park, MI
CQ Machining, Inc., Phoenix, AZ
CRE Enterprises, Inc., Phoenix, AZ
CTD Machines, Inc., Los Angeles, CA
CTM, Inc., Grand Rapids, MI
CV Tool Company, Inc., Southington, CT
C.G. Tech, Inc., Phoenix, AZ
C.N.C. Tool & Mold, Naples, FL
C–P Mfg. Corp., Van Nuys, CA
Caco Pacific Corporation, Covina, CA
Cadco Program & Machine, St. Charles, MO
Cal-Weld, Fremont, CA
Calder Machine Co. (C M C), Florence, SC
California Composite Design, Inc., Santa Ana, CA
California Mold, Fullerton, CA
California Reamer Company Inc., Santa Fe Springs, CA
Calmax Machining, Inc., Santa Clara, CA
Cambridge Specialty Company, Inc., Kensington, CT
Cambridge Tool & Die Corp., Cambridge, OH
Cambridge Tool & Manufacturing, North Billerica, MA
Cameron Machine Shop, Inc., Richardson, TX
Campbell Grinding & Machine, Inc., Lewisville, TX
Campbell Machinery, Inc., Stow, OH
CamTech Systems Inc., Alhambra, CA
Canto Tool Corporation, Meadville, PA
Capitol Technologies, Inc., South Bend, IN
Capitol Tool & Die, L. P., Madison, TN
Carbi-Tech, Inc., Apollo, PA
Carbide Probes, Inc., Dayton, OH
Cardinal Machine Company, Inc., Strongsville, OH
Carius Tool Co., Inc., Cleveland, OH
Carlin Machine Company, Inc., Southborough, MA
Carlson Capital Manufacturing Co., Rockford, IL
Carlson Industrial Grinding Inc., Erie, PA
Carlson Tool & Manufacturing, Cedarburg, WI
Cascade Mold & Die, Inc., Portland, OR
Cass Screw Machine Products, Brooklyn Center, MN
Castle Precision Products, Stockton, CA
Catalina Precision Engineering, LLC, Orange, CA
Catalina Tool & Mold, Inc., Tucson, AZ
Cates Machine Shop, Inc., Tyler, TX
Cedar CNC Machining, Inc., Cedar Springs, MI
Cee-San Machine & Fabrication, Houston, TX
Cempi Industries Inc., Orange, CA
Centaur Tool & Die, Inc., Bowling Green, OH
Centennial Technologies, Inc., Saginaw, MI
Center Line Industries, Inc., West Springfield, MA
Center Line Machine Company, Lafayette, CO
Center Line Tool, Freeport, PA
Central Industrial Supply, Grand Prairie, TX
Central Mass. Machine, Inc., Holyoke, MA
Central States Machine Service, Elkhart, IN
Central Tool & Machine Co., Inc., Bridgeport, CT
Central Tool Company, Inc., Fortville, IN
Central Tools, Inc., Cranston, RI
Centric Machine & Instrument, Tampa, FL
Century Die Company, Fremont, OH
Century Mold Company, Inc., Rochester, NY
Century Tool & Engr., Inc., Indianapolis, IN
Cer Mac Inc., Horsham, PA
Certified Grinding & Machine, Rochester, NY
Certified Industries, II, LLC, Phoenix, AZ
Challenger Worldwide (USA), LLC, Chandler, AZ
Chalmers & Kubeck, Inc., Aston, PA
Chamtek Mfg., Inc., Rochester, NY
Chance Tool & Die Co., Inc., Cincinnati, OH
Chandler Tool & Design Inc., Rockford, IL
Chapman Engineering, Inc., Santa Ana, CA
Chapman Machine Company, Inc., Terryville, CT
Charmilles Technologies, Lincolnshire, IL
Chase Machine & Mfg. Co., Rochester, NY
Chelar Tool & Die, Inc., Belleville, IL
Cherokee Industries, Hampshire, IL
Cherry Valley Tool & Machine Inc., Belvidere, IL
Chicago Grinding & Machine Co., Melrose Park, IL
Chicago Mold Engineering Co., Inc., St. Charles, IL
Chickasha Manufacturing Company, Chickasha, OK
Chip-Makers Tooling Supply, Whittier, CA
Chippewa Tool & Manufacturing Co., Woodville, OH
Christie Manufacturing, Inc., Gainesville, TX
Christopher Tool & Manufacturing, Solon, OH
Circle-K-Industries, Sterling, VA
City Industrial Tool & Die, Harbor City, CA
Clarion Tech. Caledonia Tool, Caledonia, MI
Clark & Wheeler Engineering, Inc., Cerritos, CA
Clark-Reliance Corporation, Strongsville, OH
Clarke Engineering, Inc., North Hollywood, CA
Class Machine & Welding, Inc., Akron, OH
Classic Tool, Saegertown, PA
Classic Tool, Inc., Macedonia, OH
Classic Wire Cut Company, Inc., Valencia, CA
Clay & Bailey Mfg. Co., Kansas City, MO
Cleveland Electric Laboratories, Twinsburg, OH
Clifton Automatic Screw, Lake City, PA
Clifton Technical Company, Lincolnton, NC
Cloud Company, San Luis Obispo, CA
Coast Cutters Company, Inc., South El Monte, CA
Coastal Machine Company, Branford, CT
Cobak Tool & Manufacturing Co., St. Louis, MO
Coffey Associates, Washington, DC
Coleman-Fabro, Inc., Morgan Hill, CA
Collins Instrument Company, Angleton, TX
Collins Machine & Tool Co., Inc., Madison, TN
Collins Machine Works, Inc., Wellford, SC
Collins Manufacturing, Inc., Essex, MA
Colonial Machine & Tool Co., Inc., Coventry, RI
Colonial Machine Company, Kent, OH
Colorado Laser Marking, Inc., Colorado Springs, CO
Colorado Surface Grinding, Inc., Denver, CO
Columbia Machine Works, Inc., Columbia, TN
Columbia Products, Inc., Dallastown, PA
Comac Manufacturing Corporation, Oroville, CA
Comet Tool, Inc., Hopkins, MN
Comfab, Inc., Spartanburg, SC
Command Tooling Systems, Ramsey, MN

Commerce Grinding, Inc., Dallas, TX
Commercial Aircraft Products, Wichita, KS
Commonwealth Machine Co., Inc., Danville, VA
Companion Industries, Inc., Southington, CT
Competition Tooling, Inc., High Point, NC
Competitive Engineering Inc., Tucson, AZ
Composidie, Inc., Apollo, PA
Compu Die, Inc., Wyoming, MI
Compumachine Incorporated, Wilmington, MA
Computech Manufacturing Co., Inc., North Kansas City, MO
Computerized Machining Service, Englewood, CO
Concept Tool & Die Company, Euclid, OH
Conco Systems, Inc., Verona, PA
Condor Engineering, Inc., Colorado Springs, CO
Connecticut Jig Grinding, Inc., New Britain, CT
Connelly Machine Works, Santa Ana, CA
Connolly Tool & Machine Co., Dallas, TX
Connor Formed Metal Products, Grand Prairie, TX
Conroy & Knowlton, Inc., Los Angeles, CA
Consolidated Mold & Mfg. Inc., Kent, OH
Consulting-Design-Construction, Inc., Phoenix, AZ
Conti Machine Tool Company, Inc., Haverhill, MA
Conti Tool & Die Company, Akron, OH
Continental Precision, Inc., Phoenix, AZ
Continental Tool & Machine, Strongsville, OH
Continental Tool & Manufacturing, Lenexa, KS
Contour Metrological & Mfg., Inc., Troy, MI
Converse Industries Inc., Kenosha, WI
Convex Mold, Inc., Sterling Heights, MI
Cook Machine and Engineering, Gardena, CA
Cook Specialty Company, Green Lane, PA
Coorstek, Livermore, CA
Corbitt Mfg. Company, St. Louis, MO
Cornerstone Screw Machine, Burbank, CA
Corrigan Manufacturing Co., Inc., Rockford, IL
Corrugated Roller & Machine Inc., Santa Fe Springs, CA
Corry Custom Machine, Corry, PA
Corver Engineering Company, Inc., Detroit, MI
Cosar Mold, Inc., Brimfield, OH
Costa Machine, Inc., Akron, OH
Country Machine & Tool, Inc., Tipp City, OH
Coventry Carbide Tool, Coventry, RI
Covert Manufacturing, Inc., Galion, OH
Cox Mfg. Co. Inc., San Antonio, TX
Cox Tool Company, Inc., Excelsior Springs, MO
Craft Tech, Inc., Addison, TX
Craft-Tech Enterprises, Inc., Troy, MI
Craig Machinery & Design, Inc., Louisville, KY
Creative Precision, West, Phoenix, AZ
Creb Engineering, Inc., Pascoag, RI
Crenshaw Die & Manufacturing, Irvine, CA
Crest Manufacturing Company, Lincoln, RI
Criterion Tool & Die, Inc., Brook Park, OH
Crosrol, Inc., Greenville, SC
Crossland Machinery, Kansas City, MO
CrossRidge Precision, Oak Ridge, TN
Crowe Manufacturing Services Inc., Dayton, OH
Crown Machine, Inc., Rockford, IL
Crown Mfg. Co., Inc., Newark, CA
Crown Mold & Machine, Streetsboro, OH
Crown Tool & Die Co., Inc., Bridgeport, CT
Crucible Materials Corporation, Camillus, NY
Crush Master Grinding Corp., Walnut, CA
Cumberland Machine Company, Nashville, TN
Custom Engineering, Inc., Evansville, IN
Custom Gear & Machine, Inc., Rockford, IL
Custom Machine, Inc., Woburn, MA
Custom Machine, Inc., Cleveland, OH
Custom Mold & Design, Inc., New Hope, MN
Custom Tool & Design, Inc., Erie, PA
Custom Tool & Grinding Inc., Washington, PA
Custom Tool & Model Corp., Frankfort, NY
Cut-Right Tools Corporation, Willoughby, OH
CAMtech Precision Manufacturing, Jupiter, FL
CDL Manufacturing, Inc., Rochester, NY
CG Manufacturing Company, Willoughby, OH
CHIPSCO, Inc., Meadville, PA
D & B Industries, Inc., Dayton, OH
D & H Manufacturing Company, Fremont, CA
D & J Precision Machining, Inc., Hayward, CA
D & K Industries, Inc., Chatsworth, CA
D & M Precision Manufacturing, Vandergrift, PA
D & N Precision, Inc., San Jose, CA
D & R Precision Machining, San Jose, CA
D & S Manufacturing Corporation, Southwick, MA
D & S Mold & Tool Company, Inc., Marinette, WI
D K Mold & Engineering, Inc., Wyoming, MI
D M E Company, Madison Heights, MI
D M Machine & Tool, Kennerdell, PA
D M Machine Company, Inc., Willoughby, OH
D P I, Inc., Southampton, PA
D P Tool & Machine Inc., Avon, NY
D S A Precision Machining, Inc., Lakeville, NY
D S Greene Company, Inc., Wakefield, MA
D S Mfg., Inc., Ventura, CA
D–K Manufacturing Corporation, Fulton, NY
D-Velco Manufacturing, Phoenix, AZ
Dadeks Machine Works Corporation, Houston, TX
Daily Industrial Tools, Costa Mesa, CA
Dan McEachern Company, Alameda, CA
Dan's Precision Grinding, Sun Valley, CA
Danco Precision, Inc., Phoenixville, PA
Dane Systems, Inc., Stevensville, MI
Danly IEM, Chicago, IL
Data Mold & Tool, Inc., Walbridge, OH
Dave Jones Machinists, Mishawaka, IN
David Engineering & Mfg., Corona, CA
Davis Machine & Manufacturing, Arlington, TX
Davis Technologies, Inc., Poway, CA
Davken Inc., Brea, CA
Dayton Progress Corporation, Dayton, OH
Dayton Reliable Tool & Mfg. Co., Dayton, OH
DaCo Precision Manufacturers, Sandy, UT
De King Screw Products Inc., Burbank, CA
De Long Manufacturing Co., Inc., Santa Clara, CA
De-Lux Mold & Machine, Inc., Brady Lake, OH
Dean Machine, Cranston, RI
Dearborn Precision Tubular, Fryeburg, ME
Deck Brothers, Inc., Buffalo, NY
Dekalb Tool & Die, Inc., Tucker, GA
Delco Corporation, Akron, OH
Delco Machine & Gear, No. Long Beach, CA
Dell Tool, Penfield, NY
Delltronics, Inc., Englewood, CO
Delta Machine & Tool Company, Cleveland, OH
Delta Machining, Inc., Niles, MI
Delta Systems, Inc., Streetsboro, OH
Delta Tech, Inc., Mentor, OH
Demaich Industries, Inc., Johnston, RI
Dependable Machine Company, Inc., Indianapolis, IN
Dependable Tool & Manufacturing, Cleveland, OH
Desert Precision Mfg., Inc., Tucson, AZ
Designs For Tomorrow, Inc., St. Louis, MO
Desselle Maggard Corporation, Baton Rouge, LA

Detail Technologies, Inc., Grandville, MI
Detroit Tool & Engineering Co., Lebanon, MO
Deutsch ECD, Hemet, CA
Devtek Engineering, Colorado Springs, CO
Di-Matrix, Phoenix, AZ
Dial Machine Company, Andalusia, PA
Diamond Lake Tool, Inc., Anoka, MN
Diamond Machine Works, Inc., Seattle, WA
Diamond Mold & Die, Inc., Tallmadge, OH
Diamond Tool & Die Co., Inc., Euclid, OH
Diamond Tool & Engineering, Inc., Bertha, MN
Dickey & Son Machine & Tool Co., Indianapolis, IN
Dickson Machine & Tool, Inc., Dickson, TN
Die Cast Die and Mold, Inc., Perrysburg, OH
Die Dimensions, Kentwood, MI
Die Matic Corporation, Brooklyn Heights, OH
Die Products Corporation, Minneapolis, MN
Die Quip Corp., Bethel Park, PA
Die Tech Industries, Ltd., Providence, RI
Die-Matic Tool and Die, Inc., Grand Rapids, MI
Die-Mension Corporation, Brunswick, OH
Die-Namic Inc., Taylor, MI
Diemaster Tool & Mold, Inc., Macedonia, OH
Dietooling, Div. of Diemolding, Wampsville, NY
Digital Tool & Die, Inc., Grandville, MI
Dimac Manufacturing Co., Inc., Alexander, AR
Distinctive Machine Corporation, Grand Rapids, MI
Diversified Engraving Stamp, Akron, OH
Diversified Manufacturing, Lockport, NY
Diversified Tool & Die, Vista, CA
Diversified Tool, Inc., Mukwonago, WI
Dixie Tool & Die Co., Inc., Gadsden, AL
Dixon Automatic Tool, Inc., Rockford, IL
Double B Tool, San Leandro, CA
Double D Machine & Tool Company, Fremont, OH
Douglas Machine & Engineering Co., Davenport, IA
Downey Grinding Company, Inc., Downey, CA
Dowty's Machine Works, Inc., Baton Rouge, LA
Doyle Manufacturing, Inc., Holland, OH
Drabik Tool and Die Inc., Brook Park, OH
Draco Manufacturing, Inc., Ashtabula, OH
Drewco Corporation, Franksville, WI
Drill Masters Inc., Hamden, CT
Droitcour Company, Warwick, RI
Du-Well Grinding Company, Inc., Milwaukee, WI
Dugan Tool & Die Company, Toledo, OH
Dugan Tool & Die, Inc., Cottage Hills, IL
Dun-Rite Fabricating Inc., Saginaw, MI
Dun-Rite Industries, Inc., Monroe, MI
Dunn & Bybee Tool Company, Inc., Sparta, TN
Duplicate Parts Company, Inc., San Marcos, CA
Dura-Metal Products Corporation, Irwin, PA
Durivage Pattern & Mfg. Co. Inc., Williston, OH
DuWest Tool & Die, Inc., Cleveland, OH
Dwyer Instruments Inc., Grandview, MO
Dynamic Engineering, Inc., Minneapolis, MN
Dynamic Fabrication, Inc., Santa Ana, CA
Dynamic Machine & Fabricating, Phoenix, AZ
Dynamic Technologies and Design, Grand Rapids, MI
Dynamic Tool & Design, Inc., Menomonee Falls, WI
DynaGrind Precision, Inc., New Kensington, PA
Dysinger Incorporated, Dayton, OH
DB Design Group Inc., Milpitas, CA
E & C Manufacturing Company, Inc., Toledo, OH
E B & Sons Machine Inc., Aliquippa, PA
E C M Of Florida, Jupiter, FL
E F Precision Inc., Willow Grove, PA
E J Codd Co. of Baltimore City & Codd Fabricators & Boiler Co., Inc. Baltimore, MD
E R C Concepts Company, Inc., Sunnyvale, CA
E W Johnson Company, Inc., Lewisville, TX
E. C. M. Mold & Die, Inc., Tucson, AZ
E. D. M. Exotics, Inc., Hayward, CA
E. T. Tool, Inc., Racine, WI
E-Fab, Inc., Santa Clara, CA
E-M-Solutions, Inc., Fremont, CA
Eagle Metalcraft, Inc., East Syracuse, NY
Eagle Mold Company, Inc., Carlisle, OH
Eagle Technology Group, St. Joseph, MI
Eagle Tool & Die Company Inc., Malvern, PA
Eagle Tool & Machine Company, Springfield, OH
Eason & Waller, Phoenix, AZ
East Coast Tool & Mfg., Inc., Orchard Park, NY
East Side Machine, Inc., Webster, NY
East Texas Machine Works, Inc., Longview, TX
Eastern Tool & Die, Inc., Newington, CT
Eaton Manufacturing, Inc., Fremont, CA
Ebway Corporation, Fort Lauderdale, FL
Eckert Enterprises Ltd., Tempe, AZ
Eckert Machining, Inc., San Jose, CA
Eclipse Mold, Inc., Clinton Township, MI
Eclipse Tool & Die, Inc., Wayland, MI
Ed Brown Products, Inc., Perry, MO
Edco, Inc., Toledo, OH
Edwards Enterprises, Newark, CA
Edwardsville Machine & Welding, Edwardsville, IL
Efficient Die & Mold Inc., Cleveland, OH
Egbert Precision, Inc., Woodland Park, CO
Egli Machine Company, Inc., Sidney, NY
Ehlert Tool Co., Inc., New Berlin, WI
Ehrhardt Tool & Machine Company, Granite City, IL
Eicom Corporation, Moraine, OH
Ejay's Machine Co., Inc., Fullerton, CA
Elcam Tool & Die, Inc., Wilcox, PA
Electra Form, Inc., Vandalia, OH
Electric Enterprise Inc., Stratford, CT
Electro Form Corporation, Binghamton, NY
Electro-Freeto Manufacturing Co., Wayland, MA
Electro-Mechanical Products, Inc., Denver, CO
Electro-Tech Machining, Long Beach, CA
Electroform Co. Inc., Machesney Park, IL
Electropolishing shop, Inc., Santa Clara, CA
Elgin Machine Corporation, Inwood, NY
Elite Tool & Machinery Systems, Inc., O'Fallon, MO
Elizabeth Carbide of North, Lexington, NC
Elizabeth Carbide Die Co., Inc., McKeesport, PA
Elliot Tool & Manufacturing Co., St. Louis, MO
Elliott's Precision, Inc., Peoria, AZ
Ellison Machine Company, Laurens, SC
Elrae Industries, Alden, NY
Emig Machine and Tool, Warwick, PA
Emmert Welding & Manufacturing, Independence, MO
Empire Manufacturing Corporation, Bridgeport, CT
Engbrecht Tool, Inc., San Jose, CA
Engineered Machine Tool, Inc., Wichita, KS
Engineered Pump Services, Inc., Pasadena, TX
Entek Corporation, Norman, OK
Enterprise Die & Mold, Inc., Grandville, MI
Enterprise Tool & Die, Brooklyn Heights, OH
Ephrata Precision Parts, Inc., Denver, PA
Epicor Software Corporation, Minneapolis, MN
Erca Tool Die & Stamping Company, Richmond Hill, NY
Erickson Tool & Machine Company, Rockford, IL
Erie Shore Machine Co., Inc., Cleveland, OH
Erie Specialty Products, Inc., Erie, PA
Ermco, Inc., Cleveland, OH

Estee Mold & Die, Inc., Dayton, OH
Esterle Mold & Machine Co., Stow, OH
Estul Tool & Manufacturing Co., Matthews, NC
Evans Tool & Die, Inc., Conyers, GA
Ever Fab, Inc., East Aurora, NY
Ever-Ready Tool, Inc., Pinellas Park, FL
Everett Pattern and Mfg., Inc., Middleton, MA
Everite Machine Products, Philadelphia, PA
Ewart-Ohlson Machine Company, Cuyahoga Falls, OH
Ex-Cel Machine & Tool, Inc., Louisville, KY
Exact Cutting Service, Inc., Brecksville, OH
Exact Tool & Die, Inc., Brook Park, OH
Exacta Tech Inc., Livermore, CA
Exacto, Inc. of South Bend, South Bend, IN
Excalibur Precision Machine Co., Hampstead, NH
Excel Machine Company, Philadelphia, PA
Excel Manufacturing Inc., Seymour, IN
Excel Manufacturing, Inc., Valencia, CA
Excel Stamping & Manufacturing, Houston, TX
Excel Tool & Mfg., Lenexa, KS
Executive Mold Corporation, Huber Heights, OH
Ezell Precision Tool Company, Clearwater, FL
EDM Supplies, Inc., Downey, CA
EISC, Inc., Toledo, OH
E2 Systems Inc., Blue Ash, OH
F & F Machine Specialties, Mishawaka, IN
F & G Tool & Die Company, Dayton, OH
F & L Tools Corporation, Corona, CA
F & S Tool, Inc., Erie, PA
F C Machine Tool & Design, Inc., Cuyahoga Falls, OH
F D T Precision Machine Co., Inc., Taunton, MA
F G A Inc., Baton Rouge, LA
F H Peterson Machine Corporation, Stoughton, MA
F K Instrument Co., Inc., Clearwater, FL
F M Machine Company, Akron, OH
F N Smith Corporation, Oregon, IL
F P Pla Tool & Manufacturing Co., Buffalo, NY
F R B Machine Inc., Emlenton, PA
F S G Inc, Mishawaka, IN
F T T Manufacturing Inc., Geneseo, NY
F Tinker & Sons Company, Pittsburgh, PA
F W Gartner Thermal Spraying Co., Houston, TX
F. S. Machining, Inc., Englewood, CO
F-Squared, Inc., Tarentum, PA
Fab Lab, Inc., Maryland Heights, MO
FabCorp, Inc., Houston, TX
Fairbanks Machine & Tool, Raytown, MO
Fairview Machine Company, Inc., Topsfield, MA
Faith Tool & Manufacturing, Inc., Willoughby, OH
Falcon Precision Machining Co., West Springfield, MA
Falls City Machine Technology, Louisville, KY
Falls Mold & Die, Inc., Stow, OH
Fame Tool & Manufacturing Co., Cincinnati, OH
Fantasy Manufacturing, Inc., Windsor, CA
Fargo Machine Company, Inc., Ashtabula, OH
Farzati Manufacturing Corp., Greensburg, PA
Fast Physics Inc., Tempe, AZ
Fay & Quartermaine Machining, El Monte, CA
Fay Tool & Die, Inc., Orlando, FL
Feedall, Inc., Willoughby, OH
Feilhauer's Machine Shop Inc., Cincinnati, OH
Feller Tool Co., Inc., Elyria, OH
Fenwick Machine & Tool, Piedmont, SC
Feral Productions LLC., Newark, CA
Ferriot Inc., Akron, OH
Fidelity Tool & Machine Company, Fort Lauderdale, FL
First International Bank, Hartford, CT
First Precision Machine, LLC, Blaine, MN
Fischer Precision Spindles, Inc., Berlin, CT
Fischer Tool & Die Corporation, Temperance, MI
Fitzwater Engineering Corp., Scituate, RI
Five Star Industries LLC, Dayton, OH
Five Star Tool Company, Inc., Rochester, NY
Flasche Models & Patterns, Inc., Cleveland, OH
Fleck Machine Company, Inc., Hanover, MD
Foriska Machine Shop, Saegertown, PA
Forrest Manufacturing Company, Houston, TX
Forster Tool & Mfg. Inc., Bensenville, IL
Forte Company, Kansas City, MO
Foster-Tobin Corp., Meadville, PA
Foundry Service & Supplies, Inc., Torrance, CA
Fox Valley Tool & Die, Inc., Kaukauna, WI
Franchino Mold & Engineering, Lansing, MI
Frank J. Stolitzka & Son, Inc., Akron, OH
Frasal Tool Co., Inc., Newington, CT
Frazier Aviation, Inc., San Fernando, CA
Fre-Mar Industries, Inc., North Royalton, OH
Frederick's Machine Shop, New Iberia, LA
Fredon Corporation, Mentor, OH
Freeport Welding & Fabricating, Freeport, TX
FreeMarkets, Pittsburgh, PA
Frost & Company, Charlestown, RI
Fulcrum Group, LLC, Hayward, CA
Fulton Industries, Inc., Rochester, IN
Fulton Tool Company, Inc., Fulton, NY
Furno Co. Inc., Pomona, CA
Future Fabricators, Phoenix, AZ
Future Tool & Die Company, Inc., Cleveland, OH
Future Tool & Die, Inc., Grandville, MI
Future Tool, Inc., Rockford, IL
Fyco Tool & Die, Inc., Houston, TX
FMF Racing, Rancho Dominguez, CA
G & G Tool Company, Inc., Sidney, OH
G & K Machine Company, Denver, CO
G & L Tool Corp., Agawam, MA
G B F Enterprises, Inc., Santa Ana, CA
G B Tool Company, Warwick, RI
G F T Manufacturing Company, Vandergrift, PA
G H Tool & Mold, Inc., Washington, MO
G M T Corporation, Waverly, IA
G R McCormick, Inc., Burbank, CA
G S C Manufacturing Inc., Indianapolis, IN
G S G Tool and Manufacturing, Meadville, PA
G S Precision, Inc., Brattleboro, VT
Gadsden Tool, Inc., Gadsden, AL
Gainesville Machining Inc., Gainesville, TX
Gales Manufacturing Corporation, Racine, WI
Galgon Industries, Inc., Fremont, CA
Gambar Products Company, Inc., Warwick, RI
Garcia Associates, Arlington, VA
Gatco, Inc., Plymouth, MI
Gauer Mold & Machine Company, Tallmadge, OH
Gaum, Inc., Robbinsville, NJ
Gear Manufacturing, Inc., Anaheim, CA
Gebhardt Machine Works, Inc., Portland, OR
Geiger Manufacturing, Inc., Stockton, CA
Gem City Engineering Company, Dayton, OH
Gene's Gundrilling Inc., Alahambra, CA
General Aluminium Forgings, Colorado Springs, CO
General Die Engraving, Inc., Peninsula, OH
General Engineering Company, Toledo, OH
General Grinding, Inc., Oakland, CA
General Machine Shop, Inc., Cheverly, MD
General Machine-Diecron, Inc., Griffin, GA
General Tool & Die Company, Inc., Racine, WI
General Tool Company, Cincinnati, OH
General Weldments Inc., Irwin, PA
Genesee Manufacturing Company, Rochester, NY
Genesee Precision Mfg., Inc., Avon, NY
Genesis Plastics & Engineering, Scottsburg, IN
Gentec Manufacturing Inc., San Jose, CA

Geometric Tool & Machine Co., Piedmont, SC
George Welsch & Son Company, Cleveland, OH
German Machine, Inc., Rochester, NY
Germantown Tool & Machine, Huntingdon Valley, PA
Gibbs Die Casting Corporation, Henderson, KY
Gibbs Machine Company, Inc., Greensboro, NC
Giddings & Lewis, Dayton, OH
Gilbert Engineering Company, Glendale, AZ
Gilbert Machine & Tool Company, Greene, NY
Gill Tool & Die, Inc., Grand Rapids, MI
Gillette Machine & Tool Company, Rochester, NY
Gillilan Machine Co., Inc., Mt. Juliet, TN
Girard Tool & Die/Jackburn Mfg., Girard, PA
Gischel Machine Company Inc., Baltimore, MD
Givmar Precision Machining, Mountain View, CA
Glaze Tool & Engineering, Inc., New Haven, IN
Glendale Machine Company, Inc., Solon, OH
Glendo Corporation, Emporia, KS
Glidden Machine & Tool, Inc., North Tonawanda, NY
Global Mfg. & Assembly, Phoenix, AZ
Global Precision, Inc., Davie, FL
Goebel Machine Service, Inc., Kansas City, MO
Golis Machine, Inc., Montrose, PA
Goodwin-Bradley Pattern Co., Inc., Providence, RI
Graham Tech Inc., Cochranton, PA
Granby Mold, Inc., Walled Lake, MI
Grand Valley Manufacturing, Titusville, PA
Graybill's Tool & Die, Inc., Manheim, PA
Great Lakes E.D.M. Inc., Clinton Twp., MI
Great Lakes Metal Treating, Inc., Tonawanda, NY
Great Lakes Precision Machine, Niles, MI
Great Western Grinding & Eng., Huntington Beach, CA
Grind All Precision Tool Co., Warren, MI
Grind-All, Inc., Cleveland, OH
Grinding Service & Mfg. Co., Bristol, CT
Grindworks Inc., Glendale, AZ
GrindC/O Inc., Chelmsford, MA
Grosmann Precision, Ballwin, MO
Grover Gundrilling, Inc., Norway, ME
Guill Tool & Engineering Co., West Warwick, RI
Gulf Machining, Pinellas Park, FL
Gulf South Machine/Drilex Corp., Houston, TX
Gurney Precision Machining, Saint Petersburg, FL
H & H Machine & Tool Company, Woonsocket, RI
H & H Machine Company, Whittier, CA
H & H Machine Shop of Akron, Inc., Akron, OH
H & H Machined Products, Inc., Erie, PA
H & J Tool and Die Co., Inc., Bohemia, NY
H & K Machine Service Co. Inc., O'Fallon, MO
H & M Precision Machining, Santa Clara, CA
H & S Enterprises, Inc., Monrovia, CA
H & W Machine Company, Broomfield, CO
H & W Tool Company, Inc., Dover, NJ
H B Machine, Inc., Phoenix, AZ
H Brauning Company, Inc., Manassas, VA
H H Mercer, Inc., Mesquite, TX
H R M Machine, Inc., Costa Mesa, CA
H T P, Inc., Louisville, KY
H-B Tool & Cutter Grinding Inc., Willow Grove, PA
Haberman Machine, Inc., St. Paul, MN
Hackett Precision Company, Nashville, TN
Hager Machine & Tool, Inc., Houston, TX
Haig Precision Mfg. Corp., Campbell, CA
Hal-West Technologies, Inc., Kent, WA
Hamblen Gage Corporation, Indianapolis, IN
Hamill Manufacturing Company, Trafford, PA
Hamilton Industries, Inc., Tempe, AZ
Hamilton Machine Co., Inc., Nashville, TN
Hamilton Mold & Machine, Inc., Cleveland, OH
Hamilton Tool Company, Inc., Meadville, PA
Hamlin Steel Products, Inc., Akron, OH
Hammill Manufacturing Company, Toledo, OH
Hammon Precision Technologies, Hayward, CA
Hanks Pattern Company, Montrose, MN
Hanover Machine Company, Ashland, VA
Hans Rudolph, Inc., Kansas City, MO
Hansen Engineering, Harbor City, CA
Hansford Manufacturing Corp., Rochester, NY
Hanson Mold, St. Joseph, MI
Har-Phill Machine Products, Inc., Tempe, AZ
Harding Machine, East Liberty, OH
Hardy Machine Inc., Hatfield, PA
Hardy-Reed Tool & Die Co., Manitou Beach, MI
Harley & Son, Inc., Yorba Linda, CA
Harrison Enterprise, Inc., Phoenix, AZ
Hartup Tool Inc., Columbus, IN
Haserodt Machine & Tool, Inc., Cleveland, OH
Haskell Machine & Tool, Inc., Homer, NY
Haumiller Engineering Company, Elgin, IL
Hawkeye Precision, Inc., Gilbert, AZ
Hawkins Machine Company, Inc., Coventry, RI
Hawkinson Mold Engineering Co., Alhambra, CA
Hayden Corporation, West Springfield, MA
Hayden Precision Industries, Orchard Park, NY
Heatherington Machine Corp., Orlando, FL
Heinhold Engineering & Machine, Salt Lake City, UT
Heisey Machine Co., Inc., Lancaster, PA
Heitz Machine & Manufacturing, Maryland Heights, MO
Hellebusch Tool & Die, Inc., Washington, MO
Helm Precision, Ltd., Phoenix, AZ
Henman Engineering & Machine, Muncie, IN
Herman Machine, Inc., Tallmadge, OH
Herrick & Cowell Company, Hamden, CT
Hetrick Mfg., Inc., Lower Burrell, PA
Heyden Mold & Bench Company, Tallmadge, OH
Heyl Engraving, Inc., Akron, OH
Hi Tech Manufacturing, LLC, Greensboro, NC
Hi-Tech Machining & Engineering LLC, Tucson, AZ
Hi-Tech Tool Industries, Inc., Troy, MI
Hi-Tech Tool, Inc., Lower Burrell, PA
Hiatt Metal Products Company, Muncie, IN
Hickory Machine Company, Inc., Newark, NY
High Tech Turning Co., Watertown, MA
High Tech West, Inc., Signal Hill, CA
High-Tech Industries, Holland, MI
Highland Mfg. Inc., Manchester, CT
Hill Engineering, Inc., Villa Park, IL
Hillcrest Precision Tool Co. Inc., Haverhill, MA
Hillcrest Tool & Die, Inc., Titusville, PA
Hilton Tool & Die Corporation, Rochester, NY
Hittle Machine & Tool Company, Indianapolis, IN
Hobson & Motzer, Inc., Durham, CT
Hodon Manufacturing Inc., Willoughby, OH
Hoercher Industries, Inc., East Rochester, NY
Hoffman Custom Tool & Die, Newport Beach, CA
Hoffstetter Tool & Die, Clearwater, FL
Hole Specialists, Inc., Ludlow, MA
Holland Hitch Co., Wylie, TX
Hollis Line Machine Co., Inc., Hollis, NH
Holmes Manufacturing Corporation, Cleveland, OH
Holton Mold & Engineering, Upland, CA
Homeyer Tool and Die Co., Marthasville, MO

Honemasters, Inc., Huntington Beach, CA
Hoop's Machine & Welding, Inc., Denton, TX
Hope Manufacturing, Inc., Greensboro, NC
Hoppe Tool, Inc., Chicopee, MA
Horizon Industries, Lancaster, PA
Horizon Tool & Die Corp., Grandville, MI
Houston Cutting Tools, Inc., Houston, TX
Howard Tool Co. Inc., Hampden, ME
Howell Tool & Machine, Flower Mound, TX
Howland Machine Corporation, Colorado Springs, CO
Hubbell Machine Company, Inc., Cleveland, OH
Humboldt Instrument Company, San Leandro, CA
Hunt Machine & Manufacturing Co., Tallmadge, OH
Huntington Beach Machining, Huntington Beach, CA
Huron Machine Products, Inc., Fort Lauderdale, FL
HydraWedge Corporation, El Segundo, CA
Hydro Aluminum Cedar Tools, Cedar Springs, MI
Hydrodyne Division Of FPI, Inc., Burbank, CA
Hydromat, Inc., St. Louis, MO
Hygrade Precision Technologies, Plainville, CT
Hytron Manufacturing Company, Huntington Beach, CA
HB Molding, Inc., Louisville, KY
I M I, Incorporated, Beaumont, TX
I T M, Inc., Shertz, TX
Ideal Grinding Technologies, Inc., Chatsworth, CA
Ideality Inc., Everett, WA
Imperial Die & Manufacturing Co., Cleveland, OH
Imperial Machine & Tool Company, Wadsworth, OH
Imperial Machining Co., Denver, CO
Imperial Mfg., Santa Fe Springs, CA
Imperial Newbould, Meadville, PA
Imperial Tool & Manufacturing Co., Lexington, KY
Independent Forge Company, Orange, CA
Indiana Tool & Die Company, Indiana, PA
Industrial Babbitt Bearing, Gonzales, LA
Industrial Custom Automatic, Dayton, OH
Industrial Grinding, Inc., Dayton, OH
Industrial Machine & Tool Co., Inc., Nashville, TN
Industrial Machine Company, Oklahoma City, OK
Industrial Machining Corporation, Santa Clara, CA
Industrial Maintenance, Lavergne, TN
Industrial Mold + Machine, Twinsburg, OH
Industrial Molds, Inc., Rockford, IL
Industrial Precision Products, Oswego, NY
Industrial Precision, Inc., Westfield, MA
Industrial Tool & Machine Co., Cuyahoga Falls, OH
Industrial Tool, Die & Engineering, Tucson, AZ
Industrial Tool, Inc., Minneapolis, MN
Industrial Tooling Technologies, Muskegon, MI
Ingersoll Contract Manufacturing, Loves Park, IL
Injection Mold & Machine Company, Akron, OH
Inland Tool & Manufacturing Co., Kansas City, KS
Inline Inc., Phoenix, AZ
Innex Industries, Inc., Rochester, NY
Innovative E D M, LLC, Troy, MI
Innovative Systems Machine, Toledo, OH
Inshield Die & Stamping Co., Toledo, OH
Insulate Industries, Auburn, WA
Integrated Machine Systems, Inc., Bethel, CT
Integrity Manufacturing, Colorado Springs, CO
Integrity Mfg. L.L.C., Farmington, CT
International Stamping Inc., Warwick, RI
International Tooling & Stamping, Mt. Juliet, TN
Interscope Manufacturing Inc., Middletown, OH
Intrex Corporation, Louisville, CO
Iverson Industries, Inc., Wyandotte, MI
ILM Tool, Inc., Hayward, CA
IMS, Inc., Decatur, AL
IQC, Inc., Vandalia, OH
ISO Machining, Inc., Pleasanton, CA
ITW CIP Tool and Die, Santa Fe Springs, CA
J & A Tool Company, Inc., Franklin, PA
J & F Machine Company, Cleveland, OH
J & F Machine Inc., Cypress, CA
J & J Tool Co., Inc., Louisville, KY
J & L Development, Inc., Keithville, LA
J & L EDM, Sunnyvale, CA
J & M Machine, Inc., Fairport Harbor, OH
J & M Unlimited, Ashland City, TN
J & S Centerless Grinding, New Britain, CT
J B Tool Die & Engineering, Inc., Fort Wayne, IN
J B Tool, Inc., Placentia, CA
J C B Precision Tool & Mold, Inc., Commerce City, CO
J D C Manufacturing, Inc., Redwood City, CA
J D Kauffman Machine Shop, Inc., Christiana, PA
J D Machining, Santa Clara, CA
J F Fredericks Tool Company, Inc., Farmington, CT
J I Machine Company, Inc., San Diego, CA
J K Tool & Die, Inc., Apollo, PA
J M Fabrication Corporation, Arlington, TX
J M Mold South, Easley, SC
J M Mold, Inc., Piqua, OH
J M P Industries, Inc., Cleveland, OH
J M S Mold & Engineering Co., South Bend, IN
J R Custom Metal Products, Inc., Wichita, KS
J Ross Miller & Sons, Inc., Kimberton, PA
J S Die & Mold, Inc., Byron Center, MI
J W Harwood Company, Cleveland, OH
J. C. Milling Co., Inc., Rockford, IL
J.B.A.T. t/a Cherry Hill, Cherry Hill, NJ
Jackman Machining, Corona, CA
Jackson & Heit Machine Company, Southampton, PA
Jackson's Precision Machine Co., Nashville, TN
Jacksonville Machine Inc., Jacksonville, IL
Jaco Engineering, Anaheim, CA
Jaco Tool & Die, Inc., Grand Rapids, MI
Jadco Inc., Springfield, MA
Jamison Mfg. Co., North Royalton, OH
Jaques Diamond Tool, Inc., Indianapolis, IN
Jasco Tools, Inc., Rochester, NY
Jason Tool & Engineering, Inc., Garden Grove, CA
Jatco Machine & Tool Company, Pittsburgh, PA
Jaycraft Corporation, Spring Valley, CA
Jena Tool Corporation, Dayton, OH
Jenkins Machine, Inc., Bethlehem, PA
Jenn Manufacturing Company, Inc., Warminster, PA
Jennison Corporation, Carnegie, PA
Jergens Tool and Mold, Englewood, OH
Jergens, Inc., Cleveland, OH
Jeropa Swiss Precision, Inc., Escondido, CA
Jesel, Inc., Lakewood, NJ
Jesse Industries, Inc., Sparks, NV
Jet Products Co., Inc., Phoenix, AZ
Jetstream Water Cutting, Inc., Hayward, CA
Jewett Machine Mfg. Co., Inc., Richmond, VA
Jig Grinding Service Company, Cleveland, OH
Jirgens Modern Tool Corporation, Kalamazoo, MI
John Ramming Machine Company, St. Louis, MO
Johnson Engineering Company, Indianapolis, IN
Johnson Precision, Inc., Buffalo, NY
Johnson Tool, Inc., Fairview, PA
Johnstone Engineering & Machine, Parkesburg, PA
Joint Production Technology, Inc., Macomb, MI
Joint Venture Tool & Mold, Saegertown, PA
Jonco Tool Company, Racine, WI
Joseph Alziebler Company, Arleta, CA

Juell Machine Company, Inc., Pomona, CA
Just in Time CNC Machining Inc., Dansville, NY
JBK Manufacturing & Development, Dayton, OH
JRM Machine Company, St. Paul, MN
K & A Tooling, Santa Ana, CA
K & E Mfg. Company, Lee's Summit, MO
K & H Mold & Machine Division, Akron, OH
K & H Precision Products, Inc., Honeoye Falls, NY
K & M Machine-Fabricating, Inc., Cassopolis, MI
K & M Precision Machining, Inc., Signal Hill, CA
K & S Tool & Die, Inc., Meadville, PA
K & S Tool & Mfg. Company, Inc., Jamestown, NC
K L H Industries, Inc., Germantown, WI
K L N Precision Machining & Sheetmetal Corp., San Carlos, CA
K M F, Inc., Fairdale, KY
K M S Machine Works, Inc., Taunton, MA
K Mold & Engineering, Inc., Granger, IN
K V, Inc., Huntingdon Valley, PA
K.C.K. Tool & Die Co., Inc., Ferndale, MI
K-Form, Inc., Tustin, CA
Ka-Wood Gear & Machine Company, Madison Heights, MI
Kahre Brothers, Inc., Evansville, IN
Kalman Manufacturing, Morgan Hill, CA
Kamashian Engineering Inc., Bellflower, CA
Kamet, Santa Clara, CA
Kanis Machine & Manufacturing, Inc., Tewksbury, MA
Kansas City Screw Products Inc., Kansas City, MO
Karlson Machine Works, Inc., Phoenix, AZ
Kaskaskia Tool & Machine, Inc., New Athens, IL
Kaufhold Machine Shop, Inc., Lancaster, PA
Kearflex Engineering Company, Warwick, RI
Keck-Schmidt Tool & Die, South El Monte, CA
Kell-Strom Tool Company, Inc., Wethersfield, CT
Kellems & Coe Tool Corporation, Jeffersonville, IN
Keller Technology Corporation, Tonawanda, NY
Kelley Industries, Inc., Eighty Four, PA
Kelltech Precision Machining, Inc., San Jose, CA
Kelly & Thome, Pomona, CA
Kelm Manufacturing Company, Benton Harbor, MI
Kelmar, Inc., Midland, VA
Kem-Mil-Co, Hayward, CA
Kemco Tool & Machine Company, Fenton, MO
Kenlee Precision Corporation, Baltimore, MD
Kennametal Inc., Latrobe, PA
Kennedy & Bowden Machine Company, La Vergne, TN
Kennick Mold & Die, Inc., Cleveland, OH
Kentucky Machine & Tool Company, Louisville, KY
Kern Special Tools Company, Inc., New Britain, CT
Ketcham Diversified Tooling Inc., Meadville, PA
Kewill ERP, Inc., Edina, MN
Keyes Machine Works, Inc., Gates, NY
Keystone Electric Co., Inc., Baltimore, MD
Keystone Machine, Inc., Littlestown, PA
Kimberly Gear & Spline, Inc., Phoenix, AZ
King Machine & Engineering Co., Indianapolis, IN
King-Tek EDM & Precion Machining, Fullerton, CA
Kipp Group, Ontario, CA
Kirby Risk Precision Machining, Lafayette, IN
Kirca Precision, Rochester, NY
Kiwanda Machine Works, Inc., Clackamas, OR
Klein Steel Service, Inc., Rochester, NY
Klix Tool Corporation, Syracuse, NY
Knight Machine & Tool, South Hadley, MA
Knowlton Manufacturing Company, Norwood, OH
Knust—S B O, Houston, TX
Kolar Inc., Ithaca, NY
Kolenda Tool & Die, Inc., Wyoming, MI
Kordenbrock Tool & Die Company, Cincinnati, OH
Kovacs Machine & Tool Company, Wallingford, CT
Krato Products Corporation, St. Louis, MO
Krause Tool, Inc., Golden, CO
Kuester Tool & Die Co., Inc., Quincy, IL
Kuhn Tool & Die Co., Meadville, PA
Kurt J. Lesker Company, Pittsburgh, PA
Kurt Manufacturing Company, Minneapolis, MN
KG Tool Company, Madison Township, OH
L & L Machine, Inc., Ludlow, MA
L & P Machine, Inc., Santa Clara, CA
L A I Southwest, Inc., Phoenix, AZ
L H Carbide Corporation, Fort Wayne, IN
L P I Corporation, Hollywood, FL
L R G Corporation, Jeannette, PA
L R W Cutting Tools, Inc., Phoenix, AZ
L T L Company, Inc., Rockford, IL
Lake Manufacturing Co., Inc., Wakefield, MA
Lakeside Manufacturing Company, Stevensville, MI
Lamb Machine & Tool Company, Indianapolis, IN
Lamina, Inc., Oak Park, MI
Lampin Corporation, Uxbridge, MA
Lancaster Machine Shop, Lancaster, TX
Lancaster Metal Products Company, Lancaster, OH
Lancaster Mold, Inc., Lancaster, PA
Lancaster Tool & Machine, Inc., Lancaster, PA
Land Specialties Manufacturing, Raytown, MO
Lane Enterprise, Rochester, NY
Lane Punch Corporation, Salisbury, NC
Laneko Engineering Company, Ft. Washington, PA
Laneko Roll Form, Inc., Hatfield, PA
Langenau Manufacturing Company, Cleveland, OH
Laser Automation, Inc., Chagrin Falls, OH
Laser Beam Technology, Hayward, CA
Laser Fare, Inc., Smithfield, RI
Laser Tool, Inc., Saegertown, PA
LaserFab Inc., Concord, CA
Lathe Tool Works, Inc., South San Francisco, CA
Lavigne Manufacturing, Inc., Cranston, RI
Layke Incorporated, Phoenix, AZ
Layke Tool & Manufacturing, Inc., Meadville, PA
LaBarge Products, Inc., St. Louis, MO
Ledford Engineering Company, Inc., Cedar Rapids, IA
Lee's Grinding, Inc., Cleveland, OH
Leech Industries, Inc., Meadville, PA
Lees Enterprise, Chatsworth, CA
Leese & Co., Inc., Greensburg, PA
Leggett & Platt, Inc., Whittier, CA
Leicester Die & Tool, Inc., Leicester, MA
Lenz Technology Inc., Mountain View, CA
Leonardi Manufacturing Co., Inc., Weedsport, NY
Lewis Aviation, Phoenix, AZ
Lewis Machine & Tool Co. Inc., Cuba, MO
Lewis Machine and Tool Company, Milan, IL
LeBlanc Grinding Company, Anaheim, CA
LeFiell Manufacturing Company, Santa Fe Springs, CA
Liberty Machine Inc., Fremont, CA
Liberty Precision Industries, Ltd., Rochester, NY
Libra Precision Machining, Tecumseh, MI
Light & Medium Fabricating, Inc., Willoughby, OH
Light Machines Corporation, Manchester, NH
Ligi Tool & Engineering, Inc., Pompano Beach, FL
Lilly Software Associates, Inc., Hampton, NH
Limmco, Inc., New Albany, IN
Linco, Inc., Phoenix, AZ
Lindberg Heat Treating, Paramount, CA
Linmark Machine Products, Inc., Union, MO
Little Rhody Machine Repair, Inc., Coventry, RI

Littlecrest Machine Shop, Inc., Houston, TX
Lloyd Company, Houston, TX
Lobart Company, Pacoima, CA
Loecy Precision Mfg., Mentor, OH
Lordon Engineering, Gardena, CA
Louis C. Morin Co. Inc., N. Billerica, MA
Loyal Machine Company, Inc., Chelsea, MA
Luick Quality Gage & Tool, Inc., Muncie, IN
Lunar Tool & Machinery Company, St. Louis, MO
Lunar Tool & Mold, Inc., North Royalton, OH
Lunquist Manufacturing Corp., Rockford, IL
Lux Manufacturing, Inc., Sunnyvale, CA
Lynn Welding Co. Inc., Newington, CT
Lyons Tool & Die Company, Meriden, CT
LAR–VEL Engineering, Rialto, CA
LOMA Automation Technologies, Inc., Louisville, KY
M & B Tool, Baldwinsville, NY
M & D Loe Manufacturing, Inc., Benicia, CA
M & H Engineering Company, Inc., Danvers, MA
M & H Tool & Die, Inc., Gadsden, AL
M & J Grinding & Tool Co., Holland, OH
M & J Valve Services, Inc., Lafayette, LA
M & S Holes Corporation, Roselle Park, NJ
M C I Tool & Die, Inc., Saginaw, MI
M C Mold & Machine, Inc., Tallmadge, OH
M D F Tool Corporation, North Royalton, OH
M F Engineering Co. Inc., Bristol, RI
M J C Machine Tooling, Hudson, NH
M J K Precision, Woodland Park, CO
M P Components, Grand Rapids, MI
M P E Machine Tool Inc., Corry, PA
M P T America Corporation, Valencia, CA
M P Technologies, Inc., Brecksville, OH
M S Willett, Inc., Cockeysville, MD
M T E, Inc., San Jose, CA
M T M Grinding, Thorndike, MA
M W Industries, Inc., Houston, TX
M. J. Machining, Inc., Sunnyvale, CA
M. R. Mold & Engineering Corp., Brea, CA
M-C Fabrication, Inc., Olathe, KS
M-Ron Corporation, Glendale, AZ
M-Tron Manufacturing Company, San Fernando, CA
Mac Machine and Metal Works, Inc., Connersville, IN
Mac-Mold Base, Inc., Romeo, MI
Machine Incorporated, Stoughton, MA
Machine Mastery, Santa Clara, CA
Machine Specialties, Inc., Greensboro, NC
Machine Tooling, Inc., Cleveland, OH
Machinist Cooperative, Gilroy, CA
Machinists, Inc., Seattle, WA
Macnab Manufacturing, Inc., Kent, WA
MacKay Manufacturing, Spokane, WA
Maddox Metal Works, Inc., Dallas, TX
Madgett Enterprises Inc., Milipitas, CA
Magdic Precision Tooling, Inc., East McKeesport, PA
Maghielse Tool Corporation, Grand Rapids, MI
Magic Manufacturing, Inc., Sunnyvale, CA
Magna Machine & Tool Company, New Castle, IN
Magnolia IronWorks, Inc., Lafayette, LA
Magnum Manufacturing Center, Inc., Colorado Springs, CO
Magnus Mfg. Corp., Shortsville, NY
Mahuta Tool Corp., Germantown, WI
Main Tool & Mfg. Co., Inc., Minneapolis, MN
Maine Machine Products, South Paris, ME
Mainline Machine, Inc., Broussard, LA
Majer Precision Engineering, Inc., Tempe, AZ
Major Tool & Machine, Inc., Indianapolis, IN
Makino, Mason, OH
Malmberg Engineering, Inc., Livermore, CA
Manda Machine Company, Inc., Dallas, TX
Manetek, Inc., Broussard, LA
Manheim Special Machine Shop, Manheim, PA
Mann Tool Company, Inc., Pacific, MO
Manor Research, Inc., Hayward, CA
Manufactured Technical Solutions, Jenison, MI
Manufacturers Tool & Die, Spencerport, NY
Manufacturing Machine Corp., Pawtucket, RI
Manufacturing Service Corp., West Hartford, CT
Marberry Machine, Inc., Houston, TX
Marco Manufacturing Company, Akron, OH
Marcy Machine, Inc., Grandview, MO
Mardon Tool & Die Company, Inc., Rochester, NY
Marena Industries, Inc., East Hartford, CT
Marini Tool & Die Company, Inc., Racine, WI
Maris Systems Design, Inc., Spencerport, NY
Mark Mold, Sanford, MI
Markham Machine Co. Inc., Akron, OH
Marlin Tool, Inc., Cuyahoga Falls, OH
Marquette Tool & Die Company, St. Louis, MO
Marshall Manufacturing Company, Minneapolis, MN
Martinek Manufacturing, Fremont, CA
Martinelli Machine, San Leandro, CA
Marton Tool & Die Company, Inc., Grand Rapids, MI
Masco Machine, Inc., Cleveland, OH
Mason Electric Company, San Fernando, CA
Massachusetts Machine Works Inc., Westwood, MA
Massey Industries, Inc., Houston, TX
Master Cutting & Engineering, Santa Fe Springs, CA
Master Industries Inc., Piqua, OH
Master Machine, Inc., Elkhart, IN
Master Precision Mold Technology, Greenville, MI
Master Precision Tool Corp., Sterling Heights, MI
Master Research & Manufacturing, San Fernando, CA
Master Tool & Die, Anaheim, CA
Master Tool & Mold, Inc., Grafton, WI
Mastercraft Mold, Inc., Phoenix, AZ
Mastercraft Precision, Inc., Milpitas, CA
Mastercraft Tool & Machine Co., Southington, CT
Mastercraft Tool Co., St. Louis, MO
Masterman Engineering, Kent, WA
Matthews Gauge, Inc., Santa Ana, CA
Maudlin & Son Manufacturing Co., Kemah, TX
Maxcor Manufacturing, Inc., Colorado Springs, CO
May Tool & Die, Inc., North Royalton, OH
May Tool & Mold Company, Inc., Kansas City, MO
Mayfran International, Cleveland, OH
MaTech Machining Technologies, Salisbury, MD
McAfee Tool & Die, Inc., Uniontown, OH
McCurdy Tool & Machine Inc., Caledonia, IL
McDanniels Machinery Company, Erie, PA
McDowell Enterprises, Inc., Elkhart, IN
McGill Manufacturing Company, Flint, MI
McGough & Kilguss, Providence, RI
McIvor Manufacturing, Inc., Buffalo, NY
McKee Carbide Tool Division, Olanta, PA
McKenzie Automation Systems, Inc., Rochester, NY
McNeal Enterprises, Inc., San Jose, CA
McNeill Manufacturing Company, Oakland, CA
McSwain Manufacturing Corp., Cincinnati, OH
Meadows Manufacturing Co., Inc., Sunnyvale, CA
Meadville Plating Company, Inc., Meadville, PA
Meadville Tool Grinding, Meadville, PA
Mechanical Manufacturing Corp., Sunrise, FL
Mechanical Metal Finishing Co., Gardena, CA
Mechanized Enterprises, Inc., Anaheim, CA
MechTronics of Arizona Corp., Phoenix, AZ
Medved Tool & Die Company, Milwaukee, WI
Menegay Machine & Tool Company, Canton, OH

Mercer Machine Company, Inc., Indianapolis, IN
Mercier Tool & Die Company, Canton, OH
Meriden Manufacturing, Meriden, CT
Merritt Tool Company, Inc., Kilgore, TX
Metal Cutting Specialists, Inc., Houston, TX
Metal Form Engineering, Redlands, CA
Metal Processors Inc., Stevensville, MI
Metal Tronics, Inc., Haverhill, MA
Metallon, Inc., Thomaston, CT
Metals USA, Flagg Steel Co., Inc., St. Louis, MO
Metalsa—Perfek, Novi, MI
Metco Manufacturing Company, Inc., Warrington, PA
Metplas, Inc., Natrona Heights, PA
Metric Machining, Monrovia, CA
Metric Precision Inc., Spartanburg, SC
Metro Manufacturing, Inc., Phoenix, AZ
Michigan Machining Inc., Mt. Morris, MI
Micro Chrome & Lapping, Inc., San Jose, CA
Micro Engineering Inc., Caledonia, MI
Micro Instrument Corporation, Rochester, NY
Micro Matic Tool, Inc., Youngstown, OH
Micro Precision Company, Houston, TX
Micro Precision Corporation, Lancaster, PA
Micro Punch & Die Company, Rockford, IL
Micro Surface Engineering, Inc., Los Angeles, CA
Micro Tool & Manufacturing, Inc., Meadville, PA
Micro-Tec, Chatsworth, CA
Micro-Tech Machine Inc., Newark, NY
Micro-Tronics, Inc., Tempe, AZ
Microfinish, Clayton, OH
Micropulse West, Inc., Tempe, AZ
Mid-Central Manufacturing, Inc., Wichita, KS
Mid-Continent Engineering, Inc., Minneapolis, MN
Mid-State Manufacturing, Inc., Milldale, CT
Mid-States Forging Die & Tool, Rockford, IL
Middle River Machine Services, Baltimore, MD
Midland Precision Machining, Inc., Tempe, AZ
Midway Mfg. Inc., Elyria, OH
Midwest Machine & Manufacturing Co, Muskegon, MI
Midwest Tool & Die Corporation, Fort Wayne, IN
Midwest Tool & Engineering Co., Dayton, OH
Mikana Manufacturing Co., Inc., San Dimas, CA
Mikron Machine, Inc., Cranesville, PA
Mikron Manufacturing, Inc., Colorado Springs, CO
Mil-Tool & Plastics Inc., Zephyrhills, FL
Milco Wire EDM, Inc., Huntington Beach, CA
Millat Industries Corp., Dayton, OH
Miller Equipment Corporation, Richmond, VA
Miller Machine & Design, Inc., Charlotte, NC
Miller Mold Company, Saginaw, MI
Millrite Machine Inc., Westfield, MA
Milrose Industries, Cleveland, OH
Miltronics, Inc., Painesville, OH
Milturn Corporation, Indianapolis, IN
Milwaukee Precision Corporation, Milwaukee, WI
Milwaukee Punch Corporation, Greendale, WI
Minco Tool & Mold Inc., Dayton, OH
Mission Tool & Manufacturing Co., Hayward, CA
Mitchell Machine, Inc., Springfield, MA
Mitchum Schaefer, Inc., Indianapolis, IN
Mittler Brothers Machine & Tool, Foristell, MO
Mod Tech Industries, Inc., Shawano, WI
Model Machine Company, Inc., Baltimore, MD
Model Mold & Machine Company, Noblesville, IN
Modern Industries Inc., Phoenix, AZ
Modern Machine Company, San Jose, CA
Modern Machine Company, Bay City, MI
Modern Mold, Inc., Grand Rapids, MI
Modern Technologies Corp., Xenia, OH
Modular Mining Systems, Inc., Tucson, AZ
Mold Threads Inc., Branford, CT
Moldcraft, Inc., Depew, NY
Monks Manufacturing Co., Inc., Wilmington, MA
Monsees Tool & Die, Inc., Rochester, NY
Montgomery Machine Company, Houston, TX
Moon Tool & Die Inc., Conneaut Lake, PA
Moore Gear Mfg. Co., Inc., Hermann, MO
Moore Machine, Inc., Walkerton, IN
Moore Quality Tooling, Inc., Dayton, OH
Morlin Incorporated, Erie, PA
Morton & Company, Inc., Wilmington, MA
Moseys' Production Machinists, Anaheim, CA
Moss Machine/Module, San Francisco, CA
Motor Machine Co., Inc., Edison, NJ
Mountain States Automation, Inc., Englewood, CO
Mt. Sterling Industries, Mt. Sterling, KY
Mueller Machine & Tool Company, Berkeley, MO
Mullen Industries Inc., St. Clair, MO
Muller Tool Inc., Cheektowaga, NY
Multi Dimensional Machining Inc., Englewood, CO
Multi-Tool, Inc., Saegertown, PA
Mustang-Major Tool & Die Co., Eden, NY
Mutual Mold & Tool L.L.C., Attalla, AL
Mutual Precision, Inc., West Springfield, MA
Mutual Tool & Die, Inc., Dayton, OH
Myers Industries, Akron, OH
Myers Precision Grinding Company, Warrensville Hts., OH
Myles Tool Co., Inc., Sanborn, NY
MAC Tool & Die Corporation, Meadville, PA
MRC Technologies, Buffalo, NY
MTI Engineering Corp./Mitutoyo, Huntington Beach, CA
N C Dynamics, Inc., Long Beach, CA
N D T Industries, Inc., Dayton, OH
N E T & Die Company, Inc., Fulton, NY
Nashville Machine Company, Inc., Nashville, TN
Natco Machine & Welding Co., Inc., Houston, TX
National Carbide Die, McKeesport, PA
National Flight Services, Glendale, AZ
National Jet Company, Inc., LaVale, MD
National Tool & Machine Co. Inc., East St. Louis, IL
Nationwide Precision Products, Rochester, NY
Neal Manufacturing, Inc., Greensboro, NC
Nel-Mac Tool & Mfg. Inc., McKinney, TX
Nelson Bros. & Strom Co., Inc.,Racine, WI
Nelson Engineering, Garden Grove, CA
Nelson Grinding, Inc., Fullerton, CA
Nelson Precision Drilling Co., Glastonbury, CT
Nemes Machine Co., Cuyahoga, OH
Nerjan Development Company, Stamford, CT
New Age Plastics, Inc., San Jose, CA
New Century Fabricators, Inc., New Iberia, LA
New Century Remanufacturing, Inc., Santa Fe Springs, CA
New Cov Fabrication Inc., Rochester, NY
New England Die Co., Inc., Waterbury, CT
New England Precision Grinding, Holliston, MA
New Standard Corporation, York, PA
Newman Machine Company, Inc., Greensboro, NC
Newton Tool & Manufacturing Co., Swedesboro, NJ
Niagara Punch & Die Corporation, Buffalo, NY
Nicholson Precision Instruments, Gaithersburg, MD
Nifty Bar, Inc., Penfield, NY
Niles Machine & Tool Works, Inc., Newark, CA
Nixon Tool Co., Inc., Richmond, IN
Noble Tool Corporation, Dayton, OH
Norbert Industries, Inc., Sterling Heights, MI

Nordon Tool & Mold, Inc., Rochester, NY
Noremac Manufacturing Corp., Westboro, MA
Norfil Manufacturing, Inc., Pacific, WA
Norman Noble, Inc., Cleveland, OH
Normike Industries, Inc., Plainville, CT
North Canton Tool Company, Inc., Canton, OH
North Central Tool & Die, Inc., Houston, TX
North Coast Tool & Mold Corp., Cleveland, OH
North Easton Machine Co., Inc., North Easton, MA
North Florida Tool Engineering, Jacksonville, FL
Northeast E D M, Newburyport, MA
Northeast Manufacturing Co., Inc., Stoneham, MA
Northeast Tool & Manufacturing, Indian Trail, NC
Northern Machine Tool Company, Muskegon, MI
Northland Extension Drills, Grove City, MN
Northmont Tool & Gage Inc., Clayton, OH
Northwest Machine Works, Inc., Grand Junction, CO
Northwest Tool & Die Company, Grand Rapids, MI
Northwest Tool & Die, Inc., Saegertown, PA
Northwest Tool Corporation, Tucson, AZ
Northwood Industries, Inc., Perrysburg, OH
Norton Advanced Ceramics, White House, TN
Norv's Molds, Inc., Nyssa, OR
Norwood Tool Company, Dayton, OH
Nova Manufacturing Company, North Hollywood, CA
Now-Tech Industries Inc., Lackawanna, NY
Nu-Tech Industries, Grandview, MO
Nu-Tool Industries, Inc., North Royalton, OH
Numeric Machine, Fremont, CA
Numeric Machining Co., Inc., West Springfield, MA
Numerical Precision, Inc., Wheeling, IL
Numerical Productions, Inc., Indianapolis, IN
Numet Machine, Stratford, CT
NuTec Tooling Systems, Inc., Meadville, PA
O & S Machine Company, Inc., Latrobe, PA
O—A, Inc., Agawam, MA
O A R Moldworks, Providence, RI
O E M Industries, Inc., Dallas, TX
O E M, Inc., Corvallis, OR
O–D Tool & Cutter Inc., Mansfield, MA
O'Keefe Ceramics, Woodland Park, CO
O'Neal Tool & Machine Co., Inc., DeSoto, MO
Oakley Die & Mold Company, Inc., Mason, OH
Obars Machine & Tool Company, Toledo, OH
Oberg Industries Inc., Freeport, PA
Oconee Machine & Tool Company, Westminster, SC
Oconnor Engineering Laboratories, Costa Mesa, CA
Ohio Gasket & Shim Company, Akron, OH
Ohio Transitional Machine & Tool, Toledo, OH
Ohlemacher Mold & Die, Strongsville, OH
Oilfield Die Manufacturing Co., Lafayette, LA
Okuma America Corporation, Charlotte, NC
Olson Mfg. & Distribution Inc., Shawnee, KS
Omax Corporation, Kent, WA
Omega One, Inc., Maple Heights, OH
Omega Tool, Inc., Menomonee Falls, WI
Omni Tool, Inc., Winston Salem, NC
Orange County Grinding, Anaheim, CA
Orchard Machine, Inc., Byron Center, MI
Orix Credit Alliance, Inc., Pasadena, CA
Osborn Products, Inc., Phoenix, AZ
Osley & Whitney, Inc., Westfield, MA
Ott Brothers Machine Company, Wichita, KS
Overland Bolling, Dallas, TX
Overton & Sons Tool & Die Co., Mooresville, IN
Overton Corporation, Willoughby, OH
OEM Controls Inc., Shelton, CT
P & A Tool & Die, Inc., Rochester, NY
P & N Machine Company, Inc., Houston, TX
P & P Mold & Die, Inc., Tallmadge, OH
P & R Industries, Inc., Rochester, NY
P D Q Machine & Tool Inc., Machesney Park, IL
P. J. M. Machine Inc., North Canton, OH
P. Tool & Die Company, Inc., N. Chili, NY
P–K Tool & Manufacturing Company, Chicago, IL
Pace Precision Products, Inc., Dubois, PA
Pacific Bearing Company, Rockford, IL
Pacific Precision Machine, Inc., San Carlos, CA
Pacific Tool & Die, Inc., Brunswick, OH
Pacific Tool Corporation, Englewood, CO
Pahl Tool Services, Cleveland, OH
Palma Tool & Die Company, Inc., Lancaster, NY
Palmer Machine Company Inc., Conway, NH
Palmer Manufacturing Company, Malden, MA
Parallax, Inc., Largo, FL
Paramount Machine & Tool Corp., Fairfield, NJ
Park Hill Machine, Inc., Lancaster, PA
Parker Plastics Corporation, Pittsburgh, PA
Parr-Green Mold and Machine Co., North Canton, OH
Parris Tool & Die Company, Goodlettsville, TN
Parrish Machine, Inc., South Bend, IN
Part-Rite, Inc., Cleveland, OH
Pasco Tool & Die, Inc., Meadville, PA
Patco Machine & Fab, Inc., Houston, TX
Path Technologies, Inc., Mentor, OH
Patkus Machine Company, Rockford, IL
Patriot Machine, Inc., St. Charles, MO
Patriot Precision Products, North Canton, OH
Patten Tool & Engineering, Inc., Kittery, ME
Paul E. Seymour Tool & Die Co., North East, PA
Peerless Precision, Inc., Westfield, MA
Peffen Machine Company, Nashville, TN
Peko Precision Products, Rochester, NY
Pell Engineering & Manufacturing, Pelham, NH
Penco Precision, Fontana, CA
Pendleton Tool Company, Inc., Erie, PA
Peninsula Screw Machine Products, Belmont, CA
Penn State Tool & Die Corp., North Huntingdon, PA
Penn United Tech, Inc., Saxonburg, PA
Pennoyer-Dodge Company, Glendale, CA
Pennsylvania Crusher, Cuyahoga Falls, OH
Pennsylvania Tool & Gages, Inc., Meadville, PA
Perfection Mold & Machine Co., Akron, OH
Perfection Tool & Mold Corp., Dayton, OH
Perfecto Tool & Engineering Co., Anderson, IN
Perfekta, Inc., Wichita, KS
Performance Grinding & Manufacturing, Inc., Tempe, AZ
Perry Tool & Research Inc., Hayward, CA
Petersen Precision Engineering, LLC, Redwood City, CA
Peterson Jig & Fixture, Inc., Rockford, MI
Pettey Machine Works, Inc., Trinity, AL
Petty Enterprises, Hollister, CA
Phil-Coin Machine & Tool Co., Hudson, MA
Philips Machining Company, Inc., Coopersville, MI
Philips Manufacturing Technology, South Plainfield, NJ
Phoenix Gear, Inc., Phoenix, AZ
Phoenix Grinding, Phoenix, AZ
Phoenix Precision Pattern Corp., Mesa, AZ
Phoenix Tool & Gage, Inc., Phoenix, AZ
Phoenix, Inc., Seekonk, MA
Piece-Maker Company, Troy, MI
Pierce Products, Inc., Cleveland, OH
Pierson Precision Inc., Campbell, CA
Pinehurst Tool & Die, Conneaut Lake, PA

Pinnacle Engineering Co., Inc., Manchester, MI
Pinnacle Manufacturing Co., Inc., Chandler, AZ
Pinnacle Tool & Engineering, Cleveland, OH
Pioneer Industries, Seattle, WA
Pioneer Motor Bearing Company, South San Francisco, CA
Pioneer Precision Grinding, Inc., West Springfield, MA
Pioneer Tool & Die Company, Akron, OH
Pioneer Tool & Die, Inc., Meadville, PA
Pioneer Tool Die & Machine Co., Ivyland, PA
Piper Plastics, Inc., Chandler, AZ
Pitt-Tex, Latrobe, PA
Plainfield Stamping Illinois, Inc., Plainfield, IL
Plano Machine & Instrument Inc., Gainesville, TX
Plas Tool Co., Niles, IL
Plastic Mold Technology Inc., Grand Rapids, MI
Plastipak Packaging, Inc., Medina, OH
PlastiFab Inc., Louisville, CO
Plating Technology, Inc., Columbus, OH
Pleasant Precision, Inc., Kenton, OH
Pleasanton Tool and Manufacturing, Pleasanton, CA
Plesh Industries, Inc., Buffalo, NY
Pocal Industries Inc., Scranton, PA
Pol-Tek Industries, Ltd., Cheektowaga, NY
Polaris Machining, Inc., Marysville, WA
Polynetics, Inc., Fullerton, CA
Polytec Products Corporation, Menlo Park, CA
Ponderosa Industries, Inc., Denver, CO
Popp Machine & Tool, Inc., Louisville, KY
Port City Machine & Tool Company, Muskegon Heights, MI
Portage Knife Company, Inc., Mogadore, OH
Post Enterprises, Inc., Wichita, KS
Post Products, Inc., Kent, OH
Powder Metallurgy Company, Lewisville, TX
Powers Bros. Machine, Inc., Montebello, CA
Powill Manufacturing & Engineering, Inc., Phoenix, AZ
Practical Machine Company, Barberton, OH
Pre Tech Manufacturing, Bensenville, IL
Pre-Mec Corporation, Clinton Township, MI
Precise Products Corporation, Minneapolis, MN
Precise Technologies Inc., Largo, FL
Precise Technology, Inc., N. Versailles, PA
Precise Tool & Die, Inc., Leechburg, PA
Precision Aircraft Components, Dayton, OH
Precision Aircraft Machining, Sun Valley, CA
Precision Automated Machining, Englewood, CO
Precision Automation Co., Inc., Clarksville, IN
Precision Balancing & Analyzing, Mentor, OH
Precision Boring Company, Detroit, MI
Precision CNC Products, Canyon Country, CA
Precision Deburring Enterprises, Sun Valley, CA
Precision Die & Stamping Inc., Tempe, AZ
Precision Engineering & Mfg. Co., Haymarket, VA
Precision Engineering, Inc., Uxbridge, MA
Precision Gage & Tool Company, Dayton, OH
Precision Gage, Inc., Tempe, AZ
Precision Grinding & Mfg. Corp., Rochester, NY
Precision Grinding, Inc., Phoenix, AZ
Precision Grinding, Inc., Birmingham, AL
Precision Identity Corporation, Campbell, CA
Precision Industries, Inc., Providence, RI
Precision Industries, Inc., Baton Rouge, LA
Precision Lasers, Rochester, NY
Precision Machine & Engineering, Phoenix, AZ
Precision Machine & Instrument, Houston, TX
Precision Machine & Tool Co., Longview, TX
Precision Machine Company, Lancaster, PA
Precision Machine Rebuilding, Rogers, MN
Precision Manufacturing, Grand Junction, CO
Precision Metal Crafters, Ltd., Greensburg, PA
Precision Metal Fabrication, Dayton, OH
Precision Metal Tooling, Inc., San Leandro, CA
Precision Mold & Engineering, Warren, MI
Precision Mold Base Corporation, Tempe, AZ
Precision Mold Welding, Inc., Little Rock, AR
Precision Mold, Inc., Kent, WA
Precision Piece Parts Inc., Mishawaka, IN
Precision Products Inc., Greenwood, IN
Precision Resource, Huntington Beach, CA
Precision Resource Tool & Machine, Shelton, CT
Precision Resources, Hawthorne, CA
Precision Specialists, Inc., West Berlin, NJ
Precision Specialties, San Jose, CA
Precision Stamping & Tool, Inc., Irvine, CA
Precision Stamping, Inc., Farmers Branch, TX
Precision Technology, Inc., Chandler, AZ
Precision Tool & Die, Inc., Derry, NH
Precision Tool & Mold, Inc., Clearwater, FL
Precision Tool Work, Inc., New Iberia, LA
Precision Valve, Inc., Reno, NV
Precision Wire Cut Corporation, Waterbury, CT
Precision Wire EDM Service Inc., Grand Rapids, MI
Preferred Grinding Co., Inc., Dallas, TX
Preferred Tool & Die Co., Inc., Comstock Park, MI
Preferred Tool Company, Inc., Seymour, IN
Prescott Aerospace, Inc., Prescott Valley, AZ
Pressco Products, Kent, WA
Prestige Mold Incorporated, Rancho Cucamonga, CA
Price Products, Inc., Escondido, CA
Pride, Champlin, MN
Prima Die Castings, Inc., Clearwater, FL
Prime-Co Tool Inc., East Rochester, NY
Primeway Tool & Engineering Co., Madison Heights, MI
Pro-Mold, Inc., Spencerport, NY
Pro-Tech Machine, Inc., Burton, MI
Process Equipment Company, Tipp City, OH
Product Engineering Company, Columbus, IN
Production Saw Works, Inc., North Hollywood, CA
Production Tool & Mfg. Co., Portland, OR
Producto Machine Company, Bridgeport, CT
Professional Grinding, Inc., Akron, OH
Professional Instruments Co., Inc., Hopkins, MN
Professional Machine & Tool Co., Gallatin, TN
Professional Machine & Tool, Inc., Wichita, KS
Professional Machine Works, Inc., Houston, TX
Proficient Machining Co., Inc., Mentor, OH
Profile Grinding, Inc., Cleveland, OH
Proformance Manufacturing, Inc., Corona, CA
Progressive Concepts Machining, Pleasanton, CA
Progressive Machine & Design, LLC, Victor, NY
Progressive Metallizing & Machine Company, Inc., Akron, OH
Progressive Tool & Die, Inc., Gardena, CA
Progressive Tool Company, Waterloo, IA
Promax Tool Co., Rancho Cordova, CA
Prompt Machine Products, Inc., Chatsworth, CA
Proper Cutter, Inc., Guys Mills, PA

Proper Mold & Engineering, Inc., Center Line, MI
Prospect Mold Inc., Cuyahoga Falls, OH
Proteus Manufacturing Co., Inc., Woburn, MA
Proto Machine & Manufacturing, Kent, OH
Proto-Cam, Inc., Grand Rapids, MI
Proto-Design, Inc., Redmond, WA
Protonics Engineering Corp., Cerritos, CA
Prototype & Plastic Mold Co., Middletown, CT
ProMold, Inc., Cuyahoga Falls, OH
Puehler Tool Company, Valley View, OH
Puget Plastics Corporation, Tualatin, OR
Pullbrite, Inc., Fremont, CA
Punch Press Products, Inc., Los Angeles, CA
Punchcraft Company—Subsidiary of MascoTech, Inc., Warren, MI
PDT Tooling, Inc., Lincolnshire, IL
PMR, Inc., Avon, OH
PQ Enterprise, L.L.C., Grand Rapids, MI
PR Machine Works, Inc., Mansfield, OH
Q K Mold & Manufacturing, Inc., Kent, OH
Q M C Technologies, Inc., Depew, NY
Qualfab Machining, Redwood City, CA
Quality Centerless Grinding Corp., Middlefield, CT
Quality Engineering Services, Wallingford, CT
Quality Grinding & Machining, Bridgeport, CT
Quality Machine Engineering, Inc., Santa Rosa, CA
Quality Machine Inc., Plaistow, NH
Quality Machining Technology, Inc., Oakdale, CA
Quality Mold & Die, Inc., Santa Ana, CA
Quality Mold & Engineering, Baroda, MI
Quality Mold Shop, Inc., McMinnville, TN
Quality Precision, Inc., Hayward, CA
Quality Tool Company, Toledo, OH
Quantum Manufacturing, Inc., Burbank, CA
Quartztek Incorporated, Phoenix, AZ
Quick Turn Machine Co. Inc., Windsor Locks, CT
Quick-Way Stampings, Euless, TX
R & D Machine Shop, Dallas, TX
R & D Specialty/Manco, Phoenix, AZ
R & D Tool & Engineering, Lee's Summit, MO
R & G Precision Tool Inc., Thomaston, CT
R & H Manufacturing Inc., Kingston, PA
R & J Tool, Inc., Brookville, OH
R & M Machine Tool, Freeland, MI
R & M Manufacturing Company, Niles, MI
R & M Mold Manufacturing Co., Bloomsbury, NJ
R & R Precision Machine, Inc., Wichita, KS
R & S EDM, Inc., W. Springfield, MA
R & S Machining, Inc., Oakville, MO
R D C Machine, Inc., Santa Clara, CA
R Davis EDM, Anaheim, CA
R E F Machine Company, Inc., Middlefield, CT
R F Cook Manufacturing Co., Stow, OH
R G F Machining Technologies, Canon City, CO
R J S Corporation, Akron, OH
R M I, Van Nuys, CA
R Meschkat Precision Machining, Valencia, CA
R O C Carbon Company, Houston, TX
R S Precision Industries, Inc., Farmingdale, NY
R T R Slotting & Machine Inc., Cuyahoga Falls, OH
R W Machine, Inc., Houston, TX
R. W. Smith Company, Inc., Dallas, TX
Rainbow Tool & Machine Co., Inc., Gadsden, AL
Raloid Corporation, Reisterstown, MD
Ralph Stockton Valve Products, Houston, TX
Ram Tool, Inc., Grafton, WI
Ranger Tool & Die Company, Saginaw, MI
Rapid-Line Inc., Grand Rapids, MI
Rapidac Machine Corporation, Rochester, NY
Ratnik Industries, Inc., Victor, NY
Rawlings Engineering, Macon, GA
Ray Paradis Machine, Inc., Jackson, CA
Re-Del Engineering, Campbell, CA
Realco Diversified, Inc., Meadville, PA
Reardon Machine Co., Inc., St. Joseph, MO
Reata Engineering & Machine, Englewood, CO
Reber Machine & Tool Company, Muncie, IN
Rectack of America, Los Angeles, CA
Reed Instrument Company, Houston, TX
Reed Precision Microstructures, Santa Rosa, CA
Reese Machine Company, Inc., Ashtabula, OH
Reichert Stamping Company, Toledo, OH
Reid Industries, Inc., Roseville, MI
Reitz Tool & Die Company, Inc., Walbridge, OH
Reitz Tool, Inc., Cochranton, PA
Reliable EDM, Inc., Houston, TX
Remarc Manufacturing Inc., Hayward, CA
Remmele Engineering, Inc., New Brighton, MN
Remtex, Inc., Longview, TX
Reny & Company Inc., El Monte, CA
Repairtech International, Inc., Van Nuys, CA
Repko Tool Inc., Meadville, PA
Republic Industries, Louisville, KY
Republic-Lagun, Carson, CA
Research Tool Inc., East Haven, CT
Reuther Mold & Manufacturing Co., Cuyahoga Falls, OH
Revtek, Portland, OR
Reynolds Manufacturing Co., Inc., Rock Island, IL
Rhode Island Centerless, Inc., Johnston, RI
Rhode Island Precision Co., Inc., Providence, RI
Rich Tool & Die Company, Scarborough, ME
Richard Manufacturing Company, Milford, CT
Richard O. Schulz Company, Elmwood Park, IL
Richard Tool & Die Corporation, New Hudson, MI
Richard's Grinding, Inc., Cleveland, OH
Richards Machine Tool Company, Lancaster, NY
Richsal Corporation, Elyria, OH
Rick Sanford Machine Company, San Leandro, CA
Rickman Machine Company, Wichita, KS
Rid-Lom Precision Tool Corp., Rochester, NY
Ridge Machine & Welding Company, Toronto, OH
Riggins Engineering, Inc., Van Nuys, CA
Right Tool & Die, Inc., Toledo, OH
Rima Enterprises, Huntington Beach, CA
Ripley Machine Company, Inc., Akron, OH
Rite-Way Industries Inc., Louisville, KY
Riverview Machine Company, Inc., Holyoke, MA
Riviera Tool Company, Grand Rapids, MI
Robert C. Reetz Company, Inc., Pawtucket, RI
Roberts Aerospace Mfg. & Eng., Gardena, CA
Roberts Tool & Die Company, Chillicothe, MO
Roberts Tool Company, Inc., Northridge, CA
Robrad Tool & Engineering, Mesa, AZ
Rochester Gear, Inc., Rochester, NY
Rochester Manufacturing, Wellington, OH
Rockburl Industries Inc., Rochester, NY
Rockford Process Control, Inc., Rockford, IL
Rockford Tool & Manufacturing, Rockford, IL
Rockford Toolcraft, Inc., Rockford, IL
Rockhill Machining Industries, Barberton, OH
Rockstedt Tool & Die, Brunswick, OH
Rocon Manufacturing Corporation, Rochester, NY
Rogers Associates Machine Tool, Rochester, NY
Rogers Enterprises, Rochester, NY
Romac Electronics, Inc., Plainview, NY
Romold Inc., Rochester, NY
Ron Grob Company, Loveland, CO
Ron Mills and Company, Walnut, CA
Ronal Tool Company, Inc., York, PA
Ronart Industries, Inc., Detroit, MI

Ronlen Industries, Inc., Brunswick, OH
Rons Racing Products, Inc., Tucson, AZ
Rovi Products Incorporated, Simi Valley, CA
Royal Wire Products, Inc., N. Royalton, OH
Royalton Manufacturing, Inc., Cleveland, OH
Royster's Machine Shop, LLC, Henderson, KY
Rozal Industries, Inc., Farmingdale, NY
Rubbermaid, Inc.—Mold Division, Wooster, OH
Ruoff & Sons, Inc., Runnemede, NJ
Russing Machining Corp., Glendale, CA
Ryan Industries Inc., York, PA
RB Machine Co., Inc., Phoenix, AZ
REO Hydro-Pierce Inc., Detroit, MI
RREN Manufacturing & Engineering, Springfield, MA
S & B Jig Grinding, Inc., Loves Park, IL
S & B Tool & Die Co., Inc., Lancaster, PA
S & R CNC Machining, Arleta, CA
S & R Precision Company, LLC, Fremont, CA
S C Manufacturing, Akron, OH
S D S Machine, Inc., Hayward, CA
S G S Tool Company, Munroe Falls, OH
S L P Machine, Inc., Ham Lake, MN
S M K Fabricators, Inc., May, TX
S P M/Anaheim, Anaheim, CA
S P S Technologies, Santa Ana, CA
S. C. Machine, Chatsworth, CA
S.M.G. LLC, Buffalo, NY
Saeilo Manufacturing Industries, Blauvelt, NY
Safety Line, Oakland, CA
Sage Machine & Fabricating, Houston, TX
Sagehill Engineering, Inc., Menlo Park, CA
Saginaw Products Corporation, Saginaw, MI
Salamon Manufacturing Inc., Middletown, CT
Saliba Industries, Inc., Highland, IL
Salomon Smith Barney, Washington, DC
Samax Precision, Inc., Sunnyvale, CA
San Diego Swiss Machining, Inc., Chula Vista, CA
San Val Grinding Company, Burbank, CA
Sanders Tool & Mould Company, Hendersonville, TN
Sandor Tool & Manufacturing Co., Lawrence, MA
Sandy Bay Machine, Rockport, MA
Santin Engineering, Inc., West Peabody, MA
Satran Technical Enterprises, Mayer, AZ
Sattler Machine Products, Inc., Sharon Center, OH
Sawing Services Co., Chatsworth, CA
Sawtech, Lawrence, MA
Schaffer Grinding Company, Inc., Montebello, CA
Schill Corp., Toledo, OH
Schlitter Tool, Warren, MI
Schmald Tool & Die Inc., Burton, MI
Schmiede Corporation, Tullahoma, TN
Schneider & Marquard, Inc., Newton, NJ
Schober's Machine & Engineering, Alhambra, CA
Schoitz Engineering, Inc., Waterloo, IA
Schroeder Tool & Die Corporation, Van Nuys, CA
Schuetz Tool & Die, Inc., Hiawatha, KS
Schulze Tool Company, Independence, MO
Schwab Machine, Inc., Sandusky, OH
Scott County Machine & Tool Co., Scottsburg, IN
Seabury & Smith, Inc., Atlanta, GA
Sebewaing Tool & Engineering Co., Sebewaing, MI
Seemcor Inc., Englewood, NJ
Select Industrial Systems Inc., Fairborn, OH
Select Tool & Die—Tool Div., Dayton, OH
Select Tool & Eng., Inc., Elkhart, IN
SelfLube, Coopersville, MI
Selzer Tool & Die, Inc., Elyria, OH
Sematool Mold & Die Co., Santa Clara, CA
Serco, Covina, CA
Serrano Industries Inc., Bellflower, CA
Service Manufacturing and, Anaheim, CA
Service Tool & Die, Inc., Henderson, KY
Setters Tools, Inc., Piedmont, SC
Sharon Center Mold & Die, Sharon Center, OH
Shaw Industries, Inc., Franklin, PA
Shear Tool, Inc., Saginaw, MI
Sheets Tool & Manufacturing, Inc., Saegertown, PA
Shelby Engineering Company, Inc., Indianapolis, IN
Sherer Manufacturing, Clearwater, FL
Sherlock Machine Company, Clearwater, FL
Sherman Tool & Gage, Erie, PA
Shiloh Industries, Wellington, OH
Shookus Special Tools, Inc., Raymond, NH
Siam Precision, Inc., Phoenix, AZ
Sibley Machine & Foundry Corp., South Bend, IN
Sieger Engineering, Inc., S. San Francisco, CA
Sigma Precision Mfg., Inc., Aston, PA
Signa Molds & Engineering, Sylmar, CA
Signal Machine Company, New Holland, PA
Silicon Valley Mfg., Fremont, CA
Simons & Susslin Manufacturing, San Jose, CA
Sipco, Inc., Meadville, PA
Sirius Enterprises, Inc., Dallas, TX
Sirois Tool Co. Inc., Berlin, CT
Sisson Engineering Corp., Northfield, MA
Six Sigma, Louisville, KY
Ski-Way Machine Products Company, Euclid, OH
Skillcraft Machine Tool Company, West Hartford, CT
Skulsky, Inc., Gardena, CA
Skyfab, Inc., Denton, TX
Skyline Manufacturing Corp., Nashville, TN
Skylon Mold & Machining, Sugar Grove, PA
Skyway Manufacturing Corporation, Phoenix, AZ
Smith-Renaud, Inc., Cheshire, CT
Smith's Machine, Cottondale, AL
Smithfield Manufacturing, Inc., Clarksville, TN
Snyder Systems, Benicia, CA
Solar Tool & Die, Inc., Kansas City, MO
Sonic Machine & Tool, Inc., Tempe, AZ
Sonoma Precision Mfg. Co., Santa Rosa, CA
Sonora Precision Molds, Inc., Mi Wuk Village, CA
South Bay Machining, Santa Clara, CA
South Bend Form Tool Company, South Bend, IN
South Eastern Machining, Inc., Piedmont, SC
Southampton Manufacturing, Inc., Feasterville, PA
Southbridge Tool & Manufacturing, Dudley, MA
Southeastern Technology, Inc., Murfreesboro, TN
Southern Mfg. Technologies Inc., Tampa, FL
Southwest Industrial Services, Ft. Worth, TX
Southwest Manufacturing, Inc., Wichita, KS
Southwest Metalcraft Corporation, Tucson, AZ
Southwest Mold, Inc., Tempe, AZ
Southwest Precision Machining, Inc., North Royalton, OH
Southwest Replacement Parts, Stafford, TX
Space City Machine & Tool Co., Houston, TX
Spalding & Day Tool & Die Co., Louisville, KY
Spark Technologies, Inc., Schenley, PA
Spartak Products Inc., Houston, TX
Spartan Manufacturing Company, Garden Grove, CA
Special Tool & Engineering Corp., Indianapolis, IN
Specialty Machine & Hydraulics, Pleasantville, PA
Specialty Machines, Inc., Dayton, OH
Spectra-Physics Lasers Inc., Oroville, CA
Spenco Machine & Manufacturing, Temecula, CA
Spike Industries, North Lima, OH
Spin Pro Inc., Sunnyvale, CA
Spiral Grinding Company, Culver City, CA
Spirex Southwest, Gainesville, TX
Springfield Manufacturing, LLC, Clover, SC
Springfield Tool & Die, Inc., Greenville, SC

Sprint Tool & Die Inc., Meadville, PA
Spun Metals, Inc., Phoenix, AZ
St. Louis Tool & Mold, Valley Park, MO
Stadco, Los Angeles, CA
Standard Jig Boring Service, Inc., Akron, OH
Standard Machine Inc., Cleveland, OH
Standard Welding & Steel, Medina, OH
Stanek Tool Corporation, New Berlin, WI
Stanley Machining & Tool Corp., Carpentersville, IL
Star Tool & Die, Inc., Elkhart, IN
Star Tool & Engineering, Inc., Redwood City, CA
Starn Tool & Manufacturing Co., Meadville, PA
State Industrial Products, Inc., Phoenix, AZ
Stauble Machine & Tool Company, Louisville, KY
Stedcraft Inc., Torrington, CT
Steiner Fabrication, Phoenix, AZ
Stelted Manufacturing, Inc., Tempe, AZ
Sterling Engineering Corporation, Winsted, CT
Sterling Tool Company, Racine, WI
Stevens Manufacturing Co., Inc., Milford, CT
Stewart Manufacturing Company, Phoenix, AZ
Stieg Grinding Corporation, Rockford, IL
Stillion Industries, Ann Arbor, MI
Stillwater Technologies, Inc., Troy, OH
Stines' Machine, Inc., Vista, CA
Stone Machine & Tool, Inc., North Royalton, OH
Stoney Crest Regrind Service, Bridgeport, MI
Stott Tool & Machine Company, Amityville, NY
Streamline Tooling Systems, Muskegon, MI
Strobel Machine, Inc., Worthington, PA
Studwell Engineering, Inc., Sun Valley, CA
Subsea Ventures Inc., Houston, TX
Suburban Manufacturing Company, Euclid, OH
Summit Machine Company, Scottdale, PA
Summit Precision, Inc., Phoenix, AZ
Summit Tool & Mold Inc., Dayton, OH
Sun E.D.M., Inc., Tempe, AZ
Sun Polishing Corporation, North Royalton, OH
Sun Tool Company, Houston, TX
Sun Valley Tool, Inc., Tempe, AZ
Sunbelt Plastics, Inc., Frisco, TX
Sunrise Tool & Die, Inc., Henderson, KY
Sunset Tool Inc., Saint Joseph, MI
Super Finishers II, Phoenix, AZ
Superior Die Set Corporation, Oak Creek, WI
Superior Die Tool Machine Co., Columbus, OH
Superior Gear Box Company, Stockton, MO
Superior Jig, Inc., Anaheim, CA
Superior Mold Company, Ontario, CA
Superior Mold, Inc., Clearwater, FL
Superior Roll Forming Company, Valley City, OH
Superior Thread Rolling Company Inc., Arleta, CA
Superior Tool & Die Company, Bensalem, PA
Superior Tool & Die Company, Inc., Elkhart, IN
Superior Tool & Manufacturing, Branchburg, NJ
Superior Tool, Inc., Willow Street, PA
Supreme Tool & Die Company, Fenton, MO
Surface Manufacturing, Auburn, CA
Svedala Pumps & Process, Colorado Springs, CO
Swenton Tool & Die Company, Phoenix, NY
Swiss Specialties, Inc., Bohemia, NY
Swissco, Inc., Bell Gardens, CA
Swissline Precision Mfg. Inc., Cumberland, RI
Synergis Technologies Group, Grand Rapids, MI
Synergy Machine, Inc., Kent, WA
Syst-A-Matic Tool & Design, Meadville, PA
Systems 3, Inc., Tempe, AZ
SEPCO-ERIE, Erie, PA
SKS Die Casting and Machining, Alameda, CA
T & S Industrial Machining Corp., Woburn, MA
T C I Precision Metals, Gardena, CA
T J Tool and Mold, Guys Mills, PA
T M Industries, Inc., East Berlin, CT
T M Machine & Tool, Inc., Toledo, OH
T M S Inc., Lincoln, RI
T R Jones Machine Company, Inc., Crystal Lake, IL
T. J. Karg Company, Inc., Akron, OH
T–K & Associates, Inc., La Porte, IN
T–M Manufacturing Corporation, Sunnyvale, CA
Tag Engineering, Inc., Tucson, AZ
Tait Design & Machine Company Inc., Manheim, PA
Talbar, Inc., Meadville, PA
Talcott Machine Products, Inc., Meriden, CT
Talent Tool & Die, Inc., Berea, OH
Tana Corporation, Toledo, OH
Tangent Tool Inc., Fraser, MI
Tanner Oil Tools Inc., Houston, TX
Tapco USA Inc., Loves Park, IL
Target Precision, Meadville, PA
Taurus Tool & Engineering, Inc., Muncie, IN
Tebben Enterprises, Clara City, MN
Tech Industries, Inc., Cleveland, OH
Tech Manufacturing Company, Wright City, MO
Tech Mold, Inc., Tempe, AZ
Tech Ridge, Inc., South Chelmsford, MA
Tech Tool & Mold, Inc., Meadville, PA
Tech Tool and Machine Inc., Toledo, OH
Tech Tool, Inc., Detroit, MI
Tech-Etch, Inc., Plymouth, MA
Tech-Machine, Inc., Colorado Springs, CO
Techmetals, Inc., Dayton, OH
Techni-Cast Corporation, South Gate, CA
Techni-Products, Inc., East Longmeadow, MA
Technics 2000 Inc., Olathe, KS
Technodic, Inc., Providence, RI
Tecomet Thermo Electron, Tempe, AZ
Tedco, Inc., Cranston, RI
Teke Machine Corp., Rochester, NY
Tell Tool, Inc., Westfield, MA
Temco Corporation, Danvers, MA
Tenk Machine & Tool Company, Cleveland, OH
Tenneco Automotive/Monroe Auto, Hartwell, GA
Tennessee Metal Works, Inc., Nashville, TN
Tennessee Tool Corporation, Charlotte, TN
Terrell Manufacturing Inc., Strongsville, OH
Testand Corporation, Pawtucket, RI
Tetco, Inc., Plainville, CT
Teter Tool & Die, Inc., La Porte, IN
Texas Honing, Inc., Pearland, TX
Thaler Machine Company, Dayton, OH
Thayer Aerospace, Wichita, KS
The Bechdon Company, Inc., Upper Marlboro, MD
The Budd Company, Shelbyville, KY
The Chesapeake Machine Co., Baltimore, MD
The Die Works Inc., Hillsboro, MO
The Foster Group, Rochester, NY
The Goforth Corp., Fremont, CA
The Hanson Group, LTD., Ludlow, MA
The Sherman Corporation, Inglewood, CA
The Sullivan Corporation, Hartland, WI
The Timken Company, Canton, OH
The Will-Burt Company, Orrville, OH
Therm, Inc., Ithaca, NY
Thiel Tool & Engineering Co., St. Louis, MO
Thomas Machine Works, Inc., Newburyport, MA
Thompson Gundrilling, Inc., Van Nuys, CA
Thor Tool Corporation, San Leandro, CA
Thornhurst Manufacturing, Inc., Tampa, FL
Three-Way Pattern, Inc., Wichita, KS
Tidewater Machine Company, White Plains, MD
Time Machine & Stamping, Inc., Phoenix, AZ
Timon Tool & Die Co., Toledo, OH
Tipco Punch, Inc., Hamilton, OH
Tipp Machine & Tool, Inc., Tipp City, OH
Tisza Industries, Inc., Niles, MI
Titan, Inc., Sturtevant, WI
Toledo Blank, Inc., Toledo, OH

Tolerance Masters, Inc., Circle Pines, MN
Tomak Precision, Lebanon, OH
TomKen Tool & Engineering, Inc., Muncie, IN
Tool & Die Productions, Erie, PA
Tool Gauge & Machine Works, Inc., Tacoma, WA
Tool Mate Corporation, Cincinnati, OH
Tool Specialties Company, Hazelwood, MO
Tool Specialty Company, Los Angeles, CA
Tool Steel Service of California, Inc., Los Angeles, CA
Tool Tech Corporation, San Jose, CA
Tool Tech, Inc., Springfield, OH
Tool Technology, Inc., Danvers, MA
Tool Technology, Inc., Cookeville, TN
Tool-Matic Company, Inc., City Of Commerce, CA
Toolcomp Tooling & Components, Toledo, OH
Toolcraft of Phoenix, Inc., Glendale, AZ
Toolcraft Products, Inc., Dayton, OH
Toolex, Inc., Houston, TX
Tools Renewal Company, Birmingham, AL
Tools, Inc., Sussex, WI
Top Tool & Die, Inc., Cleveland, OH
Top Tool Company, Minneapolis, MN
Totally Radical Associates, Inc., Placentia, CA
Toth Industries, Inc., Toledo, OH
Toth Technologies, Cherry Hill, NJ
Tower Tool & Engineering, Inc., Machesney Park, IL
Trace-A-Matic Corporation, Brookfield, WI
Tracer Tool & Die Company Inc., Grand Rapids, MI
Trademark Die & Engineering, Comstock Park, MI
Tram Tek Inc., Phoenix, AZ
Trans-World Electric Inc., Port Arthur, TX
Treblig, Inc., Greenville, SC
Trec Industries, Inc., Brooklyn Heights, OH
Tree City Mold & Machine Co., Inc., Kent, OH
Treffers Precision, Inc., Phoenix, AZ
Tresco Tool, Inc., Guys Mills, PA
Tri Craft, Inc., Middleberg Heights, OH
Tri J Machine Company, Inc., Gardena, CA
Tri-City Machine Products, Inc., Peoria, IL
Tri-City Tool & Die, Inc., Bay City, MI
Tri-M-Mold, Inc., Stevensville, MI
Tri-Wire, Inc., Rockford, IL
Triad Plastic Technologies, Reno, NV
Triangle Mold & Machine Co. Inc., Hartville, OH
Triangle Tool Company, Erie, PA
Tricon Machine & Tool, Inc., Rochester, NY
Tricore Mold & Die, Machesney Park, IL
Tridecs Corporation, Hayward, CA
Trident Precision Manufacturing, Webster, NY
Trig Aerospace, Santa Ana, CA
Trim Systems, Inc., Seattle, WA
Trimac Manufacturing, Inc., Santa Clara, CA
Trimetric Specialties, Inc., Newark, CA
Trimline Tool, Inc., Grandville, MI
Trinity Tools, Inc., North Tonawanda, NY
Trio Tool & Die, Inc., Hawthorne, CA
Triple Quality Tool & Die, Inc., Bell, CA
Triple-T Cutting Tools Inc., West Berlin, NJ
Triplett Machine, Inc., Phelps, NY
Triplex Industries, Inc., Rochester, NY
Triumph Precision, Inc., Phoenix, AZ
Trojan Mfg. Co. Inc., Piqua, OH
Trotwood Corporation, Trotwood, OH
Tru Cut, Inc., Sebring, OH
Tru Form Manufacturing Corp., Rochester, NY
Tru Tool, Inc., Sturtevant, WI
True Cut EDM Inc., Garland, TX
True Position, Inc., Chatsworth, CA
True-Tech Corporation, Fremont, CA
Trueline Tool & Machine, Inc., Springfield, OH
Trust Technologies, Willoughby, OH
Trutron Corporation, Troy, MI
Tschida Engineering, Inc., Napa, CA
Tucker Machine Company, North Branford, CT
Tura Machine Company, Folcroft, PA
Turbo Machine & Tool, Inc., Cleveland, OH
Turn-Tech, Inc., Decker Prairie, TX
Turner and Walima Mfg. Co., Inc., Essex, MA
Turner's Machine Shop, Phoenix, AZ
Twin City Plating Company, Minneapolis, MN
Two-M Precision Co., Inc., Willoughby, OH
Tydan Machining, Inc., Denton, TX
Tymar Precision Inc., Santa Clara, CA
TAB Manufacturing Corporation, Plainville, CT
TAE Corporation, Kent, WA
TC Precision Machine Inc., Dayton, OH
TCI Aluminum North, Hayward, CA
TLT-Babcock, Inc., Akron, OH
TMK Manufacturing Inc., Campbell, CA
U C O Tool & Die, Inc., Union City, OH
U F E Incorporated, Stillwater, MN
U M C, Inc., Hamel, MN
U P Machine & Engineering Co., Powers, MI
U S Machine & Tool, Inc., Murfreesboro, TN
Uddeholm, Santa Fe Springs, CA
Ugm, Inc., Santa Clara, CA
Ultra Precision, Inc., Freeport, PA
Ultra Stamping & Assembly, Inc., Rockford, IL
Ultra Tool & Manufacturing, Inc., Menomonee Falls, WI
Ultra-Tech, Inc., Kansas City, KS
Ultramation, Inc., Waco, TX
Ultron, Long Beach, CA
Uneco Manufacturing, Inc., Chicopee, MA
Unigraphics Solutions, Brookfield, WI
Unique Machine Company, Montgomeryville, PA
Unique Tool & Manufacturing, Randleman, NC
Unitech Enterprises, Inc., Rowland Heights, CA
Unitech, Inc., Kansas City, MO
United Centerless Grinding, East Hartford, CT
United Engineering Company, Kernersville, NC
United Machine Co., Inc., Wichita, KS
United Stars Aerospace, Inc., Kent, WA
United States Fittings, Inc., Warrensville Heights, OH
United Tool & Engineering Co., South Beloit, IL
United Tool & Engineering, Inc., Mishawaka, IN
United Tool & Mold Inc., Holland, MI
Universal Custom Process, Inc., Streetsboro, OH
Universal Precision Products Inc., Akron, OH
Universal Tool Company, Dayton, OH
Universal Tools & Manufacturing, Springfield, NJ
Universe Industries, Irvine, CA
Upland Fab, Inc., Upland, CA
USAeroteam, Dayton, OH
UT Technologies, Inc., Los Angeles, CA
V & M Tool Company, Inc., Perkasie, PA
V & S Die & Mold, Inc., Lakewood, OH
V A Machine & Tools, Inc., Broussard, LA
V Ash Machine Company, Cleveland, OH
V I Mfg., Webster, NY
V R C, Inc., Berea, OH
Valley Machine Works, Inc., Phoenix, AZ
Valley Tool & Die, Inc., North Royalton, OH
Valley Tool & Mfg. Inc., Grayslake, IL
Valley Tool Room, Inc., Phoenix, AZ
Vals Tool & Die Corp., Mount Vernon, NY
Value Tool & Engineering, Inc., South Bend, IN
Valv-Trol Company, Stow, OH
Van Engineering, Cincinnati, OH
Van Os Machine Works, Inc., St. Louis, MO
Van Reenen Tool & Die Inc., Rochester, NY
Van-Am Tool & Engineering, Inc., St. Joseph, MO
Vanderveer Industrial Plastics, Placentia, CA
Vanpro, Inc., Cambridge, MN
Vantage Mold & Tool Company, Akron, OH
Vaughn Manufacturing Company, Nashville, TN
Vektek, Inc., Emporia, KS

Venango Machine Products, Inc., Reno, PA
Venture Precision Machining Co., Champaign, IL
Venture Tool, Inc., Erie, PA
Ver-Sa-Til Associates, Inc., Chanhassen, MN
Versa-Tool, Inc., Meadville, PA
VersaTool & Die Machining, Beloit, WI
Vi-Tec Manufacturing Inc., Livermore, CA
Viking Tool & Engineering, Whitehall, MI
Viking Tool & Gage, Inc., Conneaut Lake, PA
Vistek Precision Machine Company, Ivyland, PA
Vitron Manufacturing, Inc., Phoenix, AZ
Vitullo & Associates, Inc., Warren, MI
Vobeda Machine & Tool Company, Racine, WI
Vogform Tool & Die Company, Inc., West Springfield, MA
Vulcan Tool Corporation, Dayton, OH
W + D Machinery Company, Inc., Overland Park, KS
W & H Stampings & Fineblanking, Inc., Hauppauge, NY
W D & J Machine & Engineering Inc., Fullerton, CA
W E C Technologies Corporation, Deer Park, NY
W G Strohwig Tool & Die, Inc., Richfield, WI
W M C Grinding, Inc., Santa Fe Springs, CA
W W G, Inc., Indianapolis, IN
Wagner Engineering, Inc., Gilbert, AZ
Waiteco Machine, Acton, MA
Wajo Tool and Die, Inc., East Hampstead, NH
Walco Tool & Engineering Corp., Lockport, IL
Walker Corporation, Ontario, CA
Walker Tool & Machine Company, Perrysburg, OH
Wallner Tooling/Expac, Inc., Rancho Cucamonga, CA
Waltco Engineering, Inc., Gardena, CA
Walter Tool & Mfg. Inc., Elgin, IL
Walz & Krenzer, Inc., Rochester, NY
Warmelin Precision Products, Hawthorne, CA
Waukesha Cutting Tools, Inc., Waukesha, WI
Waukesha Tool & Stamping Inc., Sussex, WI
Wausau Insurance Companies, Wausau, WI
Wayne Manufacturing, Inc., Boulder, CO
Webco Machine Products, Inc., Valley View, OH
Weco Metal Products, Ontario, NY
Weiss-Aug Co. Inc., East Hanover, NJ
Wejco Instruments Inc., Houston, TX
Weldex, Inc., Warren, MI
Weltek-Swiss, Englewood, CO
Wemco Precision Tool, Inc., Meadville, PA
Wentworth Company, Glastonbury, CT
Werkema Machine Company, Inc., Grand Rapids, MI
Wes Products, Madison Heights, MI
West Hartford Tool & Die Company, Newington, CT
West Milton Precision Machine, Vandalia, OH
West Pharmaceutical Services, Erie, PA
West Tool & Manufacturing, Inc., Cleveland, OH
West Valley Milling, Inc., Chatsworth, CA
West Valley Precision Inc., Santa Clara, CA
Westbrook Manufacturing, Inc., Dayton, OH
Western Machining, Inc., Fullerton, CA
Western Mass. MechTech, Inc., Ware, MA
Western Steel Cutting, Inc., San Jose, CA
Western Tap Manufacturing Co., Buena Park, CA
Westfield Gage Company, Inc., Westfield, MA
Westfield Manufacturing Corp., Westfield, IN
Westfield Tool & Die, Inc., Westfield, MA
Westlake Tool & Die Mfg., Avon, OH
Westtool Inc., Phoenix, AZ
White Machine, Inc., North Royalton, OH
White Machine, Inc., North Kingstown, RI
Whitehead Tool & Design, Inc., Guys Mills, PA
Wiegel Tool Works, Inc., Wood Dale, IL
Wightman Engineering Services, Santa Clara, CA
Wilco Die Tool Machine Company, Maryland Heights, MO
Wilkinson Mfg., Inc., Santa Clara, CA
Willer Tool Corporation, Jackson, WI
William Sopko & Sons Co., Inc., Cleveland, OH
Williams Controls Industries, Portland, OR
Williams Engineering & Manufacturing, Inc., Chatsworth, CA
Williams Machine, Inc., Lake Elsinore, CA
Windsor Tool & Die, Inc., Cleveland, OH
Winter's Grinding Service, Menomonee Falls, WI
Wire Cut Company, Inc., Buena Park, CA
Wire Tech E D M, Inc., Los Alamitos, CA
Wire Tech, LLC, Watertown, CT
Wirecut Technologies Inc., Indianapolis, IN
Wiretec, Inc., Delmont, PA
WireCut E D M, Inc., Dallas, TX
Wisconsin Engraving Company/, New Berlin, WI
Wisconsin Metalworking Machinery, Waukesha, WI
Wisconsin Mold Builders, LLC, Waukesha, WI
Wise Machine Co., Inc., Butler, PA
Wolfe Engineering, Inc., Campbell, CA
Wolverine Bronze Company, Roseville, MI
Wolverine Tool & Engineering, Belmont, MI
Wolverine Tool Company, St. Clair Shores, MI
Woodruff Corporation, Torrance, CA
Wright Brothers Welding & Sheet Metal, Inc., Hollister, CA
Wright Industries, Inc., Nashville, TN
Wright Industries, Inc., Gilbert, AZ
Wright-K Technology, Inc., Saginaw, MI
WADKO Precision, Inc., Houston, TX
WSI Industries, Inc., Long Lake, MN
X L I Corporation, Rochester, NY
Yates Tool, Inc., Medina, OH
Yoder Die Casting Corporation, Dayton, OH
Yorktown Precision Technologies, Yorktown, IN
Youngberg Industries, Inc., Belvidere, IL
Youngers and Sons Manufacturing, Viola, KS
Youngstown Plastic Tooling & Machinery, Inc., Youngstown, OH
Z & Z Machine Products Inc., Racine, WI
Z M D Mold & Die Inc., Mentor, OH
Zakar Inc., Brockport, NY
Zip Tool & Die Co., Inc., Cleveland, OH
Zircon Precision Products, Inc., Tempe, AZ
Zuelzke Tool & Engineering, Milwaukee, WI
4 Axis Machining, Inc., Denver, CO
86 Tool Company, Cambridge Springs, PA

[FR Doc. 00–3667 Filed 2–15–00; 8:45 am]
BILLING CODE 3510–DR–U

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Government owned inventions available for licensing.

SUMMARY: The invention listed below is owned in whole or in part by the U.S. Government, as represented by the Department of Commerce. The Department of Commerce's ownership interest in the invention is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of Federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on

this invention may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the inventions for purposes of comemrcialization. The invention available for licensing is:

NIST Docket Number: 98–025US.

Title: High Nitrogen Stainless Steel.

Abstract: The invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, and Crucible Research. Disclosed is a high nitrogen stainless steel alloy and alloy powder comprising chromium (Cr), molybdenum (Mo), manganese (Mn), nickel (Ni), nitrogen (N) and iron (Fe). The composition of the stainless steel alloy and powder comprises between about 27 and about 30% by weight Cr, between about 1.5 and about 4.0% by weight Mo, an amount up to 15% by weight Mn, at least about 8% by weight Ni, and about 0.8 to about 0.97% by weight N, with the balance being Fe. It has been discovered that forming an alloy of this chemistry using nitrogen gas atomization process, followed by a consolidation process, the alloy is less likely to form detrimental ferrite, stable nitride and sigma phases, without the need for further processing, such as solution treating and quenching. This allows for the formation of stainless steel articles having a thicker cross-section with reduced processing cost.

Dated: February 7, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–3578 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

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 Visiting Committee on Advanced Technology, National Institute of Standards and Technology (NIST), will meet Tuesday, March 7, 2000 from 8:15 a.m. to 5:30 p.m. and Wednesday, March 8, 2000 from 8:15 a.m. to 12:15 p.m. the Visiting Committee on Advanced Technology is composed of fifteen members appointed by the Director of NIST; who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, 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 an update on NIST programs; a presentation by one of the Visiting Committee members on HRL Laboratories—S&T Investment Strategies; an indepth review of the Advanced Technology Program; an indepth review of Administration and Chief Financial Officer; an indepth review of the Building and Fire Research Laboratory; and a laboratory tour of the Virtual Cybernetic Building Testbed Demonstration. Discussions scheduled to begin at 8:15 a.m. and to end at 12:15 p.m. on March 8, 2000, on staffing of management positions at NIST and the NIST budget, including funding levels of the Advanced Technology Program and the Manufacturing Extension Partnership will be closed.

DATES: The meeting will convene March 7, 2000 at 8:15 a.m. and will adjourn at 12:15 p.m. on March 8, 2000.

ADDRESSES: The meeting will be held in the Employees' Lounge (seating capacity 80, includes 38 participants), Administration Building, at NIST, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Dr. Brian C. Belanger, Executive Director, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, Gaithersburg, MD 20899–1004, telephone number (301) 975–4720.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on July 15, 1999, that portions of the meeting of the Visiting Committee on Advanced Technology which involve discussion of proposed funding of the Advanced Technology Program and the Manufacturing Extension Partnership 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 the staffing issues of management and other positions at NIST may be closed in accordance with 5 U.S.C. 552(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: February 11, 2000.

Raymond G. Kammer,

Director.

[FR Doc. 00–3666 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021100D]

Bluefin Tuna Recreational Landings Reports; Proposed Information Collection; Request for Comments

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

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 17, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Christopher Rogers,

Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910; 301–713–2347.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), NOAA is responsible for management of the Nation's marine fisheries. In addition, NOAA must comply with the United States' obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*). The National Marine Fisheries Service (NMFS) collects information via angler landings reports to monitor the U.S. recreational catch of bluefin tuna in relation to the quota, thereby ensuring that the United States complies with its international obligations to the International Commission for the Conservation of Atlantic Tunas (ICCAT). Provisions of the domestic regulations are also monitored through this collection of information, such as compliance with area closures, fishing seasons, and regional subquotas. This information provides the catch data necessary to assess the status of bluefin tuna resources. Assessments are conducted and presented to ICCAT annually. The data provide, in part, the basis for ICCAT management recommendations which become binding on member nations. In addition, angler landings reports provide essential information for domestic management policy and rulemaking.

II. Method of Collection

Recreational anglers who land any size class Atlantic bluefin tuna are required to report those landings to NMFS via a an automated landings reporting system (ALRS) accessible toll-free by touch-tone telephone. The ALRS collects certain information for each Atlantic bluefin tuna that is landed. NMFS' regulations allow for cooperative efforts with the states and

in recent years, North Carolina and Maryland have implemented a catch card and landing tag system to census landings of bluefin tuna. In such cases of an equivalent state program, anglers are exempted from the requirement to use the ALRS.

III. Data

OMB Number: 0648–0328.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals (recreational fishermen), business and other for-profit (charter boat operators).

Estimated Number of Respondents: 3,000.

Estimated Time Per Response: 5 minutes for automated telephone reports, 10 minutes for landing cards.

Estimated Total Annual Burden Hours: 850.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and /or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 10, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–3721 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012100D]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research permit (#1234).

SUMMARY: NMFS has received a scientific research permit application from Mr. Joseph Hightower, of North Carolina Cooperative Fish and Wildlife Research Unit, North Carolina State University at Raleigh, NC.

DATES: Comments or requests for a public hearing on this application must be received no later than 5:00pm eastern standard time on March 17, 2000.

ADDRESSES: Written comments on the application should be sent to Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301–713–0376. Comments will not be accepted if submitted via e-mail or the internet. The applications and related documents are available for review by appointment in the Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (ph: 301–713–1401).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (ph: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on the application listed in this notice should set out the specific reasons why a hearing on the application would be appropriate (see **ADDRESSES**). The holding of such hearings is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summary are those of the applicant and do not necessarily reflect the views of NMFS.

New Application Received

NCCFWRU (#1234) has requested a 5-month permit to capture, sample, tag and release up to 10 shortnose sturgeon (*Acipenser brevirostrum*) in the Roanoke River, North Carolina. The purpose of the project is to answer questions regarding impacts of the Roanoke and Gaston dams on anadromous fishes, information which is required by the Federal Energy Regulatory Commission relicensing process. No shortnose sturgeon have been recorded as being

taken from the Roanoke River; however, sampling effort has been low. The Final Recovery Plan for shortnose sturgeon mandates that surveys be conducted to identify and determine the status of extant populations of shortnose sturgeon.

Dated: February 10, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–3723 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020700D]

Endangered Species; Permits

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

ACTION: Receipt of application for ESA section 10(a)(1)(A) enhancement permit #1237.

SUMMARY: Notice is hereby given that NMFS has received a permit application from the U.S. Army Corps of Engineers, Walla Walla District at Walla Walla, WA (Corps).

DATES: Comments or requests for a public hearing on this application request must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5:00pm pacific standard time on March 17, 2000.

ADDRESSES: Written comments on this application should be sent to the Protected Resources Division (PRD), F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737. Comments may also be sent via fax to 503–230–5435. Comments will not be accepted if submitted via e-mail or the internet. The application and related documents are available for review by appointment in the Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (ph: 503–230–5400, fax: 503–230–5435).

Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: Robert Koch, Portland, OR (ph: 503–230–5424, fax: 503–230–5435, e-mail: Robert.Koch@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on the application listed in this notice should set out the specific reasons why a hearing on the application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summary are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species and evolutionarily significant units (ESU's) are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened, naturally produced and artificially propagated Snake River (SnR) spring/summer; threatened SnR fall; endangered, naturally produced and artificially propagated upper Columbia River (UCR) spring.

Sockeye salmon (*O. nerka*): endangered, naturally produced and artificially propagated SnR.

Steelhead (*O. mykiss*): threatened SnR; endangered naturally produced and artificially propagated UCR; threatened middle Columbia River (MCR).

To date, protective regulations for threatened SnR and MCR steelhead under section 4(d) of the ESA have not been promulgated by NMFS. This notice of receipt of an application requesting takes of these species is issued as a precaution in the event that NMFS issues protective regulations that prohibit takes of threatened SnR and MCR steelhead. The initiation of a 30-day public comment period on the application, including its proposed takes of threatened SnR and MCR steelhead does not presuppose the contents of the eventual protective regulations.

Application Received

The Corps requests a 5-year ESA section 10(a)(1)(A) enhancement permit to replace permit #895, which is due to expire on December 31, 2000. The permit is requested for annual takes of ESA-listed SnR salmon/steelhead for the purposes of enhancement, and incidental takes of ESA-listed UCR and MCR salmon/steelhead, associated with the transportation of juvenile anadromous fish around the mainstem dams and reservoirs on the Snake and Columbia Rivers in the Pacific Northwest. The purpose of the Corps' Juvenile Fish Transportation Program (JFTP) is to increase juvenile fish survival over the alternative of in-river passage, given current in-river migratory conditions. The collection and transportation of juvenile salmonids is projected to occur March 25 through October 31 each year at Lower Granite, Little Goose, and Lower Monumental Dams, and March 25 through December 15 each year at McNary Dam. The Corps proposes to load the juvenile fish into trucks or barges at the hydropower facilities for transportation to below Bonneville Dam on the Columbia River. Further handling of the ESA-listed fish does not occur except when salmonids are handled for smolt monitoring and research purposes by researchers holding separate permits. Indirect mortalities of ESA-listed juvenile fish associated with the JFTP are requested by the Corps. The Corps also requests annual incidental takes, including incidental mortalities, of ESA-listed adult fish associated with fallbacks at the juvenile fish transportation facilities.

The Corps' JFTP is a mitigation measure recommended by NMFS' *Reinitiation of Consultation on 1994-1998 Operation of the Federal Columbia River Power System (FCRPS) and Juvenile Transportation Program in 1995 and Future Years* biological opinion issued on March 2, 1995 and the 1998 supplement to that opinion. However, NMFS is in the process of consulting with the Federal action agencies, including the Corps, on the long-term management strategy for the FCRPS, pursuant to section 7 of the ESA. Issuance of the proposed permit will depend on the completion of that consultation process and the requirements of any biological opinion resulting from the consultation.

Dated: February 10, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–3726 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 120999H–1]

Extension of Comment Period for the Draft Environmental Impact Statement, and Incidental Take Permit Application and Proposed Habitat Conservation Plan Submitted by Plum Creek Timberlands, L. P. for Lands in Montana, Idaho, and Washington

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce; Fish and Wildlife Service (FWS), Interior.

ACTION: Notice; extension of public comment period.

SUMMARY: This notice announces the extension of the comment period announced in the **Federal Register** notice dated December 17, 1999, for the Draft Environmental Impact Statement (DEIS) for proposed issuance of an Incidental Take Permit (Permit), pursuant the Endangered Species Act of 1973, as amended (ESA), to Plum Creek Timber Lands, L.P., (and its partners Plum Creek Timber Company, Inc., and Plum Creek Timber I L. L. C.), Plum Creek Marketing Inc., Plum Creek Land Company, Plum Creek Northwest Lumber, Inc., Plum Creek Northwest Plywood, Inc., and Plum Creek MDF, Inc. (Plum Creek).

DATES: Written comments must be received at the appropriate address or fax number by 5:00pm Mountain Standard Time on March 17, 2000.

ADDRESSES: Written comments should be sent to Ted Koch, Project Biologist, FWS, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709 (fax: 208/387–5262); or Bob Ries, Project Biologist, NMFS, 530 S. Albury Street, Suite #2, Moscow, Idaho 83843 (fax: 208/882–4109). Comments will not be accepted if submitted via e-mail or the internet.

FOR FURTHER INFORMATION CONTACT: Ted Koch, 208/378–5243, fax 208/378–5262, e-mail Ted__Koch@fws.gov; or Bob Ries, 208/882–6148, fax 208/882–4109, e-mail Bob.Ries@noaa.gov.

SUPPLEMENTARY INFORMATION: This notice extends the comment period announced in the **Federal Register** on December 17, 1999 (64 FR 70695). Issuance of the Permit is pursuant to section 10(a)(1)(B)of the ESA. The December 17, 1999, notice informed the public that NMFS and FWS have received an application by Plum Creek for a Permit, and invited the public to comment on the proposal to issue the Permit, Habitat Conservation Plan, DEIS, and Implementing Agreement.

Dated: February 4, 2000.

Thomas J. Dwyer,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

Dated: February 11, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–3727 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–22–F, 4310–55–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020700C]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Scoping Meetings

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

ACTION: Notice of scoping meetings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will conduct scoping meetings to receive comments on a Draft Options Paper for Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Shrimp Amendment 10).

DATES: Written comments will be accepted until 5 p.m. on March 6, 2000. The scoping meetings will be held from February 28 through March 1, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Written comments should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, Florida 33619; telephone: (813) 228–2815. Copies of the Draft Options Paper are also available from the Council.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: The scoping meetings will be convened to receive comments on the need for additional bycatch reduction requirements for the shrimp fishery in the exclusive economic zone (EEZ) south and east of 85°30′ W. long. Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), approved by the National Marine Fisheries Service (NMFS) on July 30, 1997, and implemented by final rule on May 14, 1998 (April 14, 1998; 63 FR 18139), required the use of a NMFS-certified bycatch reduction device (BRD) in shrimp trawls used in the EEZ from Cape San Blas, Florida (85'30' W. long.) to the Texas/Mexico border and provided for the certification of the Fisheye BRD in the 30 mesh position. The purpose of this action was to reduce the bycatch mortality of juvenile red snapper by 44 percent from the average mortality for the years 1984–89. Amendment 9 to the FMP exempted shrimp trawls fishing for royal red shrimp outside of 100 fathoms, as well as groundfish and butterfish trawls. It also excluded small try nets and no more than two ridged frame roller trawls that do not exceed 16 feet (4.9 m). Amendment 9 to the FMP did not require BRDs south and east of 85—30′ West long. because few juvenile red snapper were found as bycatch in this area. Because of the Magnuson-Stevens Fishery Conservation and Management Act's requirement to reduce bycatch to the extent practicable, the Council is considering the need for additional measures to reduce bycatch.

Scoping meetings for the Draft Options Paper on Shrimp Amendment 10 will begin at 7:00 p.m. and end at 10:00 p.m. at all of the following locations:

1. Monday, February 28, 2000—New Orleans Airport Hilton, 901 Airline Drive, Kenner, LA 70062

2. Tuesday, February 29, 2000—Mississippi Department of Marine Resources, 1141 Bayview Avenue, Biloxi, MS 39530

3. Wednesday, March 1, 2000—Adam's Mark Hotel Mobile, 64 South Water Street, Mobile, AL 36602

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language

interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**).

Dated: February 11, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–3722 Filed 2–15–00; 8:45 am]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted the following public information collection requests (ICRs) to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13. (44 U.S.C. Chapter 35)). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Office of Evaluation, Chuck Helfer, (202) 606–5000, extension 248. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–5256 between the hours of 9:00 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Mr. Danny Werfel, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, D.C. 20503, (202) 395–7326, within 30 days of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the Corporation, 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;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information to those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: The AmeriCorps*National Civilian Community Corps (NCCC) Community Impact Evaluation.

OMB Number: None.

Agency Number: None.

Affected Public: Volunteer coordinators or similar staff at non-profit organizations or agencies that sponsor AmeriCorps*NCCC projects; volunteer coordinators or similar staff at non-profit organizations or agencies that benefit from AmeriCorps*NCCC projects.

Total Respondents: Approximately 108 volunteer coordinators or similar staff in sponsoring organizations; approximately 160 volunteer coordinators or similar staff in benefiting organizations.

Frequency: Two waves for staff in sponsoring organizations; one for staff at benefiting organizations.

Average Time Per Response: Staff at sponsoring organizations—40 minutes (first wave), 60 minutes (second wave); Staff at benefiting organizations—20 minutes.

Estimated Total Burden Hours: 229 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Description

The Corporation seeks approval of three survey forms for the evaluation of the community impacts of the Corporation's AmeriCorps*NCCC program. It will allow for the assessment of the impact of the AmeriCorps*NCCC projects on direct beneficiaries, agency and organizational sponsors, and the larger communities they serve. It will also help the Corporation to determine effective planning, initiation, and implementation practices for enhancing AmeriCorps*NCCC projects' impacts on communities.

Data obtained from the surveys, in combination with documentation available from AmeriCorps*NCCC program managers, will provide three complementary options for estimating impacts. These include (1) describing impacts on a program-by-program basis in the terms and measures used by sponsors in relation to the ''no-treatment'' expectation, (2) examining reported actual impacts in relation to predicted ones, and (3) calculating the monetary benefit of some programs' impacts. These impacts can be related to the structural and implementation characteristics of the projects.

There has been one change since the publication of the 60 day notice (**Federal Register:** October 15, 1999 (Volume 64, Number 199), Pages 55905–55907). An intensive interview protocol for use in assessing implementation at a small number of project sites has been eliminated.

Dated: February 10, 2000.

Thomasenia P. Duncan,

General Counsel.

[FR Doc. 00–3630 Filed 2–15–00; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Due Dates for Applications for Assistance Under Learn and Serve America and AmeriCorps*State/National

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service announces the timeline for applications for assistance under Learn and Serve America and Americorps*State/National.

FOR FURTHER INFORMATION CONTACT: Nancy Talbot, (202) 606–5000, ext. 470. T.D.D. (202) 565–2799. For individuals with disabilities, we will make this information available in alternative formats upon request.

SUPPLEMENTARY INFORMATION: Pursuant to the National and Community Service Act of 1990, as amended (42 U.S.C. 12501 *et seq.*), we announce the following timeline for applications for assistance under Learn and Serve America and AmeriCorps*State/National.

Learn and Serve America
School-based, March 6, 2000.
Community-based, March 6, 2000.
Higher Education, March 6, 2000.
Community, Higher Education, and School Partnership, March 6, 2000.
AmeriCorps*State
Competitive, February 28, 2000.
Formula, May 15, 2000.
Programs in South Dakota and North Dakota, May 15, 2000.
U.S. Territory, May 15, 2000.
Indian Tribes (new), March 21, 2000.
Indian Tribes (continuation), April 27, 2000.
Indian Tribes (residential concept papers), February 28, 2000.

AmeriCorps*National (new), March 21, 2000.
AmeriCorps*National (continuation), March 14, 2000.
AmeriCorps*Education Awards, May 15, 2000, and November 9, 2000.

The application guidelines for each type of program contain program requirements as well as information about the application process itself. If you are an organization that applies directly to us, you may download the application guidelines from our website at: http://americorps.org/resources/ and http://learnandserve.org/resources, or you can obtain a hard copy by calling (202) 606–5000, ext. 163. If you are an organization intending to apply for an AmeriCorps grant to support a program in the District of Columbia, we will publish a separate notice in the **Federal Register**. For organizations that apply directly to a State Commission, you may obtain contact information at http://www.nationalservice.org/contactus.html.

Dated: February 11, 2000.

Gary Kowalczyk,

Coordinator of National Service Programs, Corporation for National and Community Service.

[FR Doc. 00–3669 Filed 2–15–00; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 17, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: February 10, 2000.

William Burrow,

Leader Information Management Group, Office of the Chief Information Officer.

Office of the Chief Financial Officer

Type of Review: Reinstatement.
Title: Grant Performance Report.
Frequency: One time. High-risk grant organizations may be required to report more frequently.
Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 6,000.
Burden Hours: 120,000.
Abstract: ED uses the information collection specific to ED FORM 524–B for the award and administration of multi-year discretionary grants. The Department has substantially increased the flexibility of the grant process by enabling all years of multi-budgets to be negotiated at the time of the initial award. (ED GAPS001) and to submit only performance report (ED FORM 524–B) to receive continuation funding. This clearance also includes government-wide common rules for institutions of Higher Education, Non-Profit agencies, and State and local governments.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Questions regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address Jackie__Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–3602 Filed 2–15–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Educational Research Policy and Priorities Board; Teleconference

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of meeting by teleconference.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting by teleconference of the National Educational Research Policy and Priorities Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting. The public is being given less than 15 days' notice of this meeting because of the need to expedite decisions on funding major initiatives of the Board.

DATES: February 22, 2000.

TIME: 2–4 p.m., EST.

LOCATION: Room 100, 80 F St., NW, Washington, D.C. 20208–7564.

FOR FURTHER INFORMATION CONTACT: Thelma Leenhouts, Designated Federal Official, National Education Research Policy and Priorities Board, Washington, D.C. 20208–7564. Tel.: (202) 219–2065; fax: (202) 219–1528; e-mail: Thelma__Leenhouts@ed.gov. The main telephone number for the Board is (202) 208–0692.

SUPPLEMENTARY INFORMATION: The National Educaitonal Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with

respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office. The meeting is open to the public. Persons who wish to attend should contact the Board office at (202) 208–0692. The Board will review and give final approval to revisions of its budget plan for the remainder of FY 2000. Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, Suite 100, 80 F St., NW, Washington, D.C. 20208–7564.

Dated: February 11, 2000.

Eve M. Bither,

Executive Director.

[FR Doc. 00–3680 Filed 2–15–00; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, March 8, 2000: 6:00–9:30 p.m.

ADDRESSES: Garden Plaza Hotel, 215 South Illinois Street, Oak Ridge, TN.

FOR FURTHER INFORMATION CONTACT: Theresa Perry, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, (865) 576–8956.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Project Team Leaders' reports on their team's current and planned activities.

2. Board members' trip reports on the SSAB Chairs Meeting in Idaho, and on the Western Stakeholder Forum on Land Use Controls.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Carol Davis at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Carol Davis, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (423) 576–0418.

Issued at Washington, DC on February 11, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–3695 Filed 2–15–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket Nos. PP–50 and PP–219]

Application for Presidential Permit, Central Power & Light; Request to Rescind Presidential Permit, Comision Federal de Electricidad

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Application; Request for Rescission.

SUMMARY: Central Power and Light Company (CPL) has applied for a Presidential permit to operate and maintain existing electric transmission facilities across the U.S. border with Mexico. In the same application, Comision Federal de Electricidad (CFE) has requested a rescission of its Presidential permit originally granted for the construction of these same cross-border transmission facilities.

DATES: Comments, protests or requests to intervene must be submitted on or before March 17, 2000.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Coal & Power Import and Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael T. Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: The construction, connection, operation, and maintenance of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

On February 9, 2000, CPL, a wholly owned subsidiary of Central and South West Corporation, a public utility regulated by both the Federal Energy Regulatory Commission (FERC) and the Public Utility Commission of Texas, filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for a Presidential permit. CPL proposes to operate and maintain existing international transmission facilities at Eagle Pass, Texas. Construction of these existing facilities was authorized by Presidential Permit PP–50 issued to CFE, the national electric utility of Mexico. The CPL application also includes a letter from CFE requesting that DOE rescind PP–50 coincident with issuance of a Presidential permit to CPL.

Presidential Permit PP–50 originally was granted by the Federal Power Commission on February 8, 1971, in Order E–6192, and authorized construction of a 138,000-volt (138-kV) transmission line extending approximately 1.3 miles from CPL's Eagle Pass, Texas, substation to the United States border with Mexico. From the border, the transmission line continues approximately 3.7 miles to Piedras Negras in Mexico's State of Coahuila. CPL does not propose to change the physical facilities previously authorized to CFE. Rather, CPL proposes to change the manner in which the facilities will be operated.

In its application, CPL indicates that it is installing High Voltage Direct Current (HVDC) equipment in the form of Voltage Source Converter technology at its Eagle Pass substation to address transmission reliability problems that exist in the area. CPL expects that the installation of this equipment will relieve the existing transmission constraints within the Electric Reliability Council of Texas. In its Presidential permit application, CPL is requesting DOE to authorize the connection of this HVDC equipment to

the international transmission facilities authorized by PP–50 in order to enhance cross-border transmission of electric energy.

Presently, the PP–50 facilities can only be operated as a radial connection between the CFE and CPL systems. In this mode of operation, electric energy can only be transmitted from one system to the other by means of a ''block-loading'' scheme. Connection of the HVDC equipment to the PP–50 facilities would convert the interconnection with CFE to a continuous asychronous interconnection.

On July 27, 1999, DOE published a notice in the **Federal Register** indicating its intention to amend certain Presidential permits to require permit holders to provide non-discriminatory open access transmission services over their international transmission lines. In that notice, the cross-border facilities authorized by Presidential Permit PP–50 were included in a list of facilities proposed to receive this open access condition. Since the facilities covered by Presidential Permits PP–50 and the proposed PP–219 are the same, it would be DOE's intention to add such an open access condition to PP–219, if granted, at the conclusion of DOE's open access proceeding in Docket No. 99–1.

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with section 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure (18 CFE 385.211, 385.214).

Fifteen copies of such petitions and protests should be filed with DOE on or before the date listed above. Additional copies of such petitions to intervene or protest also should be filed directly with: Alan McQueen, Project Manager, Central and South West Service Inc., Two West Second Street, Tulsa, OK 74103 and Carolyn Y. Thompson, Jones, Day, Reavis & Pogue, 51 Louisiana Avenue, NW, Washington, DC 20001–2113.

Before a Presidential permit may be issued or amended, DOE must determine that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system. In addition, DOE must consider the environmental impacts of the proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA). DOE also must obtain the concurrences of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above. In addition, the application may be reviewed or downloaded from the Fossil Energy Home Page at: http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Electricity'' from the ''Regulatory Info'' menu, and then ''Pending Proceedings'' from the options menu.

Issued in Washington, DC, on February 10, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 00–3697 Filed 2–15–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Competitive Financial Assistance for the Office of Energy Efficiency and Renewable Energy

AGENCY: U.S. Department of Energy.

ACTION: Notice of competitive financial assistance solicitation for energy efficiency science initiative.

SUMMARY: The Department of Energy (DOE) is announcing a competitive solicitation for applications for cooperative agreements to pursue scientific and engineering research and development (R&D) in enabling technologies. The solicitation will focus on areas that have the potential for cross-cutting applications in the field of energy efficiency across the transportation, industrial, and building sectors. It is estimated that funding of approximately $10.7 million will be available for 10 to 15 awards under this solicitation in fiscal year 2000.

Six priority areas of interest have been identified: (1) Advanced materials; (2) biobased products and bioenergy; (3) combustion processes and systems; (4) sensors and controls; (5) computational sciences; and (6) energy storage and power conversion. The awards will be for a period of one to three years. Proposals will be subject to the objective merit review procedures for the Office of Energy Efficiency and Renewable Energy (EERE).

It is anticipated that the solicitation will encourage applications to be submitted by institutions of higher education and that such institutions will lead teams including participants such as for-profit entities, non-profit organizations, national laboratories, state government agencies, and/or individual researchers located in the United States. Applications that are submitted by institutions of higher education and that reflect a collaborative team approach will be given favorable consideration in the selection process.

Applications by DOE management and operating contractors (M&O) will not be eligible for award. However, applications that include performance of a portion of the project by an M&O contractor will be eligible and encouraged, provided that the proposed use of any such entity is specifically authorized in writing by the DOE Contracting Officer or authorized designee responsible for the M&O based on specified criteria.

This solicitation provides opportunities to leverage funds for important research and development (R&D) designed to advance technologies that promote energy efficiency. Proposed cost-sharing will be given favorable consideration in the selection process.

DATES: Later in February 2000, a draft solicitation document, which will include greater detail about specific program areas of interest, application instructions, due dates and evaluation criteria, will be issued for public comment for a ten-day period. The final solicitation is expected to be issued in March 2000.

ADDRESSES: The formal solicitation document will be disseminated electronically as Solicitation No. DE-PS36–00GO10500 through the Golden Field Office's World Wide Web site at http://www.eren.doe.gov/golden/solicitations.html.

FOR FURTHER INFORMATION CONTACT: Contact the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Golden Field Office, 1617 Cole Blvd., Golden, CO 80401. The Contract Specialist is James Damm, at FAX (303) 275–4788 or e-mail at jim____damm@nrel.gov. All questions or comments concerning this announcement must be in writing and should be directed to the attention of Mr. Damm. The preferred method of submitting questions and/or comments is through e-mail. Only questions and comments submitted to Mr. Damm will be considered. Questions and/or comments requiring coordination with EERE program officials will be directed to the cognizant offices.

SUPPLEMENTARY INFORMATION: The Office of EERE implements DOE's strategic objectives of increasing the efficiency and productivity of energy use, while limiting harmful environmental impacts; reducing the vulnerability of the U.S. economy to disruptions in

energy supplies; ensuring the existence of a competitive utility power industry that can deliver adequate and affordable supplies of energy with minimal negative environmental impacts; supporting U.S. energy, environmental, and trade and other economic interests in global markets; and delivering leading-edge technologies.

Proposals will be accepted in the following areas or combination of areas: (1) Advanced materials; (2) biobased products and bioenergy; (3) combustion processes; (4) sensors and controls; (5) computational sciences; and (6) energy storage and power conversion.

Additional information about the programs of the Office of EERE can be obtained at the Office's

Internet site at http://www.eren.doe.gov/ee.html.

Issued in Golden, CO.

Dated: February 9, 2000.

Matthew Barron,

Contracting Officer, Golden Field Office.

[FR Doc. 00–3696 Filed 2–15–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–206–005]

Atlanta Gas Light Company; Notice of Technical Conference

February 10, 2000.

Take notice that a technical conference will be held on Thursday, March 16, 2000, at 10 am., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

All interested parties and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–3650 Filed 2–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–76–000]

Distrigas of Massachusetts Corporation; Notice of Application

February 10, 2000.

Take notice that on February 3, 2000, Distrigas of Massachusetts Corporation (DOMAC), 75 State Street, 12th Floor, Boston, Massachusetts 02109, filed in Docket No. CP00–76–000 an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations, for a limited-term certificate of public convenience and necessity authorizing DOMAC to install on a temporary basis, at its liquefied natural gas (LNG) terminal in Everett, Massachusetts, certain air injection equipment needed to modify the Btu content of LNG prior to delivery into a pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection. DOMAC further requests that the limited-term certificate be granted for a period through March 31, 2000, the end of the winter heating season. In addition, DOMAC requested that the Commission issue a temporary certificate by February 4, 2000, pursuant to Section 157.17 of the Commission's Regulations, pending final action on the limited-term authorization. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

DOMAC explains that, due to recent weather conditions, very high LNG demand among DOMAC's customers has created a temporary shortage of LNG supply. In order to relieve the LNG shortage, DOMAC states that it has arranged for a cargo of high-Btu-content LNG to arrive at the Everett terminal for unloading on February 6, 2000. Another cargo, of lower-Btu-content LNG, is expected to arrive on February 8, 2000. The additional air injection equipment, which consists of two natural gas-fired, truck-mounted air compressors and appurtentant facilities for air stabilization, is said to be necessary to permit more rapid stabilization of the high-Btu-content LNG in order to permit full utilization of DOMAC's existing send-out capacity to meet the current regional gas demand and permit the unexpected receipt of a cargo of high-Btu-content LNG followed within a short interval by a second cargo.

Based on the statements made in DOMAC's filing, the Commission determined that an emergency exists within the meaning of the Natural Gas Act and, on February 4, 2000, issued temporary authorization, without prejudice to the ultimate disposition of DOMAC's application for a limited-term certificate, to install air injection equipment at DOMAC's LNG terminal in Everett, Massachusetts.

Any questions concerning this application should be directed to Robert A. Nailling, Senior Counsel, Distrigas of Massachusetts Corporation, 75 State Street, 12th Floor, Boston Massachusetts 02109 at (617) 526–8300.

Any person desiring to be heard or making any protest with reference to said application should on or before February 24, 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. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. 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.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on these applications if no motion to intervene is filed within the time required herein, 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 DOMAC to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–3651 Filed 2–15–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL99–3–001]

Certification of New Interstate Natural Gas Pipeline Facilities; Order Clarifying Statement of Policy

Issued February 9, 2000.

Before Commissioners: James J. Hoecker, Chairman; William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

On September 15, 1999, the Federal Energy Regulatory Commission (Commission) issued a Statement of Policy (Policy Statement) revisiting its policy for certificating new construction not covered by the optional or blanket certificate authorizations. The purpose of the Policy Statement was to provide the industry with guidance as to the analytical framework the Commission will use to evaluate proposals for certificating new construction.

The Policy Statement sets out the analytical steps the Commission will use. It provides that when a certificate application is filed, the threshold question applicable to existing pipelines is whether the project can proceed without subsidies from their existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the existing customers of the pipeline proposing the project, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If the proposed project will not have any adverse effect on the existing customers of the expanding pipeline, existing pipelines in the market and their captive customers, or the economic interests of landowners and communities affected by route of the new pipeline, then no balancing of benefits against adverse effects would be necessary. The Commission would proceed to a preliminary determination or a final order. If residual adverse effects on the three interests are identified, after efforts have been made to minimize them, then the Commission will proceed to evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. The Policy Statement sets forth in detail the considerations that the Commission will apply to each of these steps. At the end of the analysis, the Commission will approve an application for a certificate only if the public benefits from the project outweigh any adverse effects. This policy approach strives to advance development of a sustainable energy infrastructure that supports economic growth, environmental protection and other social benefits over the life of the projects.

Twelve parties sought rehearing or clarification of the Policy Statement. The issues raised by these parties include application of the Policy Statement to optional certificates, the application of the threshold no-subsidy requirement, issues relating to some of the factors to be considered in the balancing text, and the application of the policy to projects preceding its issuance. These issues are discussed in turn below.

Application of Policy Statement to Optional Certificates

The Policy Statement indicated that this policy does not apply to construction authorized under 18 CFR Part 157, Subparts E and F (optional and blanket certificates).

The Coastal Companies request that the Commission clarify that the Policy Statement will apply the public interest balancing factors to pipeline projects that are filed under the optional certificate regulations. The Coastal Companies contend that this clarification is necessary to ensure that there is no major policy gap in the Commission's administration of section 7 of the NGA between traditional and optional certificate applicants, and that both types of applicants will be entitled to a certificate of public convenience and necessity only to the extent that such applicants clearly demonstrate that the project's benefits exceed its economic and social costs.

Public Service Company of Colorado (PSCO) and El Paso concur that the Policy Statement should apply to projects filed under the optional certificate regulations, as well as to traditional applicants. It notes that the overarching standard applicable to all requests for certificate authority under NGA section 7, regardless of whether the certificate is sought under traditional or optional certificate procedures, is the requirement that a certificate applicant show that its proposal is required by the present or future public convenience and necessity.

Enron requests that the Commission either require that optional certificates make the same showing of public benefits and mitigation of adverse effects that is required of traditional section 7(c) applicants, or eliminate this requirement for traditional certificates.

The optional certificate regulations establish procedures whereby an eligible applicant may obtain, for the purposes of providing new service, a certificate authorizing: the transportation of natural gas; sales of natural gas; the construction and operation of natural gas facilities; the acquisition and operation of natural gas facilities; and conditional pre-granted abandonment of such activities and facilities. If an applicant complies with the requirements set forth in the Commission's regulations for optional certificates, it is presumed, subject to rebuttal, that the proposed new service is or will be required by the present or future public convenience and necessity.

The optional certificate procedures were established to provide expedited treatment of applications for service under section 7 of the NGA. A certificate and pre-granted abandonment are available under the optional certificate procedures to allow any applicant to institute jurisdictional service and to construct and operate facilities for such services. To qualify, the applicant must agree to comply with certain terms and conditions, the most important of which is that the applicant must accept the full risk of the proposed venture. The applicant's willingness to assume the full risk of the project is critical to the presumption that the project is in the public interest.

In the Policy Statement, the Commission explained that as the natural gas marketplace has changed, the Commission's traditional factors for

establishing the need for a project, such as contracts and precedent agreements, may no longer be a sufficient indicator that a project is in the public convenience and necessity. The Commission, therefore, changed its policy regarding the pricing of construction projects so that market decisions by pipelines and shippers, as opposed to regulatory tests, would better reveal whether there is sufficient support for the project and whether the project is financially viable. The Commission established a threshold requirement that the pipeline must be prepared to financially support the project without subsidy from its existing shippers. This will usually mean that the pipeline would have to price the project using incremental rates in which the full costs of the project are recovered solely from the shippers subscribing to the new capacity. Under this policy, the pipeline and its expansion customers could share the risks of the project, but they could not shift any of those risks onto existing customers.

Upon further review of the issue, the Commission concludes that the policies set forth in the Policy Statement have converged with the policies underlying the optional certificate program. Specifically, both the Policy Statement and the optional certificate procedures are intended to place the risk of a new project on the pipeline and the customers for the new project and to protect existing customers from bearing the risk of a project that was not designed for their benefit. Accordingly, the Commission is issuing a notice of proposed rulemaking in Docket No. RM00–5–000 contemporaneously with this order that proposes to remove the optional certificate procedures from the Commission's regulations. Pending a final rule on that issue, however, the Commission concludes that the balancing outlined in the Policy Statement should apply to any new applications for optional certificates.

Section 157.104(c) of the Commission's Regulations provides:

(c) Presumption. If an application complies fully with the requirements of § 157.102 and § 157.103, it is presumed, subject to rebuttal, that:

(1) The applicant is qualified to perform all the activities for which certificate authorization is requested;

(2) The applicant is willing and able to perform acts and provide service, as proposed, and to comply with the Natural Gas Act and any applicable regulations thereunder; and

(3) The proposed new service is or will be required by the present or future public convenience and necessity.

Until the Commission issues a rule in Docket No. RM00–5–000, applications for optional certificates filed after the issuance of this order will continue to have the regulatory presumption. However, if the record shows that under the Policy Statement analysis, the adverse effects of the proposed project outweigh the benefits of the project, then the presumption that the proposed new service is or will be required by the present or future public convenience and necessity will be deemed to have been rebutted and the certificate will not issue.

II. The Threshold Requirement of No Financial Subsidies

The Policy Statement changed the Commission's previous policy of giving a presumption for rolled-in rate treatment for pipeline expansions. The Commission found that rolled-in pricing sends the wrong price signals by masking the true cost of capacity expansions to the shippers seeking the additional capacity. Sending the wrong price signals to the market can lead to inefficient investment and contracting decisions which can cause pipelines to build capacity for which there is not a demonstrated market need. Such overbuilding, in turn, can exacerbate adverse environmental impacts, distort competition between pipelines for new customers, and financially penalize existing customers of expanding pipelines and customers of the pipelines affected by the expansion.

The Commission noted, however, that its new policy would not eliminate the possibility that some or all of a project's costs could be included in determining existing shippers' rates. The Commission stated that rolled-in pricing could still be appropriate when initial costly expansion results in cheap expansibility. The Commission indicated that project expansion costs could still be included in existing shippers' rates when construction projects are designed to improve service for existing customers. The Commission also stated that a form of rolled-in pricing could be applied as shippers exercise their right of first refusal, although the Commission did not describe specifically the process that would be followed.[1]

While the new policy initially places the pipeline at risk for the financial consequences of an expansion decision, expansion customers may agree to share the risk with the pipeline by specifying what will happen to rates under certain circumstances, such as anticipated volumes that do not develop or cost overruns. The Commission encouraged pipelines not to rely on standard ''Memphis clauses,'' [2] but to reach agreement with new shippers concerning specific elements of risk.

Requests for rehearing and clarification were filed with respect to a number of these issues: the adoption of the no-subsidy test for pricing expansions, the pricing of capacity during the right of first refusal, and the policy regarding Memphis clauses.

A. Adoption of the No-Subsidy Test

American Forest and Paper Association (AFPA), Indicated Shippers, and Paiute Pipeline Company (Paiute) sought rehearing and clarification regarding the adoption of the no-subsidy test for pipeline expansion projects. They contend the Commission should continue to apply its current policy permitting rolled-in pricing, particularly in situations when the increase in price to existing customers will not amount to a greater than 5% increase in their rates. AFPA and Indicated Shippers contend that the Commission's prior policy is correct because under this policy existing shippers' rates increase only when they receive some benefit from the construction project. They also contend that permitting rolled-in pricing sends accurate price signals and avoids discrimination because rolled-in pricing ensures that all customers receiving the same transportation service pay the same rates for that service. AFPA maintains that rolled-in pricing will better promote competition by ensuring a level playing field among competitors purchasing natural gas supplies. AFPA and Paiute maintain that incremental pricing is not needed to protect against overbuilding because the Commission can exercise its oversight role to ensure that there is sufficient market need for a project.

AFPA and Paiute argue that if the Commission does not retain its current pricing policy, it should at least modify that policy. AFPA and Paiute argue that the Commission should not establish the no-subsidy criteria as a threshold test, but consider a proposal for rolled-in rates in the context of the second prong of the test in which the Commission weighs all the benefits of the construction and the adverse impacts. As another alternative, AFPA argues the Commission could adopt a

[1] Under the right of first refusal, a shipper is entitled to continue service by matching the highest bid for that capacity up to the maximum rate.

[2] A ''Memphis clause'' refers to an agreement between a shipper and a pipeline providing that the pipeline may change a rate during the term of the contract by making a rate filing under section 4 of the NGA. *See* United Gas Pipeline Co. v. Memphis, 358 U.S. 103 (1958).

commensurate benefits test in which rolled-in pricing is permitted when the increase in rates to existing customers is commensurate with the benefits they receive.

The Commission concludes that, in the current market, its threshold requirement that pipeline expansions should not be subsidized by existing customers is necessary to enable a finding of a market need for a project. There are three different types of projects: an expansion project to provide additional service, a project to improve service to existing customers by replacing existing facilities, improving reliability, or providing additional flexibility, and a project that combines an expansion for new service with improvements for existing customers.[3] Under the Commission's no-subsidy policy, existing shippers should not have the rates under their current contracts changed because the pipeline has built an expansion to provide service to new customers. Existing customers' rates can be increased for projects that improve their service. And, as explained below, where a project combines an expansion with improvements to existing services, a pipeline can file to increase existing customers' rates when the pipeline can demonstrate that the new facilities are needed to improve service to existing customers.

The Commission has a two-step process for determining whether the market finds an expansion project economically viable. The first step, which occurs prior to the certificate application, is for the pipeline to conduct an open season in which existing customers are given an opportunity to permanently relinquish their capacity.[4] This first step ensures that a pipeline will not expand capacity if the demand for that capacity can be filled by existing shippers relinquishing their capacity. The open season policy was not changed by the recent Policy Statement. The second step is that the expansion shippers must be willing to purchase capacity at a rate that pays the full costs of the project, without subsidy from existing shippers through rolled-in pricing.

The removal of the subsidy is necessary to ensure that the market finds the project is viable because either the pipeline or its expansion shippers are willing to fully fund the project. Having lower prices subsidized by existing customers can lead to overbuilding as new customers are willing to subscribe to the capacity only because the price of the capacity is subsidized.

This no-subsidy requirement also is needed to ensure existing pipelines do not receive unfair advantage in competition for new construction projects with new entrant pipelines. The new entrant, by virtue of having no existing customers, must fully support a proposed project. In contrast, if the existing pipeline can receive a partial subsidy from its existing customers, this would create a bias favoring the expansion of existing facilities even where the pipeline of the new entrant would be more efficient. A rolled-in subsidy paid by the customers of the existing pipeline, therefore, may result in potential shippers favoring the less efficient project over the more efficient one.

AFPA and Paiute contend that the Commission need not rely on incremental pricing to establish market need, but can continue to rely upon its current regulatory requirements, such as relying on executed long-term contracts or binding precedent agreements for the capacity. But, as the Commission found in the Policy Statement, reliance on contractual agreements cannot be a substitute for reliance on proper pricing signals. A pipeline, for instance, may be able to provide precedent agreements for 100% of a project when it offers new shippers rolled-in rates subsidized by existing shippers. But that level of support could well disappear if the subsidy were removed and the new shippers had to fully support the costs of the project.

Indicated Shippers, AFPA, and Paiute contend that incremental pricing creates price discrimination because the existing and expansion shippers are paying different rates for the same service. Indicated Shippers maintain that all shippers should pay the same rate because both existing and expansion shippers are responsible for the demand creating the need for the expansion. Indicated Shippers quotes *Southeastern Michigan Gas Company* v. *FERC*, to the effect that:

> Because every shipper is economically marginal the costs of increased demand may equitably be attributed to every user, regardless when it first contracted with the pipeline.[5]

There are legitimate bases for charging existing and expansion shippers different rates. One of the Commission's regulatory goals is to protest captive customers from rate increases during the terms of their contracts that are unrelated to the costs associated with their service. The existing shippers sign long-term contracts with the pipelines with the expectation that increases in their rates will be related to the costs and usage of the system for which they subscribe and not based on construction needed to serve other shippers. One of the benefits generally associated with long-term contracts is that they reduce the buyer's risk by providing greater price certainty. Raising the rates of existing shippers during the term of their long-term contracts in order to subsidize expansions for new shippers reduces rate certainty and increases contractual risk. Existing shippers, therefore, should not be subject to increases in rates during the term of their existing contracts to reduce the rates faced by new shippers subscribing to expansion capacity.

It is not necessarily true, as AFPA suggests, that all companies should pay the same prices for the same good or service regardless of when they contract for the good or service. In an unregulated market, an established firm may be able to lock-in a low price for goods or services through a long-term contract when demand is weak relative to available supply, while a new entrant contracting for the same good or service at a later time when supply and demand conditions have changed, may have to pay higher prices.[6]

Moreover, charging expansion customers rolled-in prices at the onset of a project is not, as AFPA and Indicated Shippers suggest, the most efficient pricing solution because rolled-in pricing may result in undervaluing the costs of the expansion, which in turn, results in overbuilding. An alternative to the approach adopted in the Policy Statement would be for the Commission to revamp its current pricing system so that all shippers pay incremental prices or prices based on replacement as opposed to historic costs. Such an approach would avoid the pricing distortions that accompany rolled-in pricing for new facilities while charging both expansion and existing shippers the same rate. But moving to such a pricing system would require a complete reevaluation of the Commission's current ratemaking method, while the Commission is not prepared to make at this point. Indeed, neither AFPA nor Indicated Shippers

[3] The term expansion as used here includes the extension of existing facilities to serve new customers.

[4] Pricing Policy for New and Existing Facilities Constructed by Interstate Natural Gas Pipelines, 71 FERC ¶ 61,241, at 61,917 (1995), *reh'g denied,* 75 FERC ¶ 61,105 (1996).

[5] 133 F.3d 34, 41 (D.C. Cir. 1998).

[6] By the same token, during periods when demand is greater relative to available supply, customers may enter into high priced contracts for the future, while customers entering the market later when conditions have changed pay lower prices.

support such an approach, and AFPA, in fact, objects to any approach that would permit a pipeline to overrecover its cost-of-service based on historic costs. Thus, while no ratemaking policy is perfect, the Commission concludes that, within the confines of the existing ratemaking policy, the no-subsidy policy is superior to the use of roll-in pricing in establishing the proper pricing signals for new construction, without creating undue discrimination between pipeline customers.

Several of the comments raise questions about the application of the Commission's policy to expansion projects which may provide some benefit to existing customers. AFPA contends that roll-in pricing should be permitted if the existing customer receives some benefit from the project. Paiute similarly contends that intergrated expansions generally provide a positive benefit to all shippers and, therefore, should be priced on a rolled-in bases. Indicated Shippers contends that roll-in pricing creates no subsidy when existing shippers bear a portion of the expansion costs reflective of the benefits they receive from the expansion. Indicated Shippers, in particular, contend that the construction of supply laterals should qualify for roll-in pricing, because supply laterals frequently benefit all shippers on a system by providing access to new gas supply sources. Amoco [7] asks the Commission to clarify what constitutes a subsidy. Amoco maintains there may be some projects, such as the addition of compression, that have the effect of both expanding system capacity and also improving the reliability of and flexibility to existing customers at a cost lower than could be achieved without the capacity expansion.

The Commission's no-subsidy policy recognizes that existing customers should pay the cost of projects designed to improve their service by replacing existing capacity, improving reliability, or providing additional flexibility. An example of the application of that policy is *Great Lakes Gas Transmission,*[8] in which the Commission permitted the pipeline to raise rates for all customers for a looping project where the pipeline demonstrated that the project provided increased reliability and flexibility and was not tied to the provision of service to specific customers. But this approach does not justify rolling-in the entire costs of an expansion simply because the existing customers receive ''some benefit from the construction of the new facilities,'' as AFPA suggests [9] or because shippers receive some positive benefit as Paiute recommends. Nor is there a presumption favoring rolled-in rates. Pipelines can file to include additional costs in calculating the rates charged existing customers if the facilities are needed to improve service for existing customers, the increase in rates is related to the improvements in service, and raising existing customers' rates does not constitute a subsidy of an expansion by the existing customers.

B. Right of First Refusal

Process Gas Consumers,[10] Florida Cities,[11] and Amoco raise questions about the statement in the Policy Statement which would permit a form of rolled-in pricing when the contracts of existing shippers expire and they seek to exercise their right of first refusal (ROFR). Process Gas Consumers and Florida Cities maintain that the Commission cannot legally permit a pipeline to change the maximum rate for ROFR in a policy statement and that such an action must take place through either a rulemaking or a section 4 filing. Both Florida Cities and Process Gas Consumers request clarification that pipelines cannot incorporate the ROFR policy *sua sponte* without making a general section 4 rate filing.

Florida Cities further contends that charging shippers whose contracts expire a rate higher than the current maximum rate for that capacity fails to provide sufficient protection to existing shippers. They contend that an existing shipper is no less an existing shipper when its contract expires and that it should, accordingly, be entitled to the same rate protection. Florida Cities also contends that raising existing shippers' rates upon contract renewal would run afoul of an existing rate settlement on Florida Gas. If the Commission determines to continue with its policy, Florida Cities proposes that existing shippers should not be subject to the policy until they have had at least one opportunity to recontract for capacity at their existing rate so that they can choose a contract term with full appreciation for the pricing risks attendant to signing a short-term contract.

While supporting the policy, Amoco requests clarification of the rate that existing customers would have to match. Amoco maintains that existing shippers should not have to match a bid up to the highest incremental rate, but instead should be required to pay no more than the system-wide rolled-in rate in order to prevent the pipeline from overrecovering its cost-of-service.

In the Policy Statement, the Commission did not fully describe how the ROFR process would operate but will clarify that process here. The Commission's ROFR regulations provide that a shipper whose contract is expiring is entitled to renew that contract by matching the highest bid made for the capacity up to the maximum rate.[12] The Commission clarifies that under the policy described in the Policy Statement, a shipper exercising its ROFR could be required to match a bid up to a maximum rate higher than the historic maximum rate applicable to its capacity in certain limited circumstances: when a pipeline expansion has been completed and an incremental rate exists on the system; the pipeline is fully subscribed; and there is a competing bid above the maximum pre-expansion rate applicable to existing shippers.[13] To adjust the maximum rate applicable to shippers exercising their ROFR in these circumstances, the pipeline would have to establish a mechanism for reallocating costs between the historic and incremental rates so all rates remain within the pipeline's cost-of-service.[14] The mechanism can be established either through a general section 4 rate case or through the filing of *pro forma* tariff sheets which would provide the Commission and the parties with an opportunity to review the proposal prior to implementation. The Commission would review the proposed mechanism to determine how well it achieves the following objectives: capacity pricing that permits as efficient an allocation of capacity as is possible under cost-of-service ratemaking; protection against the exercise of market power by the pipeline (through withholding of capacity, for example, or the potential

[7] Amoco Energy Trading Corporation, Amoco Production Company, and Burlington Resources Oil and Gas Company.

[8] 80 FERC ¶ 61,105 (1997)

[9] AFPA Rehearing, at 6.

[10] Process Gas Consumers Group, American Iron and Steel Institute, Georgia Industrial Group, United States Gypsum Company, and Alcoa, Inc.

[11] Orlando Utilities Commission, Cities of Lakeland and Tallahassee, Flroida, City of Gainesville d/b/a Gainesville Regional Utilities, Jacksonville Electric Authority, and Florida Gas Utility.

[12] 18 CFR § 284.221(d) (1999).

[13] Under this procedure, the pipeline cannot require the existing shipper to pay a rate higher than that of the competing bidder. For example, if the historic maximum rate is $1/MMBtu, the maximum rate the existing shipper has to match is $2/MMBtu, and the competing bid is $1.50/MMBtu, the pipeline must sell the capacity to the existing shipper if it is willing to match the $1.50 bid.

[14] *Cf.* Viking Gas Transmission, 89 FERC ¶ 61,204 (1999) (rejecting tariff filing to raise matching rates under a ROFR where the filing did not readjust existing and expansion rates and was inconsistent with a rate settlement).

for skewed bidding); protection against the pipeline's overrecovery of its revenue requirement; and equity of treatment between shippers with expiring contracts and new shippers to the system seeking comparable service.

Application of this approach could lead to rates for shippers exercising their ROFR that are higher than their existing vintaged rate. But this will occur only if the preconditions are met—the pipeline is full and there is a competing bid higher than the pre-expansion rate so that a higher rate is needed to allocate available capacity—and the Commission has accepted the pipeline's mechanism for determining rates as just and reasonable.

The Commission recognizes there is tension between sending efficient pricing signals to expansion customers and to customers whose contracts are expiring, while remaining within the pipeline's revenue requirement. There may be a number of ways to recompute rates to effectively balance these interests. Amoco, for example, has suggested that the maximum matching rate for shippers exercising a ROFR should be the system average rate. The Appendix to this order provides two examples of potential approaches to the recomputation of rates, one in which the expansion rate is recomputed to establish the maximum matching rate and the other where the system average rate is used as the matching rate. Under these approaches, as contracts of existing shippers expire, the costs and contract demand represented by these contracts are reallocated between the existing and expansion service without changing the pipeline's overall revenue requirement.

The rehearing requests question the appropriateness of requiring an existing customer to pay a rate higher than its historic rate to continue service beyond the term of its contract. As discussed above, there is a reasonable basis for not having existing shippers subsidize expansion projects during the remaining term of their current contracts. However, when the existing customer's contract expires, the existing customer could be treated similarly to new customers for pipeline capacity, who face rates higher than the pre-expansion historic rate.[15] Under the policy conditions established by the Commission (fully subscribed expansion, at least one bid above the existing rate, and a rate mechanism established in advance), there would be insufficient capacity to satisfy all the demands for service on the system. When insufficient capacity exists, a higher matching rate will improve the efficiency and fairness of capacity allocation, within the limits imposed by cost-of-service ratemaking, by allowing new shippers who place greater value on obtaining capacity than the existing shipper to better compete for the limited capacity that is available.

The Commission does not agree with Florida Cities that an existing customer must be provided with one opportunity to renew at its current maximum rate. When there is insufficient capacity to satisfy all demands for capacity, an efficient system of capacity allocation would award the capacity to the shipper placing the greatest value on obtaining capacity. Adoption of Florida Cities' proposal for a one-time mandatory renewal would conflict with that policy by permitting the existing shipper to continue service at a rate less than the highest rate bid.

Process Gas Consumers maintains that the restructuring of rates should be implemented in a general section 4 rate case in which the Commission could examine all the pipeline's costs and revenues. A full section 4 rate case is one option a pipeline can use to establish the reallocation mechanism. However, a full section 4 rate case can be a cumbersome way of implementing this mechanism because it examines cost and revenue items and other issues unrelated to the more limited cost allocation and rate design changes needed to readjust rates at contract expiration. Pipelines, therefore, also can establish the reallocation mechanism by filing *pro forma* tariff sheets, which will provide the Commission and the parties with sufficient opportunity to review the filing prior to implementation. Once the review is completed, the pipeline can then implement the mechanism through a limited section 4 rate filing. Issues regarding case-specific settlement conditions, such as those referenced by Florida Cities, can be addressed in the section 4 rate case or *pro forma* tariff proceeding.

C. Memphis Clause

El Paso Energy Corporation Interstate Pipelines (El Paso) requests clarification of the Commission's policy towards the use of *Memphis* clauses. Under the Policy Statement, the pipeline is responsible for financially supporting the project unless it contracts with new customers to share that risk. Similarly, the risks of construction cost overruns would rest with the pipeline unless apportioned between the pipeline and the new customers by contract. In apportioning such risks, the Commission stated that pipelines should not rely on standard *Memphis* clauses which would permit the pipeline to change the rate during the term of a contract by making a new rate filing under section 4 of the NGA. Instead, the Commission stated that pipelines should reach more explicit agreements with new shippers concerning who will bear the risks of underutilization of capacity and cost overruns and the rate treatment for cheap expansibility.[16]

El Paso requests clarification that the Commission's comment on *Memphis* clauses does not signify that *Memphis* clauses will no longer be considered a viable contractual method to allocate risk between pipelines and shippers. El Paso maintains that a *Memphis* clause evidences the customer's agreement to an increase in rates, but only if the pipeline can satisfy the burden of showing that the increase is just and reasonable.

Memphis clauses can continue to be used in expansion contracts if the pipelines and shippers choose to use this method for allocating risk. While *Memphis* clauses may be an acceptable means of allocating the risks of difficult to predict events, the Commission does not find them a good method of allocating the risks of anticipated events such as cost overruns, underutilization of capacity, and cheap expansibility. The parties are in the best position to allocate these risks at the time of contracting, rather than leaving such issues for litigation at the Commission.[17] The Commission strongly encourages pipelines and shippers to specifically provide in their contracts for the allocation of such anticipated risks even if they choose to include a *Memphis* clause to deal with unanticipated risks.

III. Factors To Balance in Assessing Public Convenience and Necessity

After satisfaction of the threshold no-subsidy requirement, the Commission will determine whether a project is in the public convenience and necessity by

[15] *Cf.* PG&E Gas Transmission, Northwest Corporation, 82 FERC ¶ 61,289, at 62, 124–26 (1998), *affirmed*, *Washington Water Power Co.* v. *FERC*, No. 98–1245 (D.C. Cir., February 1, 2000) (for permanent releases of capacity taking place after an expansion, the replacement shippers should pay the same rate as the expansion shippers).

[16] Cheap expansibility refers to the fact that pipeline construction projects sometimes make further expansion relatively inexpensive, for instance, because all that is needed to create extra capacity is the addition of greater compression.

[17] *See, e.g.*, El Paso Natural Gas Company, 79 FERC ¶ 61,028, *reh'g denied*, 80 FERC ¶ 61,084 (1997), *remanded Southern California Edison Company* v. *FERC*, 162 F.3d 116 (D.C. Cir. 1999); Natural Gas Pipeline Company of America, 73 FERC ¶ 61,050, at 61,128–29 (1995) (whether it is just and reasonable to allocate costs of underutilized capacity to existing shippers).

balancing the public benefits against the adverse effects of the project. The public benefits could include, among other things, meeting unserved demand, eliminating bottlenecks, access to new supplies, lower costs to consumers, providing new interconnects that improve the interstate grid, providing competitive alternatives, increase electric reliability, or advancing clean air objectives. Among the adverse effects the Commission will consider are the effects on existing customers of the applicant, the interests of existing pipelines and their captive customers, and the interests of landowners and the surrounding community, including environmental impacts. The Commission will approve a project where the public benefits of the project outweigh the project's adverse impacts.

Several requests for rehearing raise issues relating to some of the factors to be considered in the balancing process: the consideration of effects on existing pipelines and their captive customers, the timing of the consideration of environmental impacts, and the ability of an applicant to acquire the necessary rights-of-way without the need to use eminent domain to obtain rights from landowners.

A. Impacts on Competing Pipelines and Customers

In the Policy Statement, the Commission listed as one factor to be balanced in assessing public convenience and necessity the impact of the project on existing pipelines and the captive customers of these pipelines. The Commission stated that its focus is not on protecting incumbent pipelines from the risks of competition, but that the impact on existing pipelines and their shippers is one factor that should be taken into account in balancing all the relevant interests.

Indicated Shippers maintain the Commission should not take the financial effect on existing pipelines into consideration because such a policy is at odds with the Commission's goal of allowing the market to decide whether an expansion is necessary and would have the effect of reducing competition and maintaining pipelines' market power. Indicated Shippers maintain that taking into account the effect on competing pipelines would harm, rather than help, captive customers because competition from alternative pipelines may be the only way to provide such shippers with alternatives that would free a customer from reliance on a single pipeline. AFPA agrees with the Commission that the impact of the expansion on captive customers should be taken into account, but it contends that the impact of a project on the revenue of an existing pipeline should not be part of the consideration.

The effect of a project on an existing pipeline and its customers is only one factor to be considered in assessing need and will not be dispositve. As the commission explained in the Policy statement, it will be employing a proportional approach in which the quantum of evidence necessary to establish need will depend on an overall assessment of all relevant factors. In this analysis, the creation of greater competition would be considered a positive benefit. For example, as the Commission explained in the Policy Statement, a project that has negative impacts on an existing pipeline and its shippers may still be approved if it has positive public benefits, such as increasing competitive alternatives or lowering rates, that outweigh the negative impacts. Generally, this means that construction of a pipeline whose rates are unsubsidized will not be considered to have an adverse effect on an existing pipeline. The purpose of examining the effect of projects on existing pipelines is not to protect incumbent pipelines from competition, but to evaluate all relevant factors to determine if a project is needed. However, there may be cases in which service on an existing pipeline is an alternative to construction and the cumulative adverse impacts on an existing pipeline and its customers as well as on landowners and the environment are significant enough that the balance would tip against certification.

AFPA asks for clarification as to whether the Commission's balancing policy will apply to pipeline projects that bypass LDCs or other pipelines. AFPA contends that bypass enhances competition and that the Commission should not consider the adverse effects on customers of the existing or expanding pipeline in determining whether to approve the bypass. AFPA recognizes, however, that the Commission previously has permitted an LDC being bypassed to reduce its contract demand on the bypassing pipeline so that the pipeline is not collecting twice for the same contract demand. [18]

The same public convenience and necessity test applies to bypass construction as to other construction, and, therefore, the same basic balancing test should be applied to bypass cases. The Commission will need to weigh whether the benefits of a bypass, including enhanced competitive options, outweigh potential adverse effects of the bypass. It may well be that in many bypass projects, the amount of construction is minimal with little impact on landowners or the environment which would militate in favor of permitting the construction project if it provided additional competition or lower prices. There also may be other means, such as measures taken by the LDC or state regulatory agencies to mitigate the effect of a bypass on the bypassed pipeline or LDC.

B. Environmental Review of Projects

The Policy Statement set forth the analytical steps the Commission will use to balance the public benefits against the potential adverse consequences of an application for new pipeline construction. In discussing the role that the environmental analysis of a project plays in the Commission's evaluation of proposals for certificating new construction, the Policy Statement stated that ''[o]nly when the benefits outweigh the adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.'' [19] This statement has given rise to confusion about the timing of the Commission's environmental review of projects.

Enron is concerned that the Policy Statement may suggest that the environmental review process for traditional certificate applications will not commence with the filing of the application. El Paso likewise requests clarification that the environmental and economic reviews will proceed concurrently, as in current practice, and that the NEPA process will not be postponed until the Commission reaches a resolution of the balance of benefits and effects. Paiute too is concerned that the Commission will delay its initiation of its environmental review until after economic tests are met. Paiute proposes merging the various steps for review and processing pipeline construction applications that are outlined in the Policy Statement to avoid delays.

Raising a different issue, AF&PA states that in considering the potential adverse environmental impact of a project, the Commission should take into account the overall benefits to the environment of natural gas consumption, particularly when, as a result of the new facilities, natural gas will displace fuels that are more harmful to the environment.

[18] AFPA cites to Paiute Pipeline Company, 68 FERC ¶ 61,064 (1994).

[19] Policy Statement at 19.

As has been the Commission's practice, the Commission will begin its environmental review at the time an application is filed with the Commission; environmental and economic review of a proposed project will continue to proceed concurrently. The Policy Statement does not alter this process. The quoted statement from the Policy Statement was only intended to indicate that if the economic analysis concluded that the adverse effects outweighed the benefits then there would be no need to complete the environmental analysis.

Similarly, in considering the potential adverse environmental impact of a project, the Commission will continue to take into account as a factor for its consideration the overall benefits to the environment of natural gas consumption.

C. Eminent Domain Considerations

The Policy Statement notes that, as part of its environmental review of projects, the Commission will work to take landowner's concerns into account, and to mitigate adverse impacts where possible and feasible.

AFPA states that whether, and to what extent, new facilities may affect the property of landowners on the proposed route are significant factors for the Commission to consider in weighing public benefits against adverse impacts. Noting, however, that if eminent domain proceedings are necessary to obtain rights-of-way, the landowners will receive proper compensation for such rights-of-way, AFPA concludes that the compensation that a landowner would receive in such a proceeding should be considered by the Commission in its analysis of the economic impacts on the landowners that would result from the construction of new pipeline facilities.

The Policy Statement encouraged project sponsors to acquire as much of the right-of-way as possible by negotiation with the landowners and explained how successfully doing so influences the Commission's assessment of public benefits and adverse consequences. The Policy Statement nonetheless recognized that, under section 7(h) of the NGA, a pipeline with a Commission-issued certificate has the right to exercise eminent domain to acquire the land necessary to construct and operate its proposed new pipeline when it cannot reach a voluntary agreement with the landowner. Even though the compensation received in such a proceeding is deemed legally adequate, the dollar amount received as a result of eminent domain may not provide a satisfactory result to the landowner and this is a valid factor to consider in balancing the adverse effects of a project against the public benefits.

VI. Retroactive Application of the Policy

Northern Border, Texas Eastern, and Enron assert that the Policy Statement may not be applied to proposals filed before the date it issued. The Commission disagrees. It is within the Commission's discretion to determine to apply its current policies in certificate orders when it acts.

PSCO, while concluding that the Policy Statement should not be applied retroactively where construction has begun or where a pipeline applicant has undertaken financial commitments necessary to proceed with construction, contends that the Policy Statement should be applied in situations where the certificates has expired and a pipeline is requesting an extension of the certificate. This approach could have harsh results depending on the circumstances. Therefore, the Commission will address such matters as they arise based on the facts of the individual case.

El Paso requests clarification that the Policy Statement does not constitute a significantly changed circumstance that deprives certificate holders of predeterminations of rolled-in pricing in subsequent rate cases. The Commission clarifies the intent of the Policy Statement, as requested by El Paso. Issuance of the Policy Statement will not constitute ''changed circumstances'' for projects that were previously given a predetermination that rolled in rates would be appropriate.

The Policy Statement is clarified in accordance with the discussion herein.

By the Commission. Commissioner Hébert concurred with a separate statement attached.

Linwood A. Watson, Jr.,

Acting Secretary.

Appendix

Two Possible Methods for Reallocating Costs Between Existing and Expansion Service

Method 1—Recomputation of the Expansion Rate as the Matching Rate

Under this method, the pipeline would recompute the expansion rate by applying the contract demand of the expiring contract and the costs represented by that demand to the expansion rates, thus reducing the expansion rates so the pipeline remains within its overall revenue requirement. Under this approach, the pipeline would add the expiring shipper's contract demand and its cost-of-service (in an amount proportionate to the contract demand) to the expansion cost-of-service allocated to existing customers would be decreased proportionately, so the historic rate would be unchanged. Because the cost-of-service allocated to the expiring contract is less on a per unit basis than the incremental cost-of-service, this approach will reduce the expansion rate, but, due to the larger amount of contract demand allocated to the expansion rate, the pipeline's revenue requirement remains the same. The following example shows how this method would work where a contract for 20,000 MMBtu of existing contract demand (CD) expires resulting in a reduction to the expansion rate (from $25 to $22) while the rate for existing customers remains the same ($10) and the pipeline recovers the same revenue requirement.

	Existing service	Expansion service	Revenue requirement.
COS	$1,000,000	$2,000,000	$3,000,000
CD (MMBtu/year)	100,000	80,000	.....
Rate/MMBtu/year	$10	$25	.....
New CD (MMBtu/year)	80,000	100,000	.....
New COS	$800,000	$2,200,000	$3,000,000
New Rate/MMBtu/year	$10	$22	.....

Other details, such as the applicable rates for capacity release and interruptible transportation would be established as part of the pipeline's filing.

Method 2—System-Wide Cost-of-Service as the Matching Rate

Under this approach, the existing shipper would have to match a bid only up to the system-wide average rate. The added revenue derived from the higher system average rate would reduce the expansion rate, with no change to the pipeline's revenue requirement. Using the same numbers as Method 1, this approach would result in the existing shipper whose contract is expiring having to match a rate no higher than $16.67. The expansion rate would decline (from $25 to $23.33), but less than what would occur under Method 1 ($22), and the pipeline would remain within its cost-of-service.

	Existing service	Expiring contract	Expansion service	System average rate	Revenue requirement
COS	$1,000,000	.....	$2,000,000	$3,000,000	$3,000,000
CD (MMBtu)	100,000	.....	80,000	180,000	.....
Rate/MMBtu/year	$10.00	.....	$25.00	$16.67	.....
New CD (MMBtu)	80,000	20,000	80,000	.....	.....
New COS	$800,000	$333,333	$1,866,667	.....	$3,000,000
New Rate/MMBtu/year	$10.00	$16.67	$23.33	.....	.....

The rates paid by new shippers to the system as well as the rates for capacity release and interruptible transportation would have to be addressed as part of the filing.

The following charts show that both methods eventually would converge in a system-wide average rate. The difference between the two is the maximum rate the shipper exercising its ROFR has to pay and how quickly the expansion service rate declines as contracts expire.

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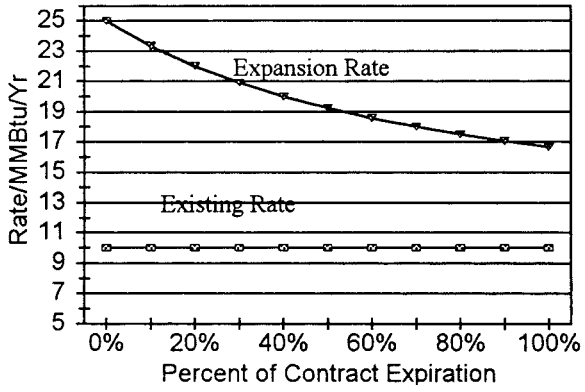
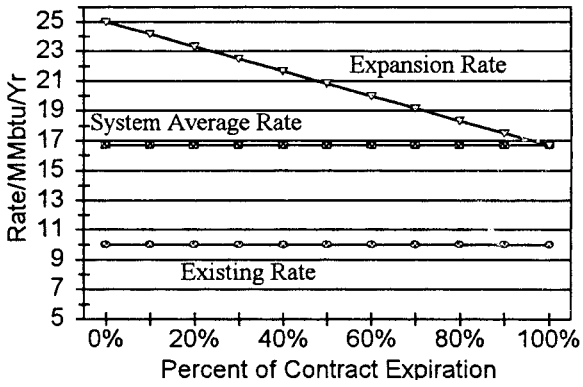
Expansion Rate as Matching Rate



System Average Rate as Matching Rate



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HEBERT, Commissioner, concurring: I write separately to explain briefly my position on one of the issues presented in this proceeding.

In the Policy Statement—which I supported—the Commission stated explicitly that its policy on pipeline certification does not apply to optional certificates. 88 FERC at 61,737 & n.3. In today's clarifying order, however, the Commission reverses course and decides that its policy does indeed apply to optional certificates. Specifically, the Commission explains that it will apply the provisions of the Policy Statement to any ''applications for optional certificates filed after the issuance of this order'' and ''until the Commission issues a rule in Docket No. RM00–5–000.'' Slip op. at 4. (In a notice of proposed rulemaking, issued contemporaneously with this order in Docket No. RM00–5–000, the Commission proposes to remove the optional certificate procedures from the Commission's regulations.

My preference would be to stick with our earlier decision and to confine the Policy Statement to traditional applications for pipeline certification filed under section 7 of the Natural Gas Act. I do not view the policies underlying the Commission's optional application procedures as entirely redundant to, and entirely subsumed by, the policies underlying the Commission's Policy Statement. As today's order recognizes, the optional regulations do not provide for consideration and weighing of public interest factors. (And for similar reasons, my preference would not be to proceed immediately to a rulemaking that proposes to abandon altogether the Commission's optional regulations.)

But my concerns are mitigated by the Commission's decision to pursue a cautious approach as to the applicability of the Policy Statement to applications for optional certificates. Pending application for optional certificates will continue to be processed under the Commission's existing optional regulations. And the Commission continues to remain receptive—at least for the time being—to applications for optional certificates. The Commission explains, slip op. at 4, that it will continue to presume that an application for an optional certificate satisfies all of the Commission's requirements, and that the Policy Statement is limited only to the purpose of rebutting that presumption.

In light of this limitation, I do not view the Commission's action today as effectively eliminating, without prior notice, the ability of pipelines to apply for optional certificates.

(As a final matter, I add that the optional certificates used to be commonly known as optional ''expedited'' certificates. Presumably, the promised speed of Commission action on applications for optional certificates—at least in comparison to the slower pace of Commission action on traditional applications—once provided much of the motivation to pipeline certificate applicants, filing under optional procedures, that were confident that there was a market for additional capacity. Alas, as the Commission explains in its proposed rulemaking in a related docket, optional certificates today provide none of the expedition contemplated at the time of promulgation of optional certificate regulations in 1985. This is because ''[e]nvironmental review is the driving force in total processing time, and environmental review requirements are the same under either program.'' Hopefully, there will not be a delay in the future.)

Therefore, I respectfully concur.

Curt L. Hébert, Jr.,

Commissioner.

[FR Doc. 00–3598 Filed 2–15–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–6538–1]

Science Advisory Board; Meeting Cancellation Notice

Meeting Cancellation—Executive Committee Subcommittee on Peer Review of the Integrated Risk Project—February 15, 2000

The meeting of the Subcommittee on Peer Review of the Integrated Risk Project of the Executive Committee of the Science Advisory Board (SAB) that was scheduled for February 15, 2000 between the hours of 3:00 and 5:00 EST has been *canceled.* The meeting was advertised in 65 FR 3681, dated January 24, 2000. The meeting will be rescheduled at a later time. For further information, please contact Mr. Tom O. Miller, Designated Federal Officer for the Integrated Risk Project: Tele: 202–564–4558. Email: miller.tom@epa.gov.

Dated: February 10, 2000.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 00–3675 Filed 2–15–00; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64045; FRL 6488–8]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on August 14, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail addresses: Rm. 224, Crystal Mall No. 2, 1921 Jefferson Davis Hwys, Arlington, VA 22202, (703) 305–5761; e-mail: hollins.james@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed 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** listing at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–64045. 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 this official record, which includes printed, paper versions of any electronic comments submitted during as applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwys, Arlington, VA, from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in six pesticide registrations. These registrations are listed in the following Table 1 by registration number, product name, active ingredient and specific uses deleted.

TABLE 1.— REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg. No.	Product Name	Active Ingredient	Delete From Label
002792–00028	Deccosol 122 Concentrate	Sodium o-phenylphenate	Sweet potatoes, apples, cantaloupes
003125–00319	Bayleton Technical	Triadimefon	Use on wheat, sugar beet, cucurbit and grasses grown for seed

TABLE 1.— REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg. No.	Product Name	Active Ingredient	Delete From Label
008278–00003	Metro (Tested) All Purpose Bug-Bait	Metaldehyde; Carbaryl	Use on all garden vegetable crops
010107–00043	Sevin 5% Dust	Carbaryl	Use on cotton
035915–00010	Oxon Italia Simazine Technical	Simazine	Use on banana crops
068156–00006	Ipimethalin-L	Pendimethalin	Use on turf grasses, Ornamentals, landscape & grounds maintenance, non-cropland areas & total vegetative control

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before August 14, 2000 to discuss withdrawal of the application for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.— REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company Number	Company Name and Address
002792	Decco/Elf Atochem North America, Inc., 1713 S. California Avenue, Monrovia, CA 91016.
003125	Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64120.
008278	Metro Biological Laboratory, c/o Robinson Associates, 1183 Alder Tree Way, Sacramento, CA 95831.
010107	Van Diest Supply Co., 1434 220th Street, P.O. Box 610, Webster City, IA 50595.
035915	Sipcam Agro USA, Inc., 70 Mansell Court, Suite 230, Roswell, GA 30076.
068156	Dintec Agrichemicals, 9330 Zionsville Road, Indianapolis, IN 46268.
069421	Black Flag Insect Control Systems, c/o PS&RC, P.O. Box 493, Pleasanton, CA 94566.

III. What is the Agency Authority for Taking this Action?

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit such withdrawal in writing to James A. Hollins, at the address under **FOR FURTHER INFORMATION CONTACT** postmarked August 14, 2000.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: January 24, 2000.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 00–3218 Filed 2–15–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6538–3]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''CERCLA''), 42 U.S.C. 9601–9675, notice is hereby given that a proposed prospective purchaser agreement (''Purchaser Agreement'') associated with the Avtex Fibers Superfund Site (''Site'') in Front Royal, Virginia, was executed by the Environmental Protection Agency and the Department of Justice and is now subject to public comment, after which the United States may modify or withdraw its consent if comments received disclose facts or considerations which indicate that the Purchaser Agreement is inappropriate, improper, or inadequate. The Purchaser Agreement will resolve certain potential EPA claims under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, against the Industrial Development Authority of the Town of Front Royal and the County of Warren, d/b/a Economic Development Authority (''EDA''), (''Purchaser'') and the Lord Fairfax Soil and Water Conservation District, who will enforce, in perpituity, a conservation easement in relation to the Purchaser Agreement. The property subject to the Purchaser Agreement comprises the 500 ±acre manufacturing site bordering the east bank of the Shenandoah River and an additional tract of land on the west bank of the Shenandoah River opposite the

manufacturing site, located in Warren County, Virginia, both within and without the boundaries of Front Royal, Virginia.

Re-development and reuse of this property includes such proposed uses as a soccer complex, a commercial and light industrial park, a nature conservancy and recreation areas.

For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the proposed Purchaser Agreement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

DATES: Comments must be submitted on or before March 17, 2000.

AVAILABILITY: The proposed Purchaser Agreement and additional background information relating to the proposed Purchaser Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Purchaser Agreement may be obtained from Suzanne Canning, U.S. Environmental Protection Agency, Regional Docket Clerk (3RC00), 1650 Arch Street, Philadelphia, PA 19103. Comments should reference the ''Avtex Fibers Superfund Site Prospective Purchaser Agreement'' and ''EPA Docket No. CERC–PPA–99–07,'' and should be forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Wayne R. Walters, (3RC41), Senior Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814–2699.

Dated: February 7, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–3671 Filed 2–15–00; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on February 17, 2000 from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Vivian L. Portis, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. *Approval of Minutes*
- January 27, 2000 (Open and Closed)

B. *Reports*
- Report on Chartering Actions Since 1/1/2000

C. *New Business*

1. *Regulations*
- Farmer Mac Risk-Based Capital [12 CFR Part 650] (Extension of Comment Period)
- Revised Regulatory Performance Plan and Unified Agenda

2. *Other*
- Request to Charter Mid-Atlantic ACA

[*] *Closed Session*

D. *Reports*
- OSMO Report

Dated: February 11, 2000.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

[FR Doc. 00–3773 Filed 2–14–00; 10:48 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested.

February 10, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 17, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0368

Title: Section 97.523 Question pools.

Form Number: N/A.

Type of Review: Revision of existing collection.

Respondents: Individuals, or households.

Number of Respondents: 3.

Estimated Time Per Response: 96 hours

Total Annual Burden: 288 hours.

Needs and Uses: The record keeping requirement contained in Section 97.523 is being revised to reflect a reduction in the number of written amateur operator examinations elements from five to three as a result of the Report and Order in WT Docket No.98–143. The requirement is necessary to permit question pools used in preparing amateur examinations to be maintained by Volunteer-Examiner Coordinators (VECs). These question pools must be published and made available to the public before the questions are used in examinations.

[*] Session closed-exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–3645 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2388]

Petitions for Reconsideration of Action in Rulemaking Proceeding

February 11, 2000.

Petitions for Reconsideration have been filed in the Commission's rulemaking Proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, S.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by March 2, 2000. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Modification and Clarification of Policies and Procedures Governing Siting and Maintenance of Amateur Radio Antennas and Support Structures, and Amendment of Section 97.15 of the Rules Governing the Amateur Radio Service (RM–8763).

Number of Petitions Filed: 2.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–3646 Filed 2–15–00; 8:45 am]

BILLING CODE 6717–D–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2387]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

February 8, 2000.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, S.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by March 2, 2000. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: 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)

Number of Petitions Filed: 1

Subject: Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-way Transmissions (MM Docket No. 97–217, RM–9060)

Number of Petitions Filed: 7

Subject: 1998 Biennial Regulatory Review-Streamlining of Mass Media Applications, Rules, and Processes (MM Docket No. 98–43)

Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities (MM Docket No. 94–149)

Number of Petitions Filed: 2

Subject: Amendment of Parts 2 and 90 of the Commission's Rules to Allocate the 5.850–5.925HGZ Band to the Mobile Service for Dedicated Short Range Communications (''DSRC'') of Intelligent Transportation Services (ET Docket No. 98–95, RM–9096)

Number of Petitions Filed: 2

Subject: Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, (WT Docket No. 98–100, CC Docket No. 94–54)

Number of Petitions Filed: 1

Subject: 1998 Biennial Regulatory Review Spectrum Aggregation Limits for Wireless Telecommunications Carriers (WT Docket No. 98–205)

Cellular Telecommunications Industry Association's Petition for Forbearance From the 45 MHz CMRS Spectrum Cap

Amendment of Parts 20 and 24 of the Commission's Rules-Broadband PCS Competitive Bidding and Commercial Mobile Radio Service Spectrum Cap (WT Docket No. 96–59)

Implementation of Section 3(n) and 322 of the Communications Act (GN Docket No. 93–252)

Regulatory Treatment of Mobile Service

Number of Petitions Filed: 3

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–3647 Filed 2–15–00; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011233–012

Title: USA-Southern and Eastern Africa Discussion Agreement

Parties: Lykes Lines Limited, LLC, Mediterranean Shipping Company SA, Safbank Line, Ltd., A.P. Moller-Maersk Sealand, P&O Nedlloyd Limited

Synopsis: The proposed modification adds authority to appoint an administrator, establish committees and delegate authority thereto, delete unnecessary provisions, and make other administrative changes.

Agreement No.: 203–011545–001

Title: Agreement between CSAV and Mitsui

Parties: Compania Sud Americana de Vapores Mitsui O.S.K. Lines, Ltd.

Synopsis: The proposed amendment would permit the parties to discuss and agree upon rates, charges, terms and conditions of service, including joint service contracts in the Agreement trade. Except for joint service contract entered into with shippers, adherence to any such agreement shall be voluntary. In the portion of the Agreement trade between ports and points served via United States Atlantic and Gulf ports and certain ports and points in Northern and Eastern South America, Central America, and the Caribbean, the parties would establish a revenue pool and agree on their vessel sailing schedules and itineraries.

Dated: February 11, 2000.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–3679 Filed 2–15–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediaries pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

Golden Bridge International, Inc., 755 North Nash Street, El Segundo, CA 90245, Officers: Jin Zhao, President, (Qualifying Individual), Cecilia Wong, Secretary

Impex Transport, Inc., 145–34 157th Street, Suite 210, Jamaica, NY 11434, Officer: Daniel Oh, President, (Qualifying Individual)

Vessel Agents, Inc., 434 Chelsea Street, East Boston, MA 02128, Officers: Karen E. Fuller, President, (Qualifying Individual), Gayle E. Fuller, Treasurer

W & L International Express, Inc., 1456 President Street, Glendale Heights, IL 60139, Officer: Long Wang, Officer, (Qualifying Individual)

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder

Transportation Intermediary Applicants:

Trans Global Projects, Inc., 2414 Morris Avenue, Union, NJ 07083, Officers: Rainer J. Luerssen, Secretary, (Qualifying Individual), Kaisar Ahmad, President

Districargo, Inc., 8015 N.W. 29th Street, Miami, FL 33122, Officers: Fernando Cobo, Treasurer, (Qualifying Individual), Astrid Flaherty, President

Ocean Freight Forwarders—Ocean Transportation Intermediary Applicants:

Cargoland Air & Ocean Cargo, Inc., 1790 N.W. 96 Avenue, Miami, FL 33172, Officer: Susana Olmo, President

Dated: February 11, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–3678 Filed 2–15–00; 8:45 am]

BILLING CODE 6730–01–P

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 March 2, 2000.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. FMB, Ltd. (General Partner), Monticello, Florida; F.W. Carraway, Jr. (General Partner), Sopochoppy, Florida; F. Wilson Carraway, III (General and Limited Partner), Thomasville, Georgia; Edward H. Carraway, (General and Limited Partner), Winter Springs, Florida; F.W. Carraway, Jr., (Limited Partner), Sopochoppy, Florida; F.W. Carraway, Jr. Grantor Retained Annuity Trust (Limited Partner), Sopochoppy, Florida; Elizabeth Carraway Neilson (Limited Partner), Monticello, Florida; Caroline Carraway Sutton (Limited Partner), Monticello, Florida; and Rena Katherine Carraway (Limited Partner), Monticello, Florida, to retain voting shares of FMB Banking Corporation, Monticello, Florida, thereby indirectly retain voting shares of Farmers & Merchants Bank, Monticello, Florida.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Wayne and Pearlie Wagner, Round Top, Texas; to acquire additional voting shares of Round Top Bancshares, Inc., Round Top, Texas, and thereby indirectly acquire voting shares of Round Top State Bank, Round Top, Texas.

Board of Governors of the Federal Reserve System, February 10, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–3599 Filed 2–15–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 2, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Republic Bancorp Co., Orland Park, Illinois, to engage *de novo* through its subsidiary, Republic Bancorp Co., Orland Park, Illinois, in loan participations, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 10, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–3600 Filed 2–15–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Tuesday, February 22, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: February 11, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–3781 Filed 2–14–00; 10:51 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute: Development of Idiotype Tumor Vaccines for Treatment of B-Cell Lymphoma

An Opportunity for a Cooperative Research and Development Agreement (CRADA) is available for collaboration with the NCI Intramural Division of Clinical Sciences for the support of Phase III clinical trials evaluating the efficacy of a protein-based immunoglobulin idiotype vaccine in the treatment of low-grade follicular B-cell lymphoma.

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of opportunities for Cooperative Research and Development Agreements.

SUMMARY: Pursuant to the Federal Technology Transfer Act of 1986 (FTTA, 15 U.S.C. § 3710; Executive Order 12591 of April 10, 1987 as amended by the National Technology Transfer and Advancement Act of 1995), the National Cancer Institute (NCI) of the National Institutes of Health (NIH) of the Public Health Service (PHS) of the Department of Health and Human Services (DHHS) seeks a Cooperative Research and Development Agreement (CRADA) with a pharmaceutical or biotechnology company. Any CRADA for development of this technology that includes support for vaccine production, monitoring of Phase III clinical trials and data analysis, or any combination of the above will be considered. The CRADA would have an expected duration of five (5) to seven (7) years. The goals of the CRADA will include the rapid publication of research results and timely commercialization of products, diagnostics and treatments that result from the research. The CRADA Collaborators will have an option to negotiate the terms of an exclusive or nonexclusive commercialization license to subject inventions arising under the CRADA.

ADDRESSES: Proposals and questions about this CRADA opportunity may be addressed to Dr. Karen Muszynski, Technology Development & Commercialization Branch, National Cancer Institute—Frederick Cancer Research and Development Center, Fairview Center, 1003 West Seventh Street, Room 502, Frederick, MD 20852, Telephone: (301) 846–5222; Facsimile: (301) 846–6820.

EFFECTIVE DATE: Organizations must submit a proposal summary preferably one page or less, to NCI within 90 days from date of this publication. Guidelines for preparing full CRADA proposals will be communicated shortly thereafter to all respondents with whom initial discussions will have established sufficient mutual interest.

SUPPLEMENTARY INFORMATION:

Technology Available

The National Cancer Institute (NCI) of the National Institutes of Health (NIH) has initiated an FDA-approved, multi-institutional Phase III clinical trial of protein-based immunoglobulin idiotype vaccines for the treatment of low-grade follicular B-cell lymphoma. B-cell tumors are composed of clonally-expanded cells synthesizing a single antibody molecule containing unique variable regions known as idiotypic determinants. The idiotypic determinants of B-cell derived tumors comprise tumor-specific antigens that can serve as a target for immunotherapy. The NCI has previously conducted Phase I and Phase II clinical trials to determine if therapeutically significant immune responses against an autologous, idiotype immunoglobulin protein can be induced in B-cell lymphoma patients (Nature Medicine 5:1171–1177, Oct 1999). Based on results from these studies, the Clinical Research Branch of the NCI has initiated a definitive multi-center Phase III clinical trial of idiotype-specific vaccines for the treatment of low-grade follicular B-cell lymphoma. The NCI, in accordance with the regulations governing the transfer of agents which the Government has taken an active role in developing (37 CFR 404.8), is seeking a pharmaceutical or biotechnology company which can develop these vaccines to a commercially available status to meet the needs of the public and with the best terms for the government.

The NCI specifically seeks a collaborator to support vaccine production and clinical monitoring of the NCI-sponsored Phase III clinical trials in anticipation of the successful commercialization of this technology. Since idiotypic determinants are tumor-specific, the vaccines must be custom-made for each patient. The selected sponsor will collaborate in the development and production of GMP certifiable idiotype vaccines for the treatment of follicular B-cell lymphomas to be used in the Phase III clinical trials leading to a New Drug Application or Biological License Application for a new anti-cancer therapy in anticipation of the successful commercialization of this product. A specific goal of this CRADA will be development of the processes required for large-scale GMP vaccine production and the provision of adequate numbers of GMP produced and formulated idiotype vaccines as needed to complete the clinical development of this agent for the treatment of follicular B-cell lymphoma. The collaborator will be selected based on their ability to provide specific expertise in conversion to GMP vaccine production; experience in preclinical and clinical drug development; experience in the monitoring, evaluation and interpretation of data from investigational agent clinical studies under an IND; and experience in the successful commercialization, marketing and distribution of new cancer therapy products.

The role of the National Cancer Institute in this CRADA may include, but not be limited to:

1. Providing intellectual, scientific, and technical expertise and experience related to the development of idiotype vaccines.

2. Conducting a Phase III clinical trial to evaluate the therapeutic efficacy of idiotype vaccines in association with GM–CSF.

3. Providing scientific and technical expertise in immunological and

molecular monitoring of patient responses to the vaccines.

4. Maintenance of an Investigational New Drug Application (IND), including but not limited to submission of Annual Reports, adverse drug experience reports, new protocols, protocol amendments and pharmaceutical data.

5. Publishing research results.

The role of the CRADA Collaborator may include, but not be limited to:

1. Providing significant intellectual, scientific, and technical expertise or experience to the development of processes required for large-scale GMP vaccine production.

2. Provide adequate quantities of GMP certifiable idiotype vaccines for use in the NCI-sponsored Phase III clinical trial, including all necessary pre-clinical safety information and preparation, filing, and submissions to the Drug Master File or IND as required for clinical studies.

3. Providing technical and financial support to facilitate scientific goals, clinical trial monitoring and data analysis.

4. Collaborate in clinical development leading to FDA approval and marketing through participation on a Steering Committee established to guide the commercialization effort.

5. Assume responsibility for the commercialization, marketing and distribution of the vaccine following successful completion of the Phase III trials.

6. Publishing research results.

Selection criteria for choosing the CRADA Collaborator may include, but not be limited to:

1. The ability to collaborate with NCI on the research and development of this technology. The ability to collaborate with NCI can be demonstrated through experience and expertise in this or related areas of technology indicating the ability to contribute intellectually to ongoing research and development.

2. The demonstration of adequate resources to perform the research and development of this technology (e.g. facilities, personnel and expertise) and accomplish objectives according to an appropriate timetable to be outlined in the CRADA Collaborator's proposal.

3. The willingness to commit best effort and demonstrated resources to the research and development of this technology, as outlined in the CRADA Collaborator's proposal.

4. The demonstration of expertise in the commercial development and production of products related to this area of technology.

5. The level of financial support the CRADA Collaborator will provide for CRADA-related Government activities.

6. The willingness to cooperate with the National Cancer Institute in the timely publication of research results.

7. The agreement to be bound by the appropriate DHHS regulations relating to human subjects, and all PHS policies relating to the use and care of laboratory animals.

8. The willingness to accept the legal provisions and language of the CRADA with only minor modification, if any. These provisions govern the distribution of patent rights to CRADA inventions. Generally, the rights of ownership are retained by the organization that is the employer of the inventor, with (1) the grant of a license for research and other Government purposes to the Government when the CRADA Collaborator's employee is the sole inventor, or (2) the grant of an option to elect an exclusive or nonexclusive license to the CRADA Collaborator when the Government employee is the sole inventor.

Dated: February 7, 2000.

Kathleen Sybert,

Branch Chief, Technology Development & Commercialization Branch, National Cancer Institute, National Institutes of Health.

[FR Doc. 00–3591 Filed 2–15–00; 8:45 am]

BILLING CODE 4140–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)94) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine.

Date: February 17, 2000.

Time: 8 am to Adjournment.

Agenda: To review and evaluate grant applications.

Place: The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Camille M. King, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0815.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: February 8, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3587 Filed 2–15–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: March 6–8, 2000.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Arlington, Hotel, Salon A Room, 1325 Wilson Blvd., Arlington, VA 22209.

Contact Person: Kevin W. Ryan, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplanation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 9, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3585 Filed 2–15–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Acquired Immunodeficiency Syndrome Research Review Committee

Date: March 2–3, 2000.

Open: March 2, 2000, 9:00 am to 10:00 am.

Agenda: Open for discussion of administrative details relating to committee business and program review.

Place: Georgetown Holiday Inn, Fortune Room, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Closed: March 2, 2000, 10:00 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Fortune Room, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Paula S. Strickland, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 9, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy

[FR Doc. 00–3586 Filed 2–15–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clear unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 2–3, 2000.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Madison Hotel, Fifteenth & M Streets NW, Washington, DC 20055.

Contact Person: Alan L. Willard, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: February 5, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3589 Filed 2–15–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6). Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biomedical Library Review Committee

Date: March 1-2, 2000

Closed: To review and evaluate grant applications

Place: National Library of Medicine Board Room Bldg 38, 2E–09), Bethesda, MD 20894

Open: March 1, 2000, 11:30 am to 12:00 pm

Agenda: Administrative Reports and Program Developments

Place: National Library of Medicine, Board Room Bldg 38, 2E–09, 8600 Rockville Pike, Bethesda, MD 20894

Closed: March 1, 2000, 12:30 pm to 1:00 pm

Agenda: To review and evaluate fellowship grant applications

Place: National Library of Medicine, Board Room Bldg 38, 2E–09), 8600 Rockville Pike, Bethesda, MD 20894

Closed: March 1, 2000, 1:00 pm to 5:00 pm

Agenda: To review and evaluate grant applications

Place: National Library of Medicine, Board Room Bldg 38, 2E–09, 8600 Rockville Pike, Bethesda, MD 20894

Open: March 2, 2000, 8:30 am to 9:00 am

Agenda: Administrative Reports and Program Development

Place: National Library of Medicine, Board Room Bldg 38, 2E–09), 8600 Rockville Pike, Bethesda, MD 20894

Closed: March 2, 2000, 9:00 am to 12:00 pm

Agenda: To review and evaluate grant applications

Place: National Library of Medicine, Board Room Bldg 38, 2E–09, 8600 Rockville Pike, Bethesda, MD 20894

Closed: March 2, 2000, 12:00 pm to 1:00 pm

Agenda: To review and evaluate resource grant applications

Place: National Library of Medicine, Board Room Bldg 38, 2E–09), 8600 Rockville Pike, Bethesda, MD 20894

Contact Person: Sharee Pepper, Scientific Review Administrator, Health Scientist Administrator, Office of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive Suite 301, Bethesda, MD 20892

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: February 8, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3588 Filed 2–15–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Meeting of the Advisory Committee on Alternative Toxicological Methods

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Toxicological Program (NTP) Advisory Committee on Alternative Toxicological Methods, U.S. Public Health Service. The meeting will be held from 1:00 p.m. to 5:00 p.m. on March 7, 2000 and from 8:45 a.m. to 4:15 p.m. on March 8, 2000 in the Conference Center, Building 101, South Campus, NIEHS, 111 Alexander Drive, Research Triangle Park, North Carolina, 27709. The entire meeting is open to the public and time is planned for persons who would like to make public comments. Preregistration is not required and attendance is limited only by the space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations are asked to notify the contact person listed below in advance of the meeting.

Background

Under authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services has established an Advisory Committee on Alternative Toxicological Methods. The Committee functions to provide advice on the activities and priorities of the National Toxicological Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (Center) and the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) and to provide advice on ways to foster partnership activities and productive interactions among all stakeholders. The Advisory Committee is composed of knowledgeable representatives drawn from academia, industry, public interest organizations, other state and Federal agencies, and the international community.

The NTP established the Center and ICCVAM to fulfill specific mandates provides to the National Institutes of Environmental Health Sciences (NIEHS) by Public Law 103–43, Section 1301. The NIEHS was directed to (1) develop and validate toxicological testing methods including alternative methods that can reduce or eliminate the use of animals in acute or chronic toxicity testing, (2) establish criteria for the validation and regulatory acceptance of alternative testing methods, and (3) recommend a process through which scientifically validated alternative methods can be accepted for regulatory use. Criteria and processes for validation and regulatory acceptance were developed in conjunction with 14 other Federal agencies and programs with broad input from the public. These are described in the document Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the Ad Hoc Interagency Coordinating Committee on the Validation of Alternative Methods NIH Publication No. 97–3981, March 1997, that is available on the internet at *http://ntp-server.niehs.nih.gov/htdocs/ICCVAM/iccvam.html* or by request to the Center at the address provided below.

As a standing committee, ICCVAM was subsequently established as a collaborative effort by the NIEHS and 13 Federal regulatory and research agencies and programs. The ICCVAM provides cross-agency coordination and communications on issues relating to validation, acceptance, and national/international harmonization of toxicological test methods. The ICCVAM works with the Center to carry out the scientific review of proposed methods of multi-agency interest and provides recommendations regarding their usefulness to appropriate agencies. The ICCVAM also provides a mechanism for interagency communication with stakeholders throughout the process of test method development and validation. The following Federal regulatory and research agencies and organizations are participating in this effort:

Consumer Product Safety Commission
Department of Defense
Department of Energy
Department of Health and Human Services
- Agency for Toxic Substances and Disease Registry
- Food and Drug Administration
- National Institute for Occupational Safety and Health/Centers for Disease Control and Prevention
- National Institutes of Health
- Nationl Cancer Institute
- National Institute of Environmental Health Sciences
- National Library of Medicine

Department of the Interior
Department of Labor
- Occupational Safety and Health Administration

Department of Transportation
- Research and Special Programs Administration

Environmental Protection Agency

The Center was established to provide operational support for the ICCVAM and to assist Federal agencies by coordinating and facilitating (1) the interagency review and adoption of toxicolical test methods of multi-agency interest and (2) the participation and communication with other stakeholders throughout the process of test method development and validation. The Center organizes, in collaboration with ICCVAM, independent scientific peer reviews and workshops for test methods of interest to Federal agencies. Peer review panels are convened to develop scientific consensus on the usefulness of test methods and to generate information for specific human health and/or ecological risk assessment purposes. Expert workshops and panel meetings are convened to evaluate the adequacy of current test methods for assessing specific toxicities, to identify areas in need of improved or new methods, to evaluate proposed validation studies, to evaluate the status of methods at various stages of validation, and to develop recommendations and priorities for related test method research, development, and validation. The Center provides an opportunity for partnerships with other agencies and organizations to facilitate the development, validation, and review of alternative testing methods. The Center and ICCVAM seek to promote the scientific validation and regulatory acceptance of toxicological test methods that will enhance agencies' ability to assist risks and make decisions and that

will refine, reduce, and replace animal use whenever possible. The Center's office is located at the NIEHS and can be contacted by telephone: 919–541–3398, FAX: 919–541–0947, or email: iccvam@niehs.nih.gov.

Agenda

The agenda for the March 7th session will consist of presentations and discussions about new emerging technologies that are being developed and their potential usefulness in toxicological assessments. The Committee will also discuss issues and recommendations relevant to the validation of new and revised test methods that may incorporate these technologies. On March 8, the Committee will hear presentations and discuss issues relating to processes, priorities, and recent and proposed activities of the NTP Center and ICCVAM. The revised publication, *Evaluation of the Validation Status of Toxicological Methods: General Guidelines for Submissions to ICCVAM (revised October 20, 1999),* is available on the internet at *http://iccvam.niehs.nih.gov/doc1.htm.*

Tentative Agenda

National Toxicology Program Advisory Committee on Alternative Toxicological Methods

Conference Center, Building 101, South Campus, NIEHS, 111 Alexander Drive, Research Triangle Park, North Carolina, 27709

Tuesday, March 7

1:00 p.m. Call to Order and Introductions
1:05 p.m. Welcome

Application of Emerging Technologies to Toxicology Testing: Gene Expression Assays

1:10 p.m. Introduction and Overview of Gene Expression Assays and Microarray Technology; Application of Gene Expression Patterns to *In Vitro* and *In Vivo* Toxicological Assessments
- Discussion (15′)

2:05 p.m. Application of Gene Expression Technology to Drug Development
- Discussion (10′)

2:45 p.m. Break
3:00 p.m. Real Time and Quantitive PCR
- Discussion (10′)

3:30 Proteomics
- Discussion (10′)

4:00 p.m. Bioinformatics
- Discussion (10′)

4:30 p.m. Committee Discussion: Validation Issues for New Technologies
5:00 p.m. Public Comments

Wednesday March 8, 2000

8:45 a.m. Call to Order and Introductions
8:55 a.m. Welcome from the NTP
9:05 a.m. Update on NTP Center and ICCVAM Activities
- Discussion (25′)

10:00 a.m. Break
10:15 a.m. Regulatory Acceptance Status of ICCVAM Recommended Methods:
- EPA
- FDA
- OSHA
- CPSC

11:00 a.m. Summary of Revisions to ICCVAM Test Methods Submission Guidelines
11:30 a.m. Committee Discussion/ Recommendations on Submission Guidelines
12:00 p.m. Public Comments
12:15 p.m. Lunch Break

Development and Validation of New Test Methods

1:15 p.m. Introduction to Session
1:25 p.m. Current ICCVAM/NICEATM Role in Test Method Development and Validation
- Discussion (15′)

1:55 p.m. Current NIEHS External Activities for Support of Test Method/Model Development and Validation
2:40 p.m. Break
3:00 p.m. Open Discussion: Future Directions
4:00 p.m. Public Comments
4:15 p.m. Adjourn

A detail agenda with meeting schedule and the Committee roster will be available prior to the meeting on the NTP web site (http://ntp-server.niehs.nih.gov) and by contacting the NTP Executive Secretary, Environmental Toxicology Program, P.O. Box 12233, A3–07, NIEHS, Research Triangle Park, North Carolina 27709, telephone: 919–541–3971 and FAX: 919–541–0295. Summary minutes will also be available subsequent to the meeting by contacting the address above.

Solicitation of Public Comment

The Advisory Committee on Alternative Toxicological Methods meeting is open to the public, and time is reserved on both days for any interested member of the public to give oral comments on the activities, directions, or priorities of the Center and/or on any of the agenda items discussed at the meeting. In order to facilitate planning for the meeting, persons wishing to make an oral presentation are asked to notify the Executive Secretary prior to the meeting at the address given above; however, registration for public comments will also be available on-site at the meeting. A person registering to make comments will be asked to provide his/her name, affiliation, mailing address, phone, fax, e-mail and supporting organization (if any).

Written comments can accompany or be provided in lieu of making oral comments. All comments must include name, affiliation, mailing address, phone, fax, e-mail and sponsoring organization (if any) and should be sent to the Executive Secretary at the address given above.

Dated: February 7, 2000.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 00–3590 Filed 2–15–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4406–FA–02]

Announcement of Funding Awards; Community Development Block Grant Program for Indian Tribes and Alaska Native Villages, Fiscal Year 1999

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1999 for the Community Development Block Grant (CDBG) Program for Indian Tribes and Alaska Native Villages. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide assistance to the Indian Tribes and Alaska Native Villages.

FOR FURTHER INFORMATION CONTACT: Robert Barth, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, P.O. Box 36003, 450 Golden Gate Avenue, San Francisco, CA 94102; telephone (415) 436–8122 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via

TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

The CDBG Program for Indian Tribes and Alaska Native Villages is authorized by Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); 24 CFR part 1003.

This Notice announces FY 1999 funding to be used to assist in the development of viable Indian and Alaska Native communities, including decent housing, a suitable living environment, and economic opportunities. The FY 1999 awards announced in this Notice were selected for funding consistent with the provisions in the Notice of Funding Availability (NOFA) published in the **Federal Register** on February 22, 1999 (64 FR 8692).

The Catalog of Federal Domestic Assistance number for the CDBG Program for Indian Tribes and Alaska Native Villages is 14.862.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is hereby publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: February 10, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

APPENDIX A.—FISCAL YEAR 1999 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT RECIPIENTS OF FUNDING DECISIONS

Funding recipient	Amount approved
Eastern/Woodlands ONAP	
Bad River Band of Lake Superior Tribe of Chippewa Indians, P.O. Box 39, Odanah, WI 54861	$400,000
Bois Forte Reservation, P.O. Box 16, Nett Lake, MN 55772	400,000
Eastern Band of Cherokee Indians, P.O. Box 455, Cherokee, NC 28719	400,000
Fond du Lac Reservation, 1720 Big Lake Road, Cloquet, MN 55720	400,000
Forest County Potawatomi Community, P.O. Box 340, Crandon, WI 54520	350,000
Grand Portage Reservation Tribal Council, P.O. Box 428, Grand Portage, MN 55605	400,000
Grand Traverse Band of Ottawa and Chippewa Indians, 2605 North West Bayshore Drive, Suttons Bay, MI 49682	400,000
Lac Courte Oreilles Tribal Governing Board, 13394 West Trepania Road, Hayward, WI 54843	182,527
Leech Lake Reservation Tribal Council, 6530 Hwy 2 N W, Cass Lake, MN 56633	400,000
Penobscot Indian Nation, 6 River Road, Indian Island, Old Town, ME 04468	400,000
Poarch Band of Creek Indians, 5811 Jack Springs Road, Atmore, AL 36502	400,000
Red Cliff Band of Lake Superior Chippewa, P.O. Box 529, Bayfield, WI 54814	400,000
St Regis Mohawk Tribe, RR 1 Box 8A, Hogansburg, NY 13655	200,000
Upper Sioux Community, P.O. Box 147, Granite Falls, MN 56241	113,500
White Earth Reservation Tribal Council, P.O. Box 418, White Earth, MN 56591	400,000
Southern Plains ONAP	
Apache Tribe of Oklahoma, P.O. Box 1220, Anadarko, OK 73005	750,000
Cheyenne-Arapaho Tribes, P.O. Box 38, Red Moon Circle, Concho, OK 73022	738,197
Chickasaw Nation, P.O. Box 1548, Ada, OK 74821	750,000
Chitimacha Tribe of Louisiana, P.O. Box 661, Charenton, LA 70523	702,548
Choctaw Nation of Oklahoma, Drawer 1210, Durant, OK 74702,	750,000
Citizen Potawatomi Nation, 1601 S. Gordon Cooper Drive, Shawnee, OK 74801	750,000
Coushatta Tribe of Louisiana, P.O. Box 818, Elton, LA 70532	607,500
Eastern Shawnee Tribe of Oklahoma, P.O. Box 350, Seneca, MO 64865	588,966
Iowa Tribe of Kansas and Nebraska, RR1, Box 58A, White Cloud, KS 66094	75,000
Iowa Tribe of Oklahoma, RR 1 Box 721 Perkins, OK 74059	521,200
Jena Band of Choctaw Indians, P.O. Box 14, Jena, LA 71342	616,904
Kaw Nation, Drawer 50, Kaw City, OK 74641	750,000
Osage Nation of Oklahoma, 1333 Grandview, Pawhuska, OK 74056	141,500
Otoe-Missouria Tribe of Oklahoma, 8151 Highway 177, Red Rock, OK 74651–0348	750,000
Pawnee Nation of Oklahoma, P.O. Box 470, Pawnee, OK 74058	750,000
Seminole Nation, P.O. Box 1498, Wewoka, OK 74884	750,000
Seneca-Cayuga Tribe of Oklahoma, P.O. Box 1238, Miami, OK 74355	750,000
Tunica-Biloxi Tribe of Louisiana, P.O. Box 1589, Marksville, LA 71351	675,346
United Keetoowah Band of Cherokee Indians, P.O. Box 746, Tahlequah, OK 74465–0746	750,000
Northern Plains ONAP	
Blackfeet Indian Tribe, P.O. Box 850, Browning, MT 59417	500,000
Eastern Shoshone Tribe, P.O. Box 538, Fort Washakie, WY 82514	800,000
Fort Belknap Indian Community, RR1, Box 66, Harlem, MT 59526	800,000
Three Affiliated Tribes of the Fort Berthold, Reservation, HC 3, Box 2, New Town, ND 58763	800,000
Assiniboine and Sioux Tribes of the Fort Peck Reservation, P.O. Box 1027, Poplar, MT 59255	537,500
Lower Brule Sioux Tribe, P.O. Box 187, Lower Brule, SD 57548	800,000
Northwest Band of Shoshoni, 695 South Main, Brigham City, UT 84032	800,000
Northern Arapaho Tribe, P.O. Box 538, Fort Washakie, WY 82514	745,484
Paiute Tribe of Utah, 440 North Paiute Drive, Cedar City, UT 84720	306,454
Ponca Tribe of Nebraska, 2602 J Street, Omaha, NE 68107	220,800

APPENDIX A.—FISCAL YEAR 1999 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT RECIPIENTS OF FUNDING DECISIONS—Continued

Funding recipient	Amount approved
Rosebud Sioux Tribe, P.O. Box 430, Rosebud, SD 57570	800,000
Salish & Kootenai Tribes, P.O. Box 278, Pablo, MT 59855	743,248
Sisseton-Wahpeton Sioux Tribe, P.O. Box 509, Agency Village, SD 57262	617,919
Turtle Mountain Band of Chippewa, P.O. Box 900, Belcourt, ND 58316	400,000
Ute Mountain Ute Tribe, P.O. Box 248, Towaoc, CO 81334	800,000
Yankton Sioux Tribe, P.O. Box 248, Marty, SD 57361	800,000
Southwest ONAP	
Chemehuevi Indian Tribe, PO Box 1976, Havasu Lake, CA 92363	550,000
Chicken Ranch Rancheria, PO Box 1159, Jamestown, CA 95327	550,000
Cold Springs Rancheria, PO Box 209, Tollhouse, CA 93667	495,000
Colusa Rancheria, 50 Wintun Road, Ste D, Colusa, CA 95932	550,000
Coyote Valley Rancheria, PO Box 39, Redwood Valley, CA 95470	550,000
Enterprise Rancheria, 2950 Feather River Blvd., Oroville, CA 95965	477,900
Ft. McDermitt Indian Tribe, PO Box 457, McDermitt, NV 89421	550,000
Ft. Bidwell Indian Tribe, PO Box 129, Ft. Bidwell, CA 96112	550,000
Ft. Mojave Indian Tribe, 500 Merriman Avenue, Needles, CA 92363	550,000
Havasupai Indian Tribe, PO Box 10, Supai, AZ 86435	219,108
Hopland Band of Pomo Indians, PO Box 610, Hopland, CA 95449–0610	550,000
Hualapai Indian Tribe, PO Box 179, Peach Springs, AZ 86434	750,000
Jackson Rancheria, PO Box 1090, Jackson, CA 95642	550,000
Los Coyotes Band of Mission Indians, PO Box 189, Warner Springs, CA 92086	550,000
Lovelock Paiute Tribe, PO Box 878, Lovelock, NV 89419	508,406
Manchester/Point Arena Rancheria, PO Box 623, Point Arena, CA 95468	548,735
Mesa Grande Band of Mission Indians, PO Box 267, Santa Ysabel, CA 92070	450,310
Mescalero Apache Tribe, PO Box 176, Mescalero, NM 88340	750,000
Navajo Nation, PO Box 9000, Window Rock, AZ 86515	5,000,000
Pascua Yaqui Indian Tribe, 7474 S. Camino de Oeste, Tucson, AZ 85746–9098	828,540
Pauma Band of Mission Indians, PO Box 369, Pauma Valley, CA 92061	550,000
Pueblo of Isleta, PO Box 1270, Isleta, NM 87022	750,000
Pueblo of Jemez, PO Box 100, Jemez Pueblo, NM 87024	742,680
Pueblo of Pojoaque, Route 11, Box 71, Santa Fe, NM 87501	550,000
Pueblo of Tesuque, Route 5, Box 360-T, Santa Fe, NM 87501	361,098
Pueblo of Zuni, PO Box 339, Zuni, NM 87327	1,999,994
Redding Rancheria, 2000 Rancheria Road, Redding, CA 96001	550,000
Redwood Valley Rancheria, 3250 Road I, Redwood Valley, CA 95470	529,556
Salt River Pima-Maricopa Ind. Com.,10005 E. Osborn Rd, Scottsdale, AZ 85256	2,000,000
San Pasqual Indian Reservation, PO Box 365, Valley Center, CA 92082–0365	550,000
Smith River Rancheria, 250 N Indian Rd., Smith River, CA 95567–9525	169,030
Susanville Rancheria, PO Drawer U, Susanville, CA 96130	544,600
Tule River Indian Reservation, PO Box 589, Porterville, CA 93258	539,000
Tuolumne Band of Me-Wuk Indians, PO Box 699, Tuolumne, CA 95379	550,000
Washoe Tribe, 919 Hwy 395 South, Gardnerville, NV 89410	550,000
Yomba Shoshone Tribe, HC 61 Box 6275, Austin, NV 89310–9301	550,000
Northwest ONAP	
Confederated Tribes of the Chehalis Reservation, 420 Howanut, Oakville, WA 98568	172,673
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians, 33 Wallace Ave., Coos Bay, OR 97420	335,000
Coquille Tribe, P. O. Box 1435, Coos Bay, OR 97420	335,000
Jamestown S'Klallam Tribe, 1033 Old Blyn Highway, Sequim, WA 98382	254,196
Kalispel Tribe, P. O. Box 39, Usk, WA 99180	335,000
Lummi Tribe, 2828 Kwina Road, Bellingham, WA 98226	290,442
Nez Perce Tribe of Idaho, P. O. Box 365, Lapwai, ID 83540	335,000
Port Gamble S'Klallam Tribe, 31912 Little Boston Road, Kingston, WA 98346–0155	335,000
Samish Indian Nation, P. O. Box 217, Anacortes, WA 98221	270,540
Shoalwater Bay Tribe, P. O. Box 130, Tokeland, WA 98590	335,000
Squaxin Island Tribe, S. E. 70 Squaxin Lane, Shelton, WA 98584	335,000
Suquamish Tribe, P. O. Box 498, Suquamish, WA 98392	333,000
Tulalip Tribes, 6700 Totem Beach Road, Marysville, WA 98721	335,000

[FR Doc. 00–3603 Filed 2–15–00; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collections of information for 30 CFR part 779 and the OSM–1 Form.

DATE: Comments on the proposed information collection must be received

by April 17, 2000, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Room 120—SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection requests, explanatory information and related forms, contact John A. Trelease at the address listed in **ADDRESSES.**

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR part 779, Surface Mining Permit Applications—Minimum Requirements for Environmental Resources; and the OSM–1 Form, Coal Reclamation Fee Report.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will be included in OSM's submissions of the information collection requests to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activities:

Title: Surface Mining Permit Applications—Minimum Requirements for Environmental Resources, 30 CFR 779.

OMB Control Number: 1029–0035.

Summary: Applicants for surface coal mining permits are required to provide adequate descriptions of the environmental resources that may be affected by proposed surface mining activities. The information will be used by the regulatory authority to determine if the applicant can comply with environmental protection performance standards.

Bureau Form Number: None.

Frequency of Collection: Once upon submittal of mining application.

Description of Respondents: Coal mining companies and state regulatory authorities.

Total Annual Responses: 315.

Total Annual Burden Hours: 51,188 hours.

Title: Coal Reclamation Fee Report–OSM–1 Form.

OMB Control Number: 1029–0063.

Summary: The information is used to maintain a record of coal produced for sale, transfer, or use nationwide each calendar quarter, the method of coal removal and the type of coal, and the basis for coal tonnage reporting in compliance with 30 CFR 870 and section 401 of Pub. L. 95–87. Individual reclamation fee payment liability is based on this information. Without the collection of information OSM could not implement its regulatory responsibilities and collect the fee.

Bureau Form Number: OSM–1.

Frequency of Collection: Quarterly.

Description of Respondents: Coal mine permittees.

Total Annual Responses: 15,804.

Total Annual Burden Hours: 4,280.

Dated: February 11, 2000.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 00–3626 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: University of Wisconsin Zoological Museum, Madison, WI, PRT–022670.

The applicant requests a permit to import the salvaged carcasses of one brown pelican (*Pelecanus occidentalis*), three Galapagos penguins (*Sphenicus mendiculus*), and one Galapagos tortoise (*Geochelone nigra ephippium*) from the Charles Darwin Foundation, Inc., Quito, Ecuador, for the purpose of enhancement of the survival of the species through scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 11, 2000.

Kristen Nelson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 00–3716 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Application; Notice of Extension of Comment Period

The Fish and Wildlife Service gives notice that the public comment period is extended for an application submitted by Johnny Lam Animal Shows, c/o Mitchel Kalmanson, Maitland, FL, PRT—020184. The application was submitted to satisfy requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). The application is for the import and re-export of captive-born Chimpanzees (*Pan troglodytes*) and Orangutan (*Pongo pygmaeus*) for enhancement of the survival of the species through conservation education. The extension will allow all interested parties to submit written comments. The Fish and Wildlife Service published a notice of receipt of the application on Monday, December 27, 1999. Written comments may now be submitted until March 1, 2000, and should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203.

Dated: February 11, 2000.

Kristen Nelson,

Chief, Branch of Permits (Domestic), Office of Management Authority.

[FR Doc. 00–3717 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Houston Toad (Bufo houstonensis) During Construction of One Single Family Residence on each of 21 Lots in the Circle D Country Acres Subdivision and on each of 6 Lots in the Piney Ridge Subdivision, Bastrop County, Texas

SUMMARY: SPSSCT Inc. DBA SPS Builders (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE–021532–0. The requested permit, which is for a period of 5 years, would authorize the incidental take of the endangered Houston toad (*Bufo houstonensis*). The proposed take would occur as a result of the construction of a single family residence on each of 21 lots in the Circle D Country Acres Subdivision [Section 3, Lot 66 (1.018 acres); Section 5, Lot 39 (1.32 acres); Section 7, Lot 12 (0.498 acre); Section 8, Lot 21(0.942 acre); Section 6, Lots 16 (0.069 acre), 28 (1.13 acres), 30 (0.646 acre), 31 (0.656 acre), 32 (0.400 acre), 40 (0.446 acre), 53 (0.517 acre), 54 (0.584 acre), 55 (0.0457 acre), 56 (0.396 acre), 96 (0.763 acre), 100 (0.758 acre), 101 (0.758 acre), 105 (0.758 acre), 109 (0.758 acre), 110 (0.747 acre), and 111 (1.06 acres)] and 6 lots in the Piney Ridge Subdivision [Section 1, Lots 18A and 18B (1.036 acres each),19A, 19B, and 19C (1.302 acres each), and 25A (0.818 acre)] in Bastrop County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before March 17, 2000.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Tannika Englehard, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Services Field Office, Austin, Texas, at the above address. Please refer to permit number TE–021532–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Tannika Englehard at the above Austin Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant

SPSSCT Inc. DBA SPS Builders plans to construct a single family residence on each of 21 lots in the Circle D Country Acres Subdivision [Section 3, Lot 66 (1.018 acres); Section 5, Lot 39 (1.32 acres); Section 7, Lot 12 (0.498 acre); Section 8, Lot 21 (0.942 acre); Section 6, Lots 16 (0.069 acre), 28 (1.13 acres), 30 (0.646 acre), 31 (0.656 acre), 32 (0.400 acre), 40 (0.446 acre), 53 (0.517 acre), 54 (0.584 acre), 55 (0.0457 acre), 56 (0.396 acre), 96 (0.763 acre), 100 (0.758 acre), 101 (0.758 acre), 105 (0.758 acre), 109 (0.758 acre), 110 (0.747 acre), and 111 (1.06 acres)] and 6 lots in the Piney Ridge Subdivision [Section 1, Lots 18A and 18B (1.036 acres each),19A, 19B, and 19C (1.302 acres each), and 25A (0.818 acre)] in Bastrop County, Texas. This action will eliminate less than one acre of habitat per homesite and result in an unquantifiable amount of indirect impact. The applicant proposes to compensate for this incidental take of the Houston toad by contributing $40,500 ($1,500 for each homesite) to the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat, as identified by the Service.

Charlie Sanchez, Jr.,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 00–3608 Filed 2–15–00; 8:45 am]

BILLING CODE 4510–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment, Preliminary Finding of No Significant Impact, and Receipt of an Application for an Incidental Take Permit by The St. Joe Company for Development of Two Residential/ Commercial Projects on its Lands in Walton County, Florida

AGENCY: Fish and Wildlife Service.

ACTION: Notice.

SUMMARY: The St. Joe Company (Applicant) seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended. The permit would apply to two individual land holdings of the Applicant in Walton County, Florida. At the first site, The Villages at Seagrove, south parcel, the applicant has a total of 16.4 acres of designated critical habitat for the federally endangered Choctawhatchee beach mouse (*Peromyscus polionotus allophrys*) that is currently occupied by the species. The other site, Camp Creek, has habitat suitable for Choctawhatchee beach mice but is currently unoccupied by beach mice. This ITP would authorize take of 4.65 acres of designated Choctawhatchee beach mouse critical habitat, 0.5 acre of suitable but currently unoccupied habitat, and secondary impacts related to human occupancy and use of the two developments. The Service has evaluated the proposed project plans and determined that, with the incorporation and implementation of appropriate conservation measures, the projects would not likely adversely affect the threatened loggerhead (*Caretta caretta*), endangered green (*Chelonia mydas*), and endangered leatherback (*Dermochelys coriacea*) sea turtles.

The Service also announces the availability of the draft EA and Plan for the incidental take application. Copies of the draft EA and/or Plan may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be

processed. This notice also advises the public that the Service has made a preliminary determination that issuing the Permit is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (NEPA). The preliminary Finding of No Significant Impact (FONSI) is based on information contained in the EA and Plan. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

The Service specifically requests information, views, and opinions from the public via this Notice on the Federal action, including the identification of any other aspects of the human environment not already identified in the Service's EA. Further, the Service specifically solicits information regarding the adequacy of the Plan as measured against the Service's Permit issuance criteria found in 50 CFR Parts 13 and 17.

If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to ''david__dell@fws.gov''. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not; however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

DATES: Written comments on the permit application, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before March 17, 2000.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, Panama City Field Office, 1612 June Avenue, Panama City, Florida 32405. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Please reference permit number TE020830–0 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7313; or Ms. Lorna Patrick, Fish and Wildlife Biologist, Panama City Field Office, (see **ADDRESSES** above), telephone 850/769–0552.

SUPPLEMENTARY INFORMATION: The Choctawhatchee beach mouse is one of five subspecies of the oldfield mouse that inhabit coastal dune communities along the northern Gulf Coast of Florida and Alabama. The Choctawhatchee beach mouse was listed along with the Perdido Key (*Peromyscus polionotus trissyllepsis*) and Alabama beach mice (*Peromyscus polionotus ammobates*) as an endangered species under the federal Endangered Species Act in 1985 (50 FR 23872, June 6, 1985). It is also listed as an endangered species by the State of Florida. Loss of habitat from coastal development is considered to be the main factor for the decline of beach mice.

Choctawhatchee beach mice, like other beach mice, are nocturnal and forage for food throughout the dune system. Optimal Choctawhatchee beach mouse habitat is currently thought to comprise a heterogeneous mix of interconnected habitats including primary, secondary, scrub dunes and interdunal areas. They feed primarily on seeds and fruits of bluestem *Schizachrium maritimum*, sea oats *Uniola paniculata*, and evening primrose *Oenothera humifusa*; however, insects are also an important component of their diet.

Critical habitat was designated for the Choctawhatchee beach mouse at the time of listing (50 CFR § 17.95). Designated critical habitat for the Choctawhatchee beach mouse consists of four separate areas in Walton and Bay counties, Florida, totaling 819 acres along 13.2 miles of Gulf of Mexico shoreline. These areas are: (1) Shell Island in Bay County, comprising 332 acres along 7.7 miles jointly managed by the Florida Department of Environmental Protection (FDEP), Florida Park Service as part of St. Andrews State Recreation Area (SRA) (205 acres—includes private inholdings), and by the U.S. Air Force, Tyndall Air Force Base (127 acres); (2) St. Andrews SRA, mainland, west of the St. Andrew Bay inlet, 60 acres along 1.1 miles; (3) Grayton Beach State Recreation Area (SRA) main unit, managed by FDEP, Florida Park Service in Walton County consists of 67 acres along 1.7 miles; and (4) Topsail Hill State Preserve managed by FDEP, Florida Park Service in Walton County, Florida, has 200 acres along 2.7 miles. Critical habitat extends onto private lands off the eastern boundary of Grayton Beach SRA, 31.4 acres (St. Joe Company, south parcel and development of Seaside) and adjacent to Topsail Hill State Preserve, west boundary, 24 acres (Four-Mile Village/Sierra Club/Coffeen Preserve) and east boundary, 9.63 acres (Stallworth Preserve and Hazelton property). Critical habitat in all areas extends 500 ft landward from the mean high tide line. Public lands account for 91 percent of designated critical habitat.

The historic range of the Choctawhatchee beach mouse extended from the East Pass of Choctawhatchee Bay in Okaloosa County east through Walton County to Shell Island in Bay County. Approximately 99.8 percent of the lands currently known to be occupied by Choctawhatchee beach mice are public lands. For the Choctawhatchee beach mouse, three ''populations'' are currently in existence: Topsail Hill State Preserve (and adjacent eastern and western private lands), Shell Island (includes Tyndall Air Force Base and St. Andrew SRA-with private inholdings), and Grayton Beach SRA, main unit (and adjacent eastern private lands). Approximately 92 percent of habitat ''available'' (large enough to support a population or adjacent to a population) for Choctawhatchee beach mouse are public lands. A current conservative total population estimate would be in

the range from 500 to 700 Choctawhatchee beach mice. Private lands within or adjacent to designated critical habitat provide support for the recovery of the Choctawhatchee beach mouse. These lands are available for population dispersal and food source during and after severe weather events.

The Applicant, The St. Joe Company, proposes to implement conservation measures to benefit the Choctawhatchee beach mouse for both their proposed developments. Avoidance, minimization, and on-site and off-site mitigation include the following:

1. A monitoring program for Choctawhatchee beach mice on The Villages at Seagrove, south parcel will be implemented for 5 years.

2. Restoration of the dune system at The Villages at Seagrove, south parcel. To restore the dunes: (a) Sand will be brought in and placed along the base of the primary dunes; (b) sand fence will be installed; (c) sea oats and panic grass will be planted in the primary dune restoration area; (d) the historic grade will be reestablished and sea oats and palmetto-oak scrub plant species will be planted as appropriate; (e) restoration areas will be protected from pedestrian traffic; and (f) the restoration work will be maintained under a prescriptive management program.

3. Protection, management, and maintenance of remaining beach mouse habitat at both developments.

4. The Applicant will provide consent to allow the Service or FDEP to reintroduce Choctawhatchee beach mice onto the Camp Creek site in habitat suitable for Beach mice but currently unoccupied.

5. Covenants and restrictions will be placed on both entire developments.

6. All covenants and restrictions shall be further stipulated that no changes shall be made that would cause noncompliance with the requirements of the ITP.

7. Protection, management, and maintenance of 80.4 acres (32.5 hectares) of beach mouse habitat at the Camp Creek site.

8. Installation of split rail or similar fence between the Camp Creek site and State Park property to control unauthorized pedestrian access to dune habitats at both areas.

9. All landscaping will be done with native vegetation at both developments.

10. No invasive or exotic species will be planted at either development and will be removed whenever found at both developments.

11. Sea turtle compatible lighting will be included in the project design for both projects.

12. Control of litter and trash including the use of wildlife-proof trash receptacles will be installed and maintained at both developments.

13. Control of non-native predator species such as coyote, red fox, house mice, and feral and free-ranging domestic pets (cats and dogs) will be implemented at both developments. The use of pesticides will be limited to those that will not impact the Choctawhatchee beach mouse.

14. All domestic pets will be required to be on a leash when outside at both developments.

15. Recreation and beach equipment (beach chairs, umbrellas, and surf boards, etc.) will be removed from the beach and stored in a centralized location at night during the sea turtle nesting season (May 1 through October 31) at both developments.

16. Access to the beach from both developments will be controlled and directed on the dune walkovers. Fences, signs, and information kiosks will be used to direct pedestrian traffic along the walkovers and provide information on the sensitivity of the dune habitat and associated coastal plants and animals at both developments.

17. During construction, impacts will be avoided or minimized at both sites by: (a) Habitat protected by placing sediment barriers and flagging to restrict access and avoid impacts; (b) top-down construction of dune walkovers and boardwalks over primary, secondary, and scrub dune habitats; (c) storage of materials at appropriate staging sites and outside or adjacent to sensitive habitats; (d) construction site to be kept clean and free of debris in areas of sensitive habitats; (e) limits of disturbance from construction grading will be indicated on all building plans and a buffer established and revegetated with native species after construction, if needed; (f) signs indicating the habitat protection and prohibition of disturbance including penalty for violation will be posted at 100 foot intervals; (g) periodic inspections will be performed to verify that the protection is being implemented correctly; and (h) these requirements will be in the general contractor's contract.

18. An environmental education program will be developed for the residents and visitors of the development at both sites. The program will emphasize the coastal area and the listed species that occur there. The program will include the development of a brochure, kiosk, and appropriate signs.

19. Enforcement of construction boundary violations (bulldozer activity through a fence, indirect damage, such as slope failure in the construction area across the construction boundary, erosion, or unauthorized vehicle activity) at both sites by: (a) Notification of the Service; (b) termination of work; (c) preparation and submission of a damage report; (d) restoration of damaged area; and (e) return to work once these steps have been completed. Enforcement action will be taken against a property owner regardless of the actual agent of the damage in order to accelerate abatement and remediation and because there is a direct link between the property owner and the ITP.

20. Annual reports submitted to the Fish and Wildlife Service for the duration of the ITP (30 years).

21. Assurance for legal, financial, and future management responsibilities for implementing the HCP and ITP are to be met by property assessments on individual property owners. The home owners' association will administer the program. After the issuance of the ITP the Applicant will produce legally binding covenants and restrictions to implement the HCP and ITP. The Applicant will cover the cost of the monitoring program and the annual reports until the homeowner's association is established and assumes the administrative and funding responsibilities of the program.

22. To address the possibility of unforeseen circumstances, the Applicant will work with the Service to determine and resolve issues or concerns as appropriate. If either the Applicant or the Service becomes aware of situations that could cause unforeseen incidental take they will contact the other to address issues as needed.

The EA considers the environmental consequences of three alternatives.

Alternative A

No Action. This alternative would avoid the taking of any listed species at either development area. Thus, the no action alternative would have no direct impact on listed species in the area south of Highway 30A. However, the absence of a management plan for the site could result in adverse indirect impacts to and subsequent loss of listed species from the critical habitat area as a result of adjacent development and associated problems of unauthorized human access and disturbance. Adjacent development will pose problems such as feral and free-ranging cats, house mice, and other animals which may prey upon or compete with the Choctawhatchee beach mouse on the project area as well as unauthorized

beach access on the property which has degraded the dune habitats. Without management, preservation of the critical habitat area alone is not likely to protect listed species such as the Choctawhatchee beach mouse and other species such as nesting sea turtles, and shorebirds. Under the no action alternative, no effort would be made by the Applicant to conserve, restore, or enhance habitat for the Choctawhatchee beach mouse or other listed species in the coastal portion of the development.

Alternative B

At both developments the Applicant has committed to implement conservation measures including controlled beach access, dune habitat restoration and protection, control of Choctawhatchee beach mouse predators and competitors, monitoring of the onsite beach mouse population, sea turtle compatible lighting and beach management, trash and refuse control. In addition, the Applicant provided consent for the Service or Florida Department of Environmental Protection to reintroduce Choctawhatchee beach mice onto the second property to be developed that contains 80.4 acres of habitat suitable for beach mice.

The Applicant in concept has provided for the necessary conservation measures and mitigation to meet the biological goals of the incidental take permit issuance. However, because (1) additional conservation measures are needed to minimize impacts and (2) because of uncertain annual funding for both our agency and the Florida Department of Environmental Protection, assurance can not be provided that a new population could be established in a timely fashion. Thus, the Service's biological goal of minimizing impacts and increasing numbers of the Choctawhatchee beach mouse would not be met.

Alternative C

(Proposed Action)

At both developments the Applicant has committed to implement conservation measures including controlled beach access, dune habitat restoration and protection, control of Choctawhatchee beach mouse predators and competitors, monitoring of the onsite beach mouse population, sea turtle compatible lighting and beach management, trash and refuse control. In addition, the Applicant committed to funding the reintroduction of Choctawhatchee beach mice onto the second property that contains 80.4 acres of habitat suitable for beach mice. In addition, the Applicant has committed to incorporating additional conservation measures that further reduce impacts to the Choctawhatchee beach mouse. These measures include the following:

1. The Applicant shall be responsible for conducting or funding monitoring of the Choctawhatchee beach mouse population at The Villages at Seagrove, south parcel for the life of the ITP (30 years) unless approved otherwise by the Service.

2. At least one week prior to the land clearing on The Villages at Seagrove, south parcel, trapping within the 4.65 acres will be conducted by the Applicant to capture Choctawhatchee beach mouse. The Choctawhatchee beach mouse will be relocated to the Grayton Beach State Recreation Area main unit. The Applicant will be responsible for obtaining all applicable state and federal permission or permits to conduct this activity.

3. The Applicant will conduct or fund reintroduction of the Camp Creek project site within one year of issuance of a plan provided by the Service. Choctawhatchee beach mouse from Topsail Hill State Preserve will be the source of Choctawhatchee beach mouse for the reintroduction provided adequate numbers exist. Monitoring of the reintroduced population shall be completed by the Applicant for 5 years with consent for the Service, FDEP, or Florida Fish and Wildlife Conservation Commission (FWC) to continue the population supplementation and monitoring for the life of the ITP.

4. The following changes or additions to the dune restoration plan will be made: (a) All vegetation planting shall be completed by May 1; (b) irrigation of planted dune vegetation will be by backpack only; (c) all dune restoration material will meet State of Florida requirements for beach quality material; and (d) all fence will be installed according to State of Florida sea turtle compatible requirements.

5. The Walton County beach access shall consist, at a minimum, of one dune walkover constructed to allow natural formation of the primary, secondary, and scrub dunes. The walkover shall be completed by the time development of The Villages at Seagrove, south parcel site is also completed.

6. All landscaping within designated critical habitat of the Choctawhatchee beach mouse on The Villages at Seagrove, south parcel shall be in accordance with the Walton County Coastal Dune Vegetation list to be included in the ITP.

7. All trash receptacles on The Villages at Seagrove, south parcel (including the Walton County beach access) and Camp Creek shall be permanent, with secure lids, and predator proof.

8. No lights shall be permitted seaward of the Coastal Construction Control Line (CCCL) at both developments.

9. All structure and associated facility lighting on the seaward and western portion of The Villages at Seagrove, south parcel and Camp Creek site shall be kept to a minimum for security and safety purposes only and be sea turtle compatible. No lighting in these areas shall be used for decorative landscaping purposes. This will be handled under an adaptive management approach with the Service and the Applicant working together to finalize the lighting plans.

10. All construction on the beach for both developments will be conducted outside the turtle nesting season (May 1 through October 31) or in accordance with a CCCL permit issued by the State of Florida.

11. All covenants and restrictions will be further stipulated that no changes shall be made that would cause noncompliance with the requirements of the ITP.

Therefore, the biological goal for issuing the ITP has been met by providing a net conservation benefit for the Choctawhatchee beach mouse through: (1) Minimization of onsite impacts by siting of structures and implementation of conservation measures at both developments; (2) maintenance of a continuum of critical habitat (primary dune, oak scrub, and palmetto scrub) within and contiguous with the adjacent public and private lands; and (3) increasing the number of Choctawhatchee beach mice.

As stated above, the Service has made a preliminary determination that the issuance of the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An excerpt from the EA reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP will not appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

2. Issuance of an ITP will not appreciably diminish the value of critical habitat for both the survival and recovery of the species

3. This HCP contains provisions which sufficiently minimize and

mitigate the impacts to the extent practicable.

4. Issuance of an ITP would not have significant effects on the human environment in the project areas.

5. The proposed take is incidental to an otherwise lawful activity.

6. Adequate funding will be provided to implement the measures proposed in the submitted HCP.

7. No adverse effects to historic sites will occur because of the requirement to: ''At the Camp Creek project area, the active beach dune areas in which sites 8WL65 and 8WL105 are located will be left in their natural state with the exception of dune walkover/boardwalk access to the beach. Archaeological monitoring shall be employed during any dune walkover/boardwalk construction should such occur in or near the recorded site areas.''

The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Endangered Species Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Judy L. Jones,

Acting Regional Director.

[FR Doc. 00–3606 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

AGENCY: Fish and Wildlife Service, Interior.

ACTION: 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 Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The Klamath Fishery Management Council makes recommendations to agencies that regulate harvest of anadromous fish in the Klamath River Basin. The objectives of this meeting are to hear technical reports, to discuss and develop Klamath fall chinook salmon harvest management options for the 2000 season, and to make recommendations to the Pacific Fishery Management Council and other agencies. The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 1:00 p.m. to 5:00 p.m. on Sunday, March 5, 2000.

PLACE: The meeting will be held at the Red Lion's Sacramento Inn, 1401 Arden Way, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, PO Box 1006 (1215 South Main), Yreka, California 96097–1006, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: At the March 5, 2000 meeting, the Klamath Fishery Management Council may schedule short follow-up meetings to be held between March 6, 2000 and March 8, 2000 at the Red Lion's Sacramento Inn, 1401 Arden Way, Sacramento, California, where the Pacific Fishery Management Council will be meeting.

For background information on the Klamath Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Dated: February 7, 2000.

Elizabeth H. Stevens,

Acting Manager, California/Nevada Operations.

[FR Doc. 00–3668 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

2000 Migratory Bird Hunting and Conservation Stamp (Federal Duck Stamp) Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Fish and Wildlife Service announces the dates and locations of the 2000 Federal Duck Stamp contest; the public is invited to attend.

DATES: 1. The 2000 contest opens for submission on July 1, 2000.

2. Persons wishing to enter this years contest may submit entries anytime after Saturday, July 1, 2000, but *all* must be postmarked no later than midnight, Friday, September 15, 2000.

ADDRESSES: Requests for complete copies of the regulations, reproduction rights agreement and display and participation agreement may be requested by calling 1–877–887–5508 or requests may be addressed to: Federal Duck Stamp Contest, U.S. Fish and Wildlife Service, Department of the Interior, 1849 C Street, NW, Suite 2058, Washington, DC 20240. You may also download the information from the Federal Duck Stamp Home Page at www.duckstamps.fws.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Terry Bell, telephone (202) 208–4354, or fax: (202) 208–6296.

SUPPLEMENTARY INFORMATION: Location of contest: Department of the Interior building, Auditorium (''C'' Street entrance), 1849 C Street, NW, Washington, DC. The public may view the 2000 Federal Duck Stamp Contest entries on Monday, November 6, 2000, from 10:00 a.m. to 2:00 p.m. in the Department of the Interior Auditorium. This year's judging will be held on November 7–8, 2000, beginning at 10:30 a.m. on Tuesday, November 7 and continuing at 9:00 a.m. on Wednesday, November 8. The *five* eligible specicies for the 2000 duck stamp contest are as follows:

(1) American Green-winged Teal
(2) Black Duck
(3) Northern Pintail
(4) Ruddy Duck
(5) American Widgeon

The primary author of this document is Ms. Terry Bell, U.S. Fish and Wildlife Service.

Dated: February 8, 2000.

Jamie Rappaport Clark,

Director.

[FR Doc. 00–3658 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–912–00–0777–XQ]

Utah Resource Advisory Council Meeting-Rescheduled.

AGENCY: Bureau of Land Management.

ACTION: Utah Resource Advisory Council Meeting—Rescheduled.

SUMMARY: The Bureau of Land Management's Utah Statewide Resource Advisory Council (RAC) meeting which was scheduled for February 15, 2000 will now be held on March 17, 2000, in Provo, Utah.

The purpose of this meeting is to begin developing guidelines for recreation management on BLM lands in Utah.

The meeting will be held at the Hampton Inn, (Sundance Room), 1511 South 40 East, Provo, Utah. It is scheduled to being at 8 a.m. and conclude at 4 p.m. A public comment period, where members of the public may address the Council, is scheduled from 8:30–8:30 a.m. on March 17. All meetings of the BLM's Resource Advisory Council are open to the public.

FOR FURTHER INFORMATION CONTACT: Sherry Foot, Special Programs

Coordinator, Utah State Office, Bureau of Land Management, 324 South State Street, Salt Lake City, 84111; phone (801) 539–4195.

Dated: February 10, 2000.

Sally Wisely,

Utah BLM State Director.

[FR Doc. 00–3609 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1430–EU; WYW 146252]

Opening of National Forest System Land; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates the temporary segregative effect as to 199.98 acres of National Forest System lands which were originally included in an application for exchange in the Medicine Bow National Forest.

EFFECTIVE DATE: February 16, 2000.

FOR FURTHER INFORMATION CONTACT: Jimi Metzger, BLM Wyoming State Office, 5353 Yellowstone Rd., P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6250.

SUPPLEMENTARY INFORMATION: Pursuant to the regulations contained in 43 CFR 2091.3–2(b), at 9 a.m. on February 16, 2000, the following described lands will be relieved of the temporary segregative effect of exchange application WYW 146252.

Sixth Principal Meridian, Wyoming

T. 27 N., R. 71 W.,

Sec. 3, lots 3 and 4, SW¼NE¼, S½NW¼.

The area described contains 199.98 acres in Albany County.

At 9 a.m. on February 16, 2000, the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, including 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 lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988) 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 BLM will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: February 9, 2000.

Tamara J. Gertsch,

Acting Chief, Mineral & Lands Authorization Group.

[FR Doc. 00–3612 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[CO–13000–1220–DB; CO–13000–1020–MJ]

Recreation Visitor Use Restrictions and Range Management Direction for Bangs Canyon Special Recreation Management Area; Colorado

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of travel management, recreation visitor use restrictions, and range management direction.

SUMMARY: This order, issued under the authority of 43 CFR 8341.1, and 8342.1, 43 CFR 8364.1(d), and 43 CFR 4110.3, and 43 CFR 4110.4–2(b), see also 18 U.S.C. 3571 implements recreation and travel related management actions and range management direction as identified in the Bangs Canyon Management Plan signed in August of 1999 by the Colorado State Director and the Grand Junction Field Office Manager. The identified public lands are in Colorado, Mesa County, under the management jurisdiction of the Bureau of Land Management, Grand Junction Field Office, (T. 12, 13, 14 W., R. 1, 100 & 101 W.). The area is bounded by the Colorado National Monument and the city of Grand Junction on the north, the Lower Gunnison River on the east, the private lands in Glade Park on the west, and highway 141 on the south. The recreation restrictions and travel management direction consist of:

1. Allowing all motorized and mechanized travel only on designated roads and trails (so designated by maps contained in management plan).

2. Prohibiting overnight camping and all open fires within a half mile of Little Park Road, in the entire area between Monument Road and Little Park Road, and in the lower two miles of East Creek.

3. No use will be allowed after dark in the area between Little Park Road and Monument Road.

The range management direction consists of leaving the Dead Horse and Boulder Canyon allotments un-allotted due to recreational considerations and the suitability of the range for grazing purposes.

EFFECTIVE DATES: The recreation and travel management restrictions and range management direction shall be in effect year round beginning February 15, 2000 and shall remain in effect until rescinded or modified by the Authorized Officer.

SUPPLEMENTARY INFORMATION: BLM administers approximately 54,000 acres in the Bangs Canyon planning area. This area has become increasingly popular for hiking, mountain biking, horseback riding and OHV use due to its close proximity to Grand Junction. Public lands in this area contain important fragile resource values along with providing a variety of recreational opportunities. Changes in the current travel, recreation restrictions, and range management direction in the Bangs Canyon area are needed to protect desirable recreational opportunities and benefits as well as protect erosive soils, wildlife habitat, cultural resources, important scenic values, wilderness values and semi-primitive motorized and non-motorized settings. Growing recreational use in the area is expected to continue, and these restrictions are needed to prevent conflicts between users and unacceptable impacts on resource values, while continuing to provide a variety of recreational opportunities.

Notice of these regulations will be posted on-the-ground at the Little Park and Bangs Canyon staging areas, the Ribbon trailhead, at the entrance to East Creek, and at the Grand Junction Field office.

Persons who may be exempted from the restrictions include: (a) Any federal, state, or local officers engaged in fire, emergency and law

Page 2 of 3 enforcement activities; (b) BLM employees engaged in official duties; (c) other persons authorized to operate motorized vehicles within the restricted areas.

PENALTIES: Violations of this restriction order are punishable by fines not to exceed $100,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Catherine Robertson, Field Manager, Grand Junction Field Office, 2815 H Road Grand Junction, Colorado 81506; (970) 244–3010.

Catherine Robertson,

Grand Junction Field Office Manager.

[FR Doc. 00–3389 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Salton Sea Restoration Project, Riverside and Imperial Counties, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public hearing for Draft Environmental Impact Statement/ Draft Environmental Impact Report (DEIS/DEIR).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended and the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation) has prepared a joint DEIS/DEIR for the Salton Sea Restoration Project (SSRP). The DEIS/ DEIR was made available to the public on January 26, 2000. Reclamation and the Salton Sea Authority (SSA) have scheduled four public hearings to receive comments from interested organizations and individuals on the environmental impacts of the project.

DATES: The public hearings will be held Wednesday, March 1, 2000, from 1 to 4 p.m. and from 6 to 9 p.m; and on Thursday, March 2, 2000, from 1 to 4 p.m. and from 6 to 9 p.m. Sign-in for the hearings will begin 30 minutes prior to the scheduled hearing times.

ADDRESSES: The public hearings will be held at the following locations:

- March 1, 2000, 1 to 4 p.m., Imperial Irrigation District Board Room, 81–600 Avenue 58, La Quinta, California
- March 1, 2000, 6 to 9 p.m., Coachella Valley Association of Governments, 73–710 Fred Waring Drive, Room 119, Palm Desert, California
- March 2, 2000, 1 to 4 p.m., Brawley Chamber of Commerce, 204 South Imperial Avenue, Brawley, California
- March 2, 2000, 6 to 9 p.m., VFW West Shore Post 3251, 50 Desert Shores Drive, Desert Shores, California

Written comments on the DEIS/DEIR should be addressed to Mr. Tom Kirk, Director, SSA, 78–401 Highway 111, Suite T, La Quinta, CA 92253; or to Mr. William Steele, Program Manager, Salton Sea Project, Bureau of Reclamation (Reclamation), PO Box 61470, Boulder City, NV 89006–1470.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Kirk, SSA, at (760) 564–4888; or Mr. William Steele, Reclamation, at (702) 293–8129.

SUPPLEMENTARY INFORMATION: The Salton Sea is an artificially maintained inland body of water located in the southeastern corner of California, southeast of Palm Springs, and spans Riverside and Imperial counties. Scientific, environmental, and engineering studies have been conducted for the SSRP to address environmental issues that have arisen since the creation of the sea. Five project alternatives have been developed to address project goals. The DEIS/DEIR describes and presents the environmental effects of the five alternatives as well as the No Action Alternative.

Requests To Testify

Those wishing to request, in advance, a time to make comments at the hearings prior to the hearing dates should write or call Ms. Nadine Mupas, Salton Sea Authority, 78–401 Highway 111, Suite T, La Quinta, CA 92253, telephone: (760) 564–4888. Requests should indicate at which session the speaker wishes to appear. Speakers will be called upon to present their comments in the order in which their requests were received by the SSA. Requests to speak may also be made at each session; those requesters will be called to speak after the advance requests.

Oral comments will be limited to 5 minutes per individual. The meeting facilitator will allow any speaker to provide additional oral comments after all persons wishing to comment have been heard.

Written comments from those unable to attend or those wishing to supplement their oral presentation at the hearing should be received by Mr. Tom Kirk, SSA; or Mr. William Steele, Reclamation, at the above addresses by April 25, 2000, (the end of the DEIS/ DEIR public comment period) for consideration in the Final EIS/EIR.

Note: If special assistance is required, contact Nadine Mupas at (760) 564–4888 as far in advance of the hearings as possible and not less than 1 week before each hearing, to enable securing the needed services. If a request cannot be honored, the requester will be notified.

Dated: February 10, 2000.

Eluid L. Martinez,

Commissioner, Bureau of Reclamation.

[FR Doc. 00–3577 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–863 (Preliminary)]

Citric Acid and Sodium Citrate From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines, [2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from China of citric acid and sodium citrate, provided for in subheadings 2918.1400 and 2918.1510 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On December 15, 1999, a petition was filed with the Commission and the Department of Commerce by Archer Daniels Midland Co., Decatur, IL; Cargill, Inc., Naperville, IL; and Tate & Lyle Citric Acid, Inc., Decatur, IL, alleging that an industry in the United States is threatened with material injury by reason of LTFV imports of citric acid and sodium citrate from China. Accordingly, effective December 15, 1999, the Commission instituted antidumping duty investigation No. 731–TA–863 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC,

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioners Jennifer A. Hillman and Stephen Koplan dissenting; Chairman Lynn M. Bragg not participating.

and by publishing the notice in the **Federal Register** of December 22, 1999 (64 FR 71831). The conference was held in Washington, DC, on January 5, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on January 31, 2000. The views of the Commission are contained in USITC Publication 3277 (February 2000), entitled *Citric Acid and Sodium Citrate from China: Investigation No. 731–TA–863 (Preliminary)*.

Issued: February 8, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–3709 Filed 2–15–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–556 (Review)]

Drams of 1 Megabit and Above From Korea

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on DRAMs of 1 megabit and above from Korea.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)) to determine whether revocation of the antidumping duty order on DRAMs of 1 megabit and above from Korea would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675(c)(5)(B); a schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review 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).

EFFECTIVE DATE: February 3, 2000.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202–205–3167), 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: On February 3, 2000, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act.[1] The Commission found that both domestic and respondent interested party group responses to its notice of institution (64 FR 59202, November 2, 1999) were adequate.

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.

Authority: This review is 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.

Issued: February 9, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–3708 Filed 2–15–00; 8:45 am]

BILLING CODE 7020–02–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–624–625 (Review)]

Helical Spring Lock Washers From China and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the antidumping duty orders on helical spring lock washers from China and Taiwan.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)) to determine whether revocation of the antidumping duty orders on helical spring lock washers from China and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675(c)(5)(B); a schedule for the reviews will be established and announced at a later date. 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).

EFFECTIVE DATE: February 3, 2000.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), 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: On February 3, 2000, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act.[1] The Commission found that the domestic interested party group response to its notice of institution (64 FR 59204, November 2, 1999) was adequate with respect to both reviews and that the respondent interested party group response was adequate with respect to China[2] but inadequate with respect to Taiwan. The Commission also found that other circumstances warranted conducting a full review with respect to Taiwan.

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.

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.

Issued: February 9, 2000.

[1] Commissioner Askey is not participating in this five-year review.

[1] Chairman Bragg dissenting with respect to both China and Taiwan.

[2] Chairman Bragg dissenting.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–3705 Filed 2–15–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–278–280 (Review) and 731–TA–347–348 (Reveiw)]

Malleable Cast Iron Pipe Fittings From Brazil, Japan, Korea, Taiwan, and Thailand [1]

Determinations

On the basis of the record [2] developed in the subject five-year reviews, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty orders on malleable cast iron pipe fittings from Brazil, Taiwan, and Thailand would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. [3] The Commission further determines that revocation of the antidumping duty orders on malleable cast iron pipe fittings from Japan and Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. [4]

Background

The Commission instituted these reviews on January 4, 1999 (64 FR 369) and determined on April 8, 1999, that it would conduct full reviews (64 FR 19196, April 19, 1999). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on June 16, 1999 (64 FR 32255). The hearing was held in Washington, DC, on December 2, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on February 8, 2000. The views of the Commission are contained in USITC Publication 3274 (February 2000), entitled Malleable Cast Iron Pipe Fittings from Brazil, Japan, Korea, Taiwan, and Thailand: Investigations Nos. 731–TA–278–280 (Review) and 731–TA–347–348 (Review).

Issued: February 8, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–3711 Filed 2–15–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–571 (Review)]

Professional Electric Cutting Tools From Japan

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on professional electric cutting tools from Japan.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)) to determine whether revocation of the antidumping duty order on professional electric cutting tools from Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675(c)(5)(B); a schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review 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).

EFFECTIVE DATE: February 3, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202–205–3172), 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: On February 3, 2000, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (64 FR 59206, November 2, 1999) was adequate but that the respondent interested party group response was inadequate.[1] The Commission also found that other circumstances warranted conducting a full review.[2]

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.

Authority: This review is 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.

Issued: February 9, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–3707 Filed 2–15–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–470–472 and 671–673 (Review)]

Silicon Metal From Argentina, Brazil, and China and Silicomanganese From Brazil, China, and Ukraine

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the antidumping duty orders on silicon metal from Argentina, Brazil, and China; the antidumping duty orders on

[1] The investigation numbers are as follows: Brazil is 731–TA–278 (Review), Japan is 731–TA–347 (Review), Korea is 731–TA–279 (Review), Taiwan is 731–TA–280 (Review), and Thailand is 731–TA–348 (Review).

[2] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[3] Chairman Lynn M. Bragg dissenting with respect to Brazil and Taiwan, Commissioner Stephen Koplan dissenting with respect to Taiwan, and Commissioner Deanna Tanner Okun not participating.

[4] Commissioner Thelma J. Askey dissenting and Commissioner Deanna Tanner Okun not participating.

[1] Commissioner Askey did not make a determination as to whether the respondent interested party group response was adequate in this review.

[2] Chairman Bragg and Commissioner Koplan dissenting.

silicomanganese from Brazil and China; and the suspended investigation on silicomanganese from Ukraine.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)) to determine whether revocation of the antidumping duty orders on silicon metal from Argentina, Brazil, and China and the antidumping duty orders on silicomanganese from Brazil and China; and termination of the suspended investigation on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675(c)(5)(B); a schedule for the reviews will be established and announced at a later date. 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).

EFFECTIVE DATE: February 3, 2000.

FOR FURTHER INFORMATION CONTACT: George Deyman (202–205–3197), 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: On February 3, 2000, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission, in consultation with the Department of Commerce, grouped these reviews because they involve similar domestic like products. See 19 U.S.C. § 1675(c)(5)(D); 63 F.R. 29372, 29374 (May 29, 1998). With regard to silicon metal from Argentina and Brazil and silicomanganese from Brazil and Ukraine, the Commission found that both the domestic interested party group responses and the respondent interested party group responses to its notice of institution [1] were adequate and voted to conduct full reviews. With regard to both silicon metal and silicomanganese from China, the Commission found that the domestic interested party group responses were adequate and the respondent interested party group responses were inadequate. The Commission also found that other circumstances warranted conducting full reviews.

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.

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.

Issued: February 9, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–3706 Filed 2–15–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–464 (Review)]

Sparklers From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the antidumping duty order on sparklers from China.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review 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 sparklers from China would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of this review 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: February 8, 2000.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), 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 October 1, 1999, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (64 FR 55960, October 15, 1999). A record of the Commissioners' votes and the Commission's statement on adequacy are available from the Office of the Secretary and at the Commission's web site.

Participation in the Review 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 this review 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 review 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 review.

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 this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days

[1] The notice of institution for all of the subject reviews was published in the **Federal Register** on November 2, 1999 (64 FR 59209, November 2, 1999).

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 review. A party granted access to BPI following publication of the Commission's notice of institution of the review 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 review will be placed in the nonpublic record on April 21, 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 11, 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 3, 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 5, 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 review 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 2, 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 May 25, 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 May 25, 2000. On June 16, 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 20, 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 review must be served on all other parties to the review (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: This review is 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.

Issued: February 8, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–3710 Filed 2–15–00; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Flexible Deployment Assistance Guide

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Notice of availability.

SUMMARY: The Flexible Deployment Assistance Guide and Template may be downloaded from the FBI's Web site at *http://www.fbi.gov/programs/calea/flexible.htm*. The purpose of the Communications Assistance for Law Enforcement Act (CALEA) Flexible Deployment Assistance Guide (Guide) is to assist telecommunications carriers in meeting certain requirements of CALEA. The Guide requests telecommunications carriers to voluntarily submit certain information to the FBI, and explains under what circumstances, based on a review of that information, the FBI might support a carrier's request to the Federal Communications Commission (FCC) for an extension under sec. 107(c) of CALEA. The Guide also provides some general background information regarding CALEA, and discusses lawfully authorized electronic surveillance, technical solutions being developed by the industry, and cost reimbursement provisions of CALEA.

As explained in the Guide, telecommunications carriers are under an obligation to meet certain CALEA assistance capability requirements by the June 30, 2000, and September 30, 2001, deadlines specified by the FCC. The ''Flexible Deployment Plan'' is the FBI's proposed method for evaluating the situations of those carriers proposing to request the FCC for an extension of a deadline of compliance with CALEA's assistance capability requirements. Carriers choosing to submit information in response to the Guide are strongly encouraged to do so on or before March 31, 2000. CIS will send receipt notification letters to all carriers submitting information. (This information collection has been approved by the Office of Management and Budget under control number 1110–0030).

DATES: Telecommunications carriers are stongly encouraged to file their Flexible Deployment Assistance Guide Templates in Microsoft Excel format by March 31, 2000.

ADDRESSES: All completed Flexible Deployment Assistance Guide Templates should be sent to: CALEA Implementation Section, Attention: Flexible Deployment Assistance Guide, 14800 Conference Center Drive, Suite 300, Chantilly, VA 20151–0450.

FOR FURTHER INFORMATION CONTACT: Flexible Deployment Assistance Guide Help Desk, 800–551–0336.

Authority: 47 U.S.C. 1001–1010.

Dated: February 11, 2000.

H. Michael Warren,

Senior Project Manager/Chief, Federal Bureau of Investigation, Department of Justice.

[FR Doc. 00–3654 Filed 2–15–00; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2005–99]

RIN 1115–AF54

INS Immigration User Fee Review

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Biennial notice of Immigration User Fee Account Status.

SUMMARY: The Attorney General is required to submit a report to the Congress concerning the status of the Immigration User Fee Account (IUFA), and to recommend any adjustment in the prescribed fee. The report is to be submitted to the Congress following a public notice with the opportunity for comment. This notice accordingly publishes the status of the IUFA as of September 30, 1999, and presents an opportunity for the public to comment and propose regulatory changes.

DATES: Written comments must be received on or before April 17, 2000.

ADDRESSES: Please submit written comments, in triplicate, to Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Room 5307, 425 I Street NW., Washington, DC 20536–0002. To ensure proper handling, please reference INS no. 2005–99 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Paul Schlesinger, Chief, Fee Policy and Rate Setting Branch, Office of Budget, Immigration and Naturalization Service, Room 6240, 425 I Street NW., Washington, DC 20536–0002, telephone (202) 616–2754.

SUPPLEMENTARY INFORMATION:

What Is the Immigration User Fee Account (IUFA)?

Section 286(d) of the Immigration and Nationality Act [Act], as amended, specifies that, as of December 1, 1986, the Attorney General shall collect a fee per individual for the immigration inspection of each passenger arriving at a Port-of-Entry in the United States aboard a commercial aircraft or commercial vessel, or for the pre-inspection of a passenger at a location outside the United States prior to such arrival. Passengers arriving from Canada, Mexico, the adjacent islands and territories, and possessions of the United States by means other than aircraft are exempt from the fee. Also exempt from the fee are persons who meet provisions delineated in 8 CFR 286.3. The 1994 Appropriations Act for the Department of Justice, Pub. L. 103–121, raised the IUFA fee from $5 to $6 per passenger inspected.

The fees deposited in the IUFA are used to reimburse any appropriation for expenses incurred in: (1) Providing inspection and pre-inspection services (including overtime) for commercial aircraft and sea vessels; (2) detaining and removing inadmissible aliens arriving on commercial aircraft and sea vessels; (3) providing removal and asylum proceedings at air and sea Ports-of-Entry for inadmissible aliens arriving on commercial aircraft or sea vessels; (4) funding the detention and deportation, removal and asylum costs for aliens seeking to enter the country illegally by avoiding inspection at air and sea Ports-of-Entry; (5) administering debt recovery; (6) establishing and operating a national collections office; (7) expanding, operating, and improving information systems for nonimmigrant control and debt collection; and (8) detecting fraudulent documents presented by passengers traveling into the United States.

What Congressional Reports Are Required by the Immigration and Nationality Act?

Section 286(h) of the Act requires the Attorney General to submit a biennial report to Congress concerning the status of the IUFA. This report assesses whether an adjustment in the prescribed inspection fee is required to ensure that receipts collected under the IUFA for the succeeding 2 years equal, as closely as possible, the cost of providing the services listed above. Before this report is submitted, the Attorney General must present a summary of the IUFA's status for review and public comment.

What is the Financial Status of the IUFA?

As of September 30, 1999, the status of the IUFA was as follows:

IUFA FINANCIAL SUMMARY ($000)

	Fiscal year 1997 actual	Fiscal year 1998 actual	Fiscal year 1999 actual	Fiscal year 2000 estimate **	Fiscal year 2001 estimate ***
Start of year balance	$84,158	$96,540	$73,016	$57,839	$4,889
Collections *	367,665	379,480	422,634	428,050	596,186
Obligations	361,686	411,700	454,144	487,000	529,103
Recovery of prior year obligations	6,403	8,696	16,333	6,000	6,000
End of year balance	96,540	73,016	57,839	4,889	77,972

* Includes passenger fees, inspector overtime billings, liquidated damages, and one-third of enforcement fines as prescribed by law.
** Assumes 6% increase in traffic and reprogramming of funds into the account.
*** Assumes $2 increase in the user fee, reprogramming of funds into the account, and elimination of the current cruise ship passenger exemption.

Collections: Collections totaled $367.7 million for FY 1997 and $379.5 million for FY 1998, marking a 3 percent increase for FY 1998 collections over FY 1997 collections. Collections for FY 1999 were $422.6 million, which is 11 percent higher than collections realized in FY 1998.

Obligations: The United States Government records orders for goods and/or services which require payment as ''obligations.'' More specifically, the Office of Management and Budget (OMB) Circular A–34, Instructions on Budget Execution, defines obligations as purchase orders placed, contracts awarded, and services received by a Federal agency which require it to make cash outlays during the same or future periods. Obligations incurred by the IUFA during FY 1998 totaled $411.7 million, representing a 14 percent increase over FY 1997. Obligations for FY 1999 were $454.1 million, a 10 percent increase over FY 1998 due in large part to a congressionally mandated transfer of $29.5 million of base funding from the Salaries and Expenses' Appropriation to the IUFA.

End-of-Year Balances: The lower FY 1999 End-of-Year balance compared to FY 1998 is because FY 1999 had a lower start of year balance.

Program Highlights: An important mission of the INS is to control the borders of the United States. The INS inspects persons seeking to enter the United States at air and sea Ports-of-Entry to determine admissibility. The following discussion presents major program highlights of the IUFA.

What Are the Major Programs Funded by the IUFA?

Inspections, the largest program, spent $288 million for FY 1999, which were approximately 63 percent of total IUFA resources. The function of this program is to enforce and administer immigration and nationality laws with respect to the inspection of all persons seeking admission into the United States at air and sea Ports-of-Entry. Applicants for admission are inspected

to determine if they qualify for admission and, if so, under what conditions. This process is a cooperative partnership among the Department of State, U.S. Customs Service, the Department of Agriculture, and local port authorities. Determination of admissibility is based on the examination of the applicant, relevant documents, or prior information., Inadmissible aliens are denied entry. A total of 85 million passengers were inspected at air and sea Ports-of-Entry and pre-inspection sites during FY 1999.

Due to the increasing volume of passengers, the INS has dedicated itself to improving the efficiency and effectiveness of its inspections processes. Based on FY 1998 actuals, there were 3,081 permanent inspection positions located at 35 air and sea Ports-of-Entry and 15 pre-inspection sites. For FY 1999, Congress approved staffing plans for 3,181 permanent inspector positions.

Detention and Deportation, the second largest program, spent 71 million for FY 1999, representing approximately 16 percent of total IUFA resources. Functions of this program include detaining, removing, paroling, and deporting aliens. Aliens subject to inadmissibility proceedings who are likely to abscond, or whose freedom at-large could pose risk or danger to public safety and security, were detained for the equivalent of 371,600 detention days in FY 1998. A detention day represents one alien detained for 1 day. Two detention days represents two aliens detained for 1 day or one alien detained for 2 days.

The third largest program, Data and Communications, spent $46 million for FY 1999 and comprised approximately 10 percent of total IUFA resources. This program supports program initiatives through infrastructure enhancements, automation, and innovation. Infrastructure enhancements include deploying new computer equipment, developing interfaces among existing INS information systems, and developing and/or acquiring new management information systems.

What Innovations Are Being Undertaken by INS To Expedite Inspections?

One innovation being implemented in Data and Communications is the Advance Passenger Information System (APIS), which saves time in performing inspections by enlisting carriers to collect biographical information on passengers before departing the last airport prior to arrival in the United States. The collected information is then electronically transmitted to the INS and checked against criminal lookout databases before the carrier arrives at its intended port. Over 33 million passengers were processed using APIS during FY 1998.

Another innovation is the INS Passenger Accelerated Services System (INSPASS). This system expedites the inspection of frequent business travelers using biometrics information such as hand geometry. Passengers must insert their INSPASS card into a machine that compares data magnetically stored on the card to the biometrics information. Passenger information is checked against criminal lookout databases before an individual is authorized entry into the United States. In FY 1999, a total of seven sites were in operation and nearly 251,000 INSPASS inspections were performed.

Why Is INS Proposing a Fee Increase?

Most of the Account's revenue is generated from a $6 fee charged to each passenger arriving in the United States aboard a commercial aircraft or vessel from a foreign location. Cruise ship passengers, whose journeys originate in Canada, Mexico, or any territory or possession of the United States, or any adjacent island of the United States, are currently exempt from the charge. The fee was last increased in 1994 from $5 to $6 through the Department of Justice Appropriations Act (Pub. L. 103–121).

In accordance with OMB Circular A–25, fees must be reviewed biennially to ensure the full cost recovery of not only primary inspections, but also the costs of secondary inspections, detention, and deportation of inadmissible aliens. In March 1997, the INS performed an in-depth review of the IUFA fee. Based on assumptions through March 1997, the review recommended a $1 increase in the IUFA fee for FY 1999. This was prior to FY 1999 congressional action that transferred $29.5 million from Salaries and Expenses in user fee-related services to the IUFA. This transfer augmented the user fee base operation costs by the same amount, and with insufficient new revenue in FY 1999, the INS had to use the remaining carry-forward to support the base transfer and avoid a funding shortfall.

Because the INS anticipates that program costs will far exceed new revenues and that prior year carry-forward funds will be severely reduced by FY 2001, the President's FY 2001 budget includes language that would increase the current fee from $6 to $8, and eliminate the current cruise ship passenger exemption. If such increases are not enacted, the INS will either have to reduce services in FY 2001 or use funds from its general Salaries and Expenses Appropriations to make up the deficit of the expense of other INS activities. A reduction in services would almost certainly result in longer waits for persons seeking to enter the United States.

Pursuant to this notice, the public may provide any proposals to revise 8 CFR 286 on matters that may be changed by regulation, and may provide comments on the status of the IUFA before a report is submitted to the Congress.

Dated: October 20, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 00–3582 Filed 2–15–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2027–99]

Notice of Meeting Concerning Federal Standards for Birth Certificates

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of public meeting concerning Federal standards for birth certificates.

SUMMARY: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, requires that:

- Appropriate standards be developed for certified copies of birth certificates to be accepted for official purposes by Federal agencies;
- At a minimum, the certified copies of birth certificates be designed to limit tampering, counterfeiting, and photocopying, or otherwise being duplicated, for fraudulent purposes;
- Regulations be issued establishing such standards; and
- A lead Federal Agency be selected for issuing the regulations.

The Immigration and Naturalization Service (Service) has been designated as the lead agency for this project and has convened a Working Group comprised of other Federal agencies and a representative of state issuing offices. In order to develop new standards that would make certified copies of birth certificates more secure and tamper resistant, the Working Group would like to:

- Meet with interested parties, especially vendors of paper, ink, printing services, and related products, and
- Allow these interested parties to describe the products and/or services

that would contribute to making certified copies of birth certificates more secure and tamper resistant.

DATES AND TIMES: The meeting will be held on March 8, 2000, from 9 a.m. until noon. The meeting may be extended until 1 p.m., if necessary, to accommodate the number of interested parties wishing to speak.

ADDRESSES: The meeting will be held at the Renaissance Washington Hotel, 999 9th Street NW, Washington, DC, in Congressional Hall B (2 blocks north of Metro stop Gallery Place).

FOR FURTHER INFORMATION CONTACT: Barbara Strack, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536, telephone 202–514–3242.

SUPPLEMENTARY INFORMATION: What is the Legal Authority for Developing New Standards for Birth Certificates?

Section 656(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, dated September 30, 1996, requires the development of Federal standards for certified copies of birth certificates that will be accepted for official purposes by Federal agencies and the issuance of a regulation establishing such standards.

When Will the New Standards Apply?

The new standards will apply only to a certified copy of a birth certificate issued 3 years after the date a final rule is published in the **Federal Register**. The new standards will not apply to certified copies of birth certificates issued before that date.

What is the Purpose of This Meeting?

The Working Group wishes to obtain information about commercially available paper, ink, and printing services that would contribute to making certified copies of birth certificates more secure and tamper resistant. The purpose of the meeting is to allow people who are knowledgeable about the paper and printing industry to address the Working Group in order to aid in the Group's development of minimum Federal standards, in anticipation of a Federal regulation on this topic.

How do I Register to Attend?

The meeting is open to the public, but advance notice of attendance is requested to ensure adequate seating. Interested parties who wish to make presentations to the Working Group *must* register by no later than 5 p.m. on February 29, 2000, by:

- Calling Michelle Filippone of the Service at 202–514–3242, or
- Faxing a request to Michelle Filippone at 202–305–0134.

Please include your name, organizational affiliation, if any, address, telephone number, and fax number. You may list more than one person from the same organization in a single registration, if desired. However, only one person will be permitted to make a presentation on behalf of each interested party.

How Much Time Will be Allowed for Presentations?

The amount of time allowed for each presentation will depend upon the number of presentations. Those who have properly registered will be notified before the meeting of the amount of time allotted for each presentation.

May Written Materials be Provided to Supplement the Oral Presentation?

Yes. You may submit written materials to supplement your oral presentation. Please submit an original and two copies of any supplemental materials by no later than March 15, 2000, to Michelle Filippone, Immigration and Naturalization Service, 425 I Street, NW, room 7309, Washington, DC 20536. Interested parties are encouraged to submit samples of their previous work in security printing, if available.

Dated: February 9, 2000.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 00–3583 Filed 2–15–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–99–5]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Occupational Safety and Health Administration.

ACTION: Notice.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing that a collection of information regarding the recording of occupational injuries and illnesses has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval number and expiration date.

FOR FURTHER INFORMATION CONTACT: David Schmit, Directorate of Information Technology, Office of Statistics, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3507, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–1886.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 8, 1999 (64 FR 36926–36927), the Agency announced its intent to request renewal of its current OMB approval for 29 CFR 1904, Recording and Reporting Occupational Injuries and Illnesses (less 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents and 1904.17, Annual OSHA Injury and Illness Survey of Ten or More Employers). In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB has renewed its approval for the information collection and assigned OMB control number 1218–0176. The approval expires 12/31/2000. Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Dated: February 10, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 00–3649 Filed 2–15–00; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 139th Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on Friday, March 3, 2000 from 9 a.m. to 4 p.m. in Room M–09 at the Nancy Hanks Center, 100 Pennsylvania Avenue, NW, Washington, D.C. 20506.

The meeting will be open to the public on a space available basis. Following opening remarks and announcements, there will be a Congressional update and an update on the FY 2001 budget. Other presentations tentatively include: a report from the National Assembly of State Arts Agencies, a film on the Mars Project, staff presentations on Disability and the Arts and on Arts Education and Folk & Traditional Arts, and guest artist presentations by Alana Yvonne Wallace (wheelchair dancer) and Willy Conley (deaf playwright). Other topics will include Application Review; guidelines for American Jazz Masters FY 2002,

National Heritage Fellowships FY 2001, Folk & Traditional Arts Infrastructure Initiative FY 2001, Partnership Agreements FY 2001, and Resources for Change: Technology FY 2001; and general discussion.

If, in the course of discussion, if becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews which are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, D.C. 20506, 202/682–5532, TTY–TDD 202/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, D.C. 20506, at 202/682–5570.

Dated: January 9, 2000.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 00–3579 Filed 2–15–00; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 55, ''Operators' Licenses.''

3. *The form number if applicable:* Not Applicable.

4. *How often the collection is required:* As necessary for NRC to meet its responsibilities to determine the eligibility of applicants for operators' licenses, prepare or review initial operator licensing and requalification examinations, and perform a review of applications and reports for simulation facilities submitted to the NRC.

5. *Who will be required or asked to report:* Holders of and applicants for facility (i.e., nuclear power, research, and test reactor) operating licenses and individual operators' licenses.

6. *An estimate of the number of responses:* 507.

7. *The estimated number of annual respondents:* 106.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 25,937 (approximately 19,840 hours of reporting burden and approximately 6,097 hours of recordkeeping burden).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* 10 CFR Part 55, ''Operators' '' ''Licenses,'' of the NRC's regulations, specifies information and data to be provided by applicants and facility licensees so that the NRC may make determinations concerning the licensing and requalification of operators for nuclear reactors, as necessary to promote public health and safety. The reporting and recordkeeping requirements contained in 10 CFR Part 55 are mandatory for the licensees and applicants affected.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by March 17, 2000. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Erik Godwin, Office of Information and Regulatory Affairs (3150–0018), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 10th day of February, 2000.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–3627 Filed 2–15–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–263]

Northern States Power Company, Monticello Nuclear Generating Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from 10 CFR 55.59 for Facility Operating License No. DPR–22, issued to Northern States Power Company (NSP or the licensee), for operation of the Monticello Nuclear Generating Plant, located in Wright County at the licensee's site in Wright and Sherbourne Counties, Minnesota.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow the licensed operator requalification examinations for the Monticello Nuclear Generating Plant to be rescheduled after the current refueling outage. The requested exemption would extend the completion date for the examinations from March 9, 2000, to May 12, 2000.

The proposed action is in accordance with the licensee's application for exemption dated January 19, 2000.

The Need for the Proposed Action

The proposed action is needed to provide a one-time extension of the requalification program duration from March 9, 2000, to May 12, 2000. The proposed action is needed due to the delay in completing the examinations for the current requalification cycle because of (1) an unplanned outage in addition to two planned outages, (2) a delayed start of the second refuling outage, and (3) mid-cycle training program enhancements.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the exemption will not endanger life or property and is otherwise in the public interest.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Monticello Nuclear Generating Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on February 9, 2000, the staff consulted with the Minnesota State official, Ms. J. Peterson of the Department of Commerce, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 19, 2000, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 10th day of February, 2000.

Carl F. Lyon,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–3628 Filed 2–15–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Application for a License To Export Radioactive Waste

Pursuant to 10 CFR 110.70(c) ''Public notice of receipt of an application'', please take notice that the Nuclear Regulatory Commission has received the following application for an export license. Copies of the application are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *<http://www.nrc.gov/NRC/ADAMS/index.html>* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

The information concerning the application follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, date of application, date received, application number	Description of material			Country of destination
	Material type	Total qty	End use	
Bayou Steel Corp., October 6, 1999, January 24, 2000, XW004.	Radioactive waste Class A mixed hazardous waste.	70.73 tons of arc furnace dust containing <1300 pCi/g Cesium-137.	For disposal at Stablex Canada, Inc.	Canada.

For the Nuclear Regulatory Commission.

Dated this 10th day of February, 2000 at Rockville, Maryland.

Ronald D. Hauber,

Deputy Director, Office of International Programs.

[FR Doc. 00–3629 Filed 2–15–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of February 13, 21, 28, and March 6, 2000.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of February 14

There are no meetings scheduled for the Week of February 14.

Week of February 21—Tentative

Tuesday, February 22

9:00 a.m. Briefing on Threat Environment Assessment (Closed-Ex. 1)

11:00 a.m. Briefing by the Executive Branch (Closed-Ex. 1) Wednesday, February 23

8:55 a.m. Affirmation Session (Public Meeting) (if needed)

9:00 a.m. Briefing on Status of Spent Fuel

Projects (Public Meeting) (Contact: William Brach, 301–415–8500)

11:00 a.m. Discussion of Intragovernmental issues (Closed-Ex. 9)

Week of February 28—Tentative

Tuesday, February 29, 2000

1:30 p.m. Briefing on Draft 50.59 Regulatory Guide (Public Meeting) (Contact: Eileen McKenna, 301–415–2189)

Wednesday, March 1, 2000

9:00 a.m. Briefing on Improvements in the Plant Assessment Process (Public Meeting) (Contact: Bill Dean, 301–415–1257)

Thursday, March 2, 2000

9:25 a.m. Affirmation/Discussion and Vote (Public Meeting (If needed)

9:30 a.m. Meeting with ACRS on Risk Informing Part 50 (Public Meeting) (Contact: John Larkins, 301–415–7360)

Friday, March 3, 2000

9:30 a.m. Briefing on Calvert Cliffs, License Renewal (Public Meeting) (Contact: Chris Grimes, 301–415–1183)

Week of March 6—Tentative

Monday, March 6, 2000

1:30 p.m. Meeting with NARUC (Public Meeting)

The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 5–0 on February 10, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of INTERNATIONAL URANIUM (USA) CORP. Commission Review of LBP–99–5'' (PUBLIC MEETING) be held on February 10, and on less than one week's notice to the public.

The NRC Commission meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: February 11, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00–3786 Filed 2–14–00; 11:00 am]

BILLING CODE 7590–01–M

PRESIDIO TRUST

Mountain Lake Enhancement, The Presidio of San Francisco, California; Notice of Intent To Prepare an Environmental Assessment

AGENCY: The Presidio Trust.

ACTION: Notice of intent to prepare an environmental assessment for the proposed enhancement of Mountain Lake, The Presidio of San Francisco.

SUMMARY: The Presidio Trust (Trust) intends to prepare an environmental assessment (EA) for the proposed enhancement of Mountain Lake, three acres in size, located on The Presidio of San Francisco (Presidio). The EA will address the environmental consequences of the proposed enhancement and alternatives.

DATES: The Trust is inviting the public to participate in a public workshop to comment on the range of alternatives and the specific impacts to be evaluated in the EA. The public workshop will be held on March 8, 2000, from 6:00 p.m. to 9:00 p.m., at the Log Cabin, Storey Avenue, Fort Scott, the Presidio, California. The Trust is also inviting written comments. All comments must be received by April 7, 2000.

ADDRESSES: Written comments concerning this notice must be sent to John Pelka, NEPA Compliance Coordinator, The Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. Fax: 415–561–5315. E-mail: *jpelka@presidiotrust.gov.*

FOR FURTHER INFORMATION CONTACT: John Pelka, NEPA Compliance Coordinator, The Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. Telephone: 415–561–5300.

SUPPLEMENTARY INFORMATION: The Trust will prepare an EA for the enhancement of Mountain Lake, located to the east of the 15th Avenue entrance in the southern section of the Presidio. The lake encompasses approximately three acres, and the overall project area is approximately ten acres. A portion of the project area is within the City and County of San Francisco.

Improving water quality is a primary objective of the Mountain Lake enhancement planning process. Water quality has diminished over time due to human activities that resulted in the silting and filling in of nearly 40% of the lake and associated wetlands. The proposed Mountain Lake enhancement project may involve physical modification to the lake and environs to improve the lake's water quality and associated terrestrial and aquatic habitat. Alternatives currently being considered for the site include dredging of lake bottom sediments, mechanical aeration, removal of eucalyptus trees and ivy along the lake's edge, and restoration of native plant species in the vicinity of the lake. These alternatives were identified in part based on feedback received during public meetings and initial technical reports for the project site.

Notice of the workshop is being provided through this announcement, announcements in the Trust's monthly newsletter and other local media, direct mailing to nearby property owners, posting on the Trust's website (*www.presidiotrust.gov*), and other means.

Dated: February 10, 2000.

Karen A. Cook,

General Counsel.

[FR Doc. 00–3613 Filed 2–15–00; 8:45 am]

BILLING CODE 4310–4R–U

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24284, 812–11714]

American International Group, Inc. et al.; Notice of Application

February 10, 2000.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from all provisions of the Act.

APPLICANTS: American International Group, Inc. (''AIG''), AIG Financial Products Corp. (''AIGFP''), AIG Matched Funding Corp. (''AIGMF''), AIG–FP Matched Funding Corp. (''AIGFPMF'').

SUMMARY OF APPLICATION: Applicants request an order to permit AIGMF and AIGFPMF and certain future wholly-owned subsidiaries of AIG (collectively, the ''Finance Subsidiaries'') to sell certain debt securities and use the proceeds to finance the business activities of AIGFP and companies controlled by AIGFP (together with AIGFP, ''Controlled Companies'').

FILING DATES: The application was filed on July 26, 1999. Applicants have

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 requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 6, 2000 and should be accompanied by proof of service on applicants, 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 Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW, Washington, DC 20549–0609. Applicants, c/o AIG Financial Products Corp., 100 Nyala Farm, Westport, CT 06880.

FOR FURTHER INFORMATION CONTACT: Anu Dubey, Senior Counsel, at (202) 942–0687, or Michael Mundt, 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 may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW, Washington DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. AIG, a Delaware corporation, is a holding company that, through its subsidiaries, is primarily engaged in a broad range of insurance and insurance-related activities and financial services in the U.S. and abroad. AIGFP is a wholly-owned subsidiary of AIG, and each of the other Controlled Companies, except Banque AIG, is an indirect wholly-owned subsidiary of AIG. AIGFP currently complies with rule 3a–1 under the Act. Applicants state that AIGFP also is eligible to rely on section 3(c)(2) of the Act, because AIGFP is primarily engaged in the business of acting as a ''market intermediary,'' as defined in that section.

2. The Finance Subsidiaries were or will be established to provide financing to the Controlled Companies. Each of AIGMF and AIGFPMF is a Delaware corporation and a wholly-owned subsidary of AIGFP and an indirect wholly-owned subsidiary of AIG. Each of the Finance Subsidiaries issues debt securities and lends the proceeds of these borrowings to the Controlled Companies to help finance their operations. Certain of the Controlled Companies rely on certain provisions of section 3(c) of the Act for exclusion from regulation under the Act (''Subject Controlled Companies''). Any other Controlled Company whose activities a Finance Subsidiary finances will meet the definition of ''company controlled by the parent company'' in rule 3a–5 described below.

3. All borrowings by the Finance Subsidiaries are unconditionally guaranteed by AIG as to the payment of, as applicable, principal, interest, premium, dividends, liquidation preference, and sinking fund payments. In the event of any default in payment of these amounts, the holders of the securities may institute legal proceedings directly against AIG without first proceeding against the Finance Subsidiaries. Furthermore, any convertible or exchangeable securities issued by a Finance Subsidiary shall be convertible or exchangeable only for securities issued by AIG or for debt securities or non-voting preferred stock issued by the Finance Subsidiary.

4. Each Finance Subsidiary will invest in or loan at least 85% of any cash or cash equivalents raised by the Finance Subsidiary to the Controlled Companies as soon as practicable, but in no event later than six months after the Finance Subsidiary receives the cash or cash equivalents. If a Finance Subsidiary borrows amounts in excess of the amounts required by the Controlled Companies, the Finance Subsidiary will invest this excess in certain temporary investments pursuant to rule 3a–5 under the Act described below.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act exempting the Finance Subsidiaries from all provisions of the Act. Applicants state that rule 3a–5 under the Act provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies.

2. Rule 3a–5(b)(3)(i), in relevant part, defines a ''company controlled by the parent company'' to be a corporation, partnership, or joint venture that is not considered an investment company under section 3(a) of the Act, or that is excepted or exempted by order from the definition of investment company by section 3(b) or by the rules and regulations under section 3(a) of the Act. Applicants state that the Subject Controlled Companies may not qualify as ''compan[ies] controlled by the parent company'' under rule 3a–5(b)(3)(i) because they derive their non-investment company status from section 3(c)(2), 3(c)(3), 3(c)(4), 3(c)(5), or 3(c)(6) of the Act.

3. Applicants assert that none of the Subject Controlled Companies engages primarily in investment company activities. Applicants further state that if the Subject Controlled Companies were themselves to issue the debt obligations that are to be issued by the Finance Subsidiaries and use the proceeds for their own purposes, they would not be subject to regulation under the Act. AIG has chosen instead to use the Finance Subsidiaries as vehicles for this borrowing for reasons unrelated to the regulatory purposes of the Act.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class or classes of persons securities or transactions, from any provision or provisions of the Act when the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that for the reasons given above, their request for exemptive relief meets the standards of section 6(c) of the Act.

Applicants' Condition

Applicants agree that the order granting the requested relief will be subject to the following condition:

The applicants will comply with all of the provisions of rule 3a–5 under the Act except that Subject Controlled Companies will not meet the portion of the definition of ''company controlled by a parent company'' in rule 3a–5(b)(3)(i) solely because they are excluded from the definition of investment company under section 3(c)(2), 3(c)(3), 3(c)(4), 3(c)(5), or 3(c)(6) of the Act, provided that any such entity excluded from the definition of investment company

(a) Under section 3(c)(5) of the Act will fall within section 3(c)(5)(A) or section 3(c)(5)(B) solely by reason of its holding of accounts receivable of either its own customers or of the customers of other Controlled Companies, or by reason of loans made by it to such Controlled Companies or customers, and

(b) Under section 3(c)(6) of the Act will not be engaged primarily, directly, or through majority-owned subsidiaries in one or more of the businesses described in section 3(c)(5) of the Act (except as ermitted in this condition).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–3657 Filed 2–15–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24282 (812–11832)]

First Investors Corporation, et al.; Notice of Application

February 9, 2000.

AGENCY: Securities and Exchange Commission (''Commission'')

ACTION: Notice of application for an order pursuant to section 26(b) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicants seek an order approving the substitution of shares of an open-end management investment company for shares of another open-end management investment company as the underlying securities of periodic payment plans organized as a unit investment trust.

APPLICANTS: First Investors Corporation (''First Investors'') and First Investors Periodic Payment Plans for Investment in First Investors High Yield Fund, Inc. (the ''Plans'').

FILING DATE: The application was filed on October 29, 1999. Applicants have 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 26, 2000, and should be accompanied by proof of service on applicants, 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 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, 95 Wall Street, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Sara P. Crovitz, Senior Counsel, at (202) 942–0667 or Michael W. Mundt, Branch Chief, at (202) 942–0578 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0101, (202) 942–8090.

Applicants' Representations

1. The Plans are periodic payment plans organized as a unit investment trust and registered under the Act. First Investors is registered as a broker-dealer under the Securities Exchange Act of 1934 and is the underwriter, depositor and sponsor of the Plans. The Plans currently invest solely in Class A shares of First Investors High Yield Fund, Inc. (''High Yield Fund''), an open-end management investment company registered under the Act that seeks high current income through investment in high yield bonds. First Investors Fund for Income, Inc. (''Income Fund'') is also an open-end management investment company registered under the Act that seeks high current income through investment in high yield bonds.

2. The common board of directors of High Yield Fund and income fund (the ''fund Board'') has determined that the combination of the assets of High Yield Fund and Income Fund would be in the best interests of the shareholders of each Fund. The High Yield fund has scheduled a special meeting of its shareholders on February 25, 2000, to consider and vote on a reorganization agreement between Income Fund and High Yield Fund which will involve (a) the transfer of the assets and liabilities of High Yield Fund to Income fund in Exchange for shares of common stock of Income fund having the same aggregate net asset value, (b) the distribution of Income Fund shares to High Yield fund's shareholders, and (c) the subsequent dissolution of High Yield fund (''Reorganization''). Holders of accounts of the Plans (''Planholders'') will have the right to vote their interests in the High Yield Fund on the matter of the Reorganization.

3. The Fund Board unanimously approved the proposed Reorganization and determined that participation in the Reorganization is in the best interests of the shareholders of each Fund and will not dilute the interests of shareholders of each Fund. In approving the Reorganization, the Fund Board specifically considered the following factors, among others: (a) The Funds have identical investment objectives and substantially similar management styles; (b) the Reorganization should result in greater diversification; (c) the Reorganization should result in a lower expense ratio for shareholders of each Fund; and (d) the Reorganization will be tax-free. No sales charges will be imposed in connection with the proposed Reorganization.

4. If the proposed Reorganization is consummated, shares of High Yield Fund will no longer be available for purchase by the Plans. The Plans provide that if the shares used as the underlying investment are not purchasable for a period of 90 days, and if the sponsor does not substitute other shares, the Plans must be terminated. At the time the Plans were sold, the prospectus for the Plans provided the First Investors may substitute other shares as the underlying investment of the Plans whenever First Investors deems it in the best interests of the Planholders. The substituted shares must be comparable to the previously purchased shares, and the substitution must comply with certain conditions, including Commission approval of the substitution under section 26(b) of the Act.

5. The board of directors of First Investors (''First Investors Board'') has unanimously determined that substitution of Income fund shares for High Yield Fund shares (''Substitution'') is in the best interests of Planholders. The First Investors Board approved the proposed Substitution after taking into account the factors considered by the Fund Board. In addition, the First Investors Board considered, among other things, the following factors: (a) The Plans must be terminated after the Reorganization unless a substitution is effected; (b) Income Fund is substantially similar to High Yield fund; (c) Planholders will retain all of their rights under the Plans' (d) Planholders will receive disclosure in connection with the shareholder vote on the proposed Reorganization; (e) the Reorganization will be effected at net asset value; and (f) the Reorganization will be tax-free.

6. Applicants state that the Substitution will be solely for Class A shares of Income Fund. No sales charge will be imposed in connection with the proposed Substitution. Applicants state that Planholders will be given written notice of the proposed Substitution at least 30 days prior to the Substitution. The notice will, among other things, notify each Planholder that unless the Planholder surrenders the Planholder's account within 30 days, the Planholder will have been deemed to authorize the Substitution and will receive shares of Income fund with the same aggregate

net asset value as the shares of High Yield Fund held by the Planholder. If a Planholder elects to terminate a Plan account prior to or after the Substitution, the Planholder can elect to receive either (1) the net asset value of the shares held by the Planholder, or (2) the underlying High Yield Fund or Income Fund shares, as applicable, which would allow the Planholder to exchange into another First Investors fund. No sales charges will be imposed in connection with any of these options. Any expenses and charges involved in the Substitution, other than proper transfer taxes and/or charges customarily charged to shareholders by state and local authorities for securities transfers, will be borne by First Investors.

Applicants' Legal Analysis

1. Section 26(b) of the Act makes it unlawful for the depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security unless the Commission approves the substitution. The Commission may issue an order approving the substitution if the evidence establishes that the substitution is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants submit, for the reasons stated above, that the Substitution meets the standards for an order under section 26(b).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–3594 Filed 2–15–00; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 3228]

Culturally Significant Objects Imported for Exhibition Determinations: ''Van Gogh Portraits: Face to Face''

AGENCY: 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 ''Van Gogh Portraits: Face to Face,'' imported from abroad for the 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 Detroit Institute of Arts, Detroit, MI, from March 12 through June 4, 2000, at the Museum of Fine Arts from July 2, 2000 through September 24, 2000, and at the Philadelphia Museum of Art, from October 22, 2000 through January 14, 2001 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Jacqueline Caldwell, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6982). The address is U.S. Department of State, SA–44; 301 4th Street, SW, Room 700, Washington, DC 20547–0001.

Dated: February 10, 2000.

William B. Bader,

Assistant Secretary of State, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 00–3827 Filed 2–15–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice #3216]

Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union; Notice of Meeting

The Department of State announces that the Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII) will convene on Friday, March 24, 2000, beginning at 10:00 a.m. in Room 1107, U.S. Department of State, 2201 C Street, NW, Washington, DC.

The Advisory Committee will recommend grant recipients for the FY 2000 competition of the Program for the Study of Eastern Europe and the Independent States of the Former Soviet Union in connection with the ''Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983, as amended.'' The agenda will include opening statements by the Chairman and members of the Committee and, within the Committee, discussion, approval, and recommendation that the Department of State negotiate grant agreements with certain ''national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the independent states of the former Soviet Union,'' based on the guidelines contained in the call for applications published in the **Federal Register** on October 28, 1999. Following committee deliberation, interested members of the public may make oral statements concerning the Title VIII program in general.

This meeting will be open to the public; however, attendance will be limited to the seating available. Entry into the Department of State building is controlled and must be arranged in advance of the meeting. Those planning to attend should notify Jo Cintron, INR/RES, U.S. Department of State, (202) 736–4572 by Tuesday, March 21, 2000, providing their date of birth, Social Security number, and any requirements for special needs. All attendees must use the 2201 C Street, N.W., entrance to the building. Visitors who arrive without prior notification and without a photo ID will not be admitted.

Dated: February 9, 2000.

W. Kendall Myers,

Executive Director, Advisory Committee for Study of Eastern Europe and the Independent States of the Former Soviet Union, U.S. Department of State.

[FR Doc. 00–3686 Filed 2–15–00; 8:45 am]

BILLING CODE 4710–32–P

DEPARTMENT OF STATE

[Public Notice 3227]

Bureau of Political-Military Affairs; Suspension of Munitions Export Licenses and Other Approvals Destined for Kazakhstani and Czech Companies and Related Matters

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that, pursuant to Section 38 of the Arms Export Control Act (22 U.S.C. 2778) and section 126.7 of the International Traffic in Arms Regulations, all licenses and other approvals for defense articles and defense services involving certain Kazakhstani and Czech entities and individuals, identified below, are suspended, effective immediately. Notice is also given that it is the policy of the United States to deny licenses, other approvals, exports and temporary imports of defense articles and defense services destined for these entities and individuals. Notice is further given that

the Department of State has asked the Department of Treasury to take all necessary steps to prohibit the import of all defense articles enumerated in the U.S. Munitions list from these entities or individuals and that importers are asked to inform the Bureau of Alcohol, Tobacco and Firearms, Department of Treasury if they have currently valid import permits for imports of defense articles from any of these entities or individuals.

EFFECTIVE DATE: February 16, 2000.

FOR FURTHER INFORMATION CONTACT: On general issues and on Office of Defense Trade Control Issues: Rose Biancaniello, Deputy Director, Department of State, Office of Defense Trade Controls, Department of State, phone: 703–812–2568; fax: 703–875–6647. On import ban issues: Larry White, Chief, Firearms and Explosive Imports Division, Bureau of Alcohol, Tobacco and Firearms, Department of Treasury, phone: 202–927–8320; fax: 202–927–2697.

SUPPLEMENTARY INFORMATION: Section 126.7 of the International Traffic in Arms Regulations (ITAR) provides that any application for an export license or other approval under the ITAR may be disapproved, and any license or other approval or exemption granted under the ITAR may be revoked, suspended or amended without prior notice under various circumstances, including whenever such action is deemed to be in furtherance of world peace, the national security or the foreign policy of the United States or is otherwise advisable.

Pursuant to section 126.7(a)(1) of the ITAR, it is deemed that suspending the following foreign entities and individuals from participating in any activities subject to Section 38 of the Arms Export Control Act would be in furtherance of the national security and foreign policy of the United States. Therefore, until further notice, the Department of State is hereby suspending all licenses and other approvals for: (a) exports and other transfers of defense articles and defense services from the United States; (b) transfers of U.S.-origin defense articles and defense services from foreign destinations; and (c) temporary imports of defense articles to or from the following entities and individuals:

(1) Uralsk Plant Metallist (including at 1 Urdinskaya Street, City of Uralsk, Republic of Kazakhstan 417024);

(2) Agroplast, a.s. (including at E. Benese Square 13, Liberec, Czech Republic);

(3) Petr Pernicka (including at 26/2 Soukenne Square, Liberec, Czech Republic);

(4) Zbynek Svejnoha (including at 603/4 Vodnyanska, Liberec 14, Czech Republic);

(5) Alexander Petrenko (Kazakhstani citizen, presently resident in the Republic of Kazakhstan).

Furthermore, it is the policy of the United States to deny licenses and other approvals for exports and temporary imports of defense articles and defense services destined for these entities and individuals.

Finally, pursuant to section 38 of the Arms Export Control Act and Executive Order 11958 of January 18, 1977, as amended, the Department of State has asked the Department of Treasury, Bureau of Alcohol, Tobacco and Firearms to take all necessary steps to prohibit the import of all defense articles enumerated in the U.S. Munitions list from these entities or individuals. Any U.S. importers that have currently valid import permits for imports from any of these entities or individuals importers are asked to, within 20 calendar days of this notice, so inform in writing: Mr. Larry White, Chief, Firearms and Explosive Imports Division, Bureau of Alcohol, Tobacco and Firearms, Fifth Floor, 650 Massachusetts Ave., NW, Washington, DC 20226, Fax: (202) 927–2697.

Dated: February 9, 2000.

Robert M. Beecroft,

Acting Assistant Secretary of State for Political-Military Affairs.

[FR Doc. 00–3684 Filed 2–15–00; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Delegation of Authority No. 238]

Delegation of Responsibility Under Section 108(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, (The ''Act''), (As Contained in the Consolidated Appropriations Act, FY 2000, P.L. 106–113)

By virtue of the authority vested in me as Secretary of State, including the authority of section 1 of the State Department Basic Authorities Act of 1956, I hereby delegate to the Assistant Secretary for International Organization Affairs the functions of section 108(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, (the ''Act'') regarding certification that the United Nations Development Program in Burma meets certain specified criteria. (The Act is contained in the Consolidated Appropriations Act, FY 2000, P.L. 106–113.)

This delegation of authority shall apply to any certification of similar requirement under any hereafter-enacted provision of law that is the same or substantially the same as section 108(c) of the Act.

Notwithstanding this Delegation of Authority, the Secretary of State or the Deputy Secretary may at any time exercise any function delegated by this Delegation.

This Delegation of Authority shall be published in the **Federal Register**.

Dated: February 9, 2000.

Madeleine K. Albright,

Secretary of State.

[FR Doc. 00–3682 Filed 2–15–00; 8:45 am]

BILLING CODE 4710–10–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary, Washington, DC; Secretarial Determination

SUMMARY: The Secretary of Transportation has now determined that Port-au-Prince International Airport, Port-au-Prince, Haiti, maintains and carries out effective security measures.

Notice

By Order 98–1–24, issued January 23, 1998, the Secretary of Transportation made public his determination that Port-au-Prince International Airport did not maintain and carry out effective security measures. I now find that Port-au-Prince International Airport maintains and carries out effective security measures. My determination is based on a recent Federal Aviation Administration (FAA) assessment which reveals that security measures used at the airport now meet or exceed the Standards established by the International Civil Aviation Organization. Accordingly, I am removing the public notification requirements imposed by Order 98–1–24.

I have directed that a copy of this notice be published in the **Federal Register** and that the news media be notified of my determination. As a result of this determination, the FAA will direct that signs posted in the U.S. airports relating to the 1998 determination be removed.

Dated: February 11, 2000.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 00–3659 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular; Turbine Engine Power-Loss and Instability in Extreme Conditions of Rain and Hail

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance Advisory Circular (AC) on turbine engine power-loss and instability in extreme conditions of rain and hail.

SUMMARY: This notice announces the issuance of Advisory Circular (AC), No. 33.78–1, Turbine Engine Power-Loss and Instability in Extreme Conditions of Rain and Hail. This AC may be used to demonstrate compliance with the requirements pertaining to § 33.78(a)(2) for turbine engines in extreme rain and hail. This AC is meant to provide information and guidance concerning an acceptable method, but not the only method, for compliance. While guidelines in this AC are not mandatory, they are derived from extensive Federal Aviation Administration (FAA) and industry experience in determining compliance with the requirements.

DATES: Advisory Circular No. 33.78–1, was issued by the New England Aircraft Certification Service, Engine and Propeller Directorate on February 8, 2000.

FOR FURTHER INFORMATION CONTACT: John Fisher, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7149, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Background

In 1988, the Aerospace Industries Association (AIA) initiated a study of airplane turbine engine power-loss and instability phenomena that were attributed to operating in inclement weather. AIA, working with the Association European des Constructeurs de Materiel Aerospatial (AECMA), concluded that potential flight safety threat exists for turbine engines installed on airplanes when operating in an extreme rain or hail environment. AIA and AECMA further concluded that the rain and hail ingestion requirements contained in § 33.77 did not adequately address these threats. Consequently, the Federal Aviation Administration (FAA) and the Joint Aviation Authorities (JAA) have promulgated additional rain and hail ingestion standards.

Interested parties were given the opportunity to review and comment on the draft AC during the proposal and development phases. Notice was published in the **Federal Register** on September 5, 1996 (61 FR 46893), to announce the availability of, and comment to the draft AC.

This advisory circular, published under the authority granted to the Administrator by 49 U.S.C. 106(g), 4113, 44701–44702, 44704, provides guidance for these new requirements that were published in the **Federal Register** on March 26, 1998 (63 FR 14794).

Issued in Burlington, Massachusetts, on February 8, 2000.

Thomas A. Boudreau,

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

[FR Doc. 00–3702 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Tower in Point Mackenzie Area, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FAA will hold an informal public airspace meeting. Details: March 16, 2000; University of Alaska, Anchorage (UAA), Aviation Technology Complex on Merrill Field Airport, Anchorage, Alaska; 7:00 PM to 10:00 PM in room 127 (auditorium). The objective of this meeting is to provide an opportunity to gather additional facts relevant to the aeronautical effects of the proposed tower, and to provide interested persons an opportunity to discuss objections to the proposal.

DATES: The meeting will be held in the auditorium at the UAA Aviation Technology Complex, 2811 Merrill Field Drive, Anchorage, AK. Times: 7:00 PM to 10:00 PM, on March 16, 2000.

FOR FURTHER INFORMATION CONTACT: Jack Schommer, Operations Branch, AAL–532, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5903; fax: (907) 271–2850; email: Jack.Schommer@faa.gov. Internet address: http://www.alaska.faa.gov/at. UAA Aviation Technology Complex phone number is (907) 264–7400.

SUPPLEMENTARY INFORMATION:

History

On October 19, 1999, Morris Communications Corporation submitted FAA Form 7460–1, Notice of Proposed Construction or Alteration, for a new tower site. This proposed tower site would become the new site for the KFQD–AM in Anchorage. The proposed tower would be 410 feet above ground level (AGL), 547 feet mean sea level (MSL), and built to FAA specifications for structures of this height, including proper marking and lighting. Morris Communications Corporation indicated they made an extensive search to locate a site which would not impact flight safety and allow KFQD to continue to serve South Central Alaska with a good quality signal. When this new site is completed, Morris Communications Corporation will dismantle the current tower located in south Anchorage at Lake Otis Parkway and Abbott Road.

The aeronautical study number assigned was 99–AAL–191–OE. A Notice to the Public was issued on November 23, 1999, requesting comments on the proposed 410 foot AGL antenna tower located approximately nine (9) nautical miles (nm) northwest of Anchorage, Alaska, seven (7) nm north of Point Mackenzie, and six (6) nm southwest of the Goose Bay airport.

The proposed tower would not exceed the obstruction standards of the Federal Aviation Regulation, Part 77, Subpart C. The Minimum Vectoring Altitude in the proposed tower area is 1,600 feet MSL, which provides the minimum 1,000 feet required obstacle clearance. The proposed tower location would not interfere with existing FAA and Federal Communications Commission (FCC) communication towers. The Matanuska-Susitna (Mat-Su) Borough Planning Commission approved the land use permit for the proposed tower.

A Notice to the Public was issued because the proposed tower is in close proximity to a Visual Check Point at Twin Island Lake and may be on or near a Visual Flight Rules (VFR) route. Additionally, it was known that construction of any towers in the Point Mackenzie area would be controversial.

In response to the Notice to the Public, twenty-two (22) letters and email were received. Comments in opposition came from the Municipal Airports Aviation Advisory Commission (MAAAC), Alaskan Aviation Safety Foundation (AASF), Alaska Airmen's Association, Rust's Flying Service, Alaska Wing Civil Air Patrol, and 16 other individuals. Concerns raised included: 1) tower would be located in a heavily traveled VFR flyway between Anchorage and Mat-Su valley lakes, airports, and airstrips; 2) area is occasionally used for military training; 3) area is a possible waterfowl flyway; 4) with the Anchorage Instrument Landing System (ILS) approach to runway 14 over the area, the possible

creation of a wake turbulence hazard may exist; 5) the existence of the proposed tower may interfere with air-to-ground communications; 6) the location of the proposed tower presents a possible collision hazard by being near the existing Twin Island Lake Visual Check Point; and 7) proliferation of towers in the Point Mackenzie area.

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by representatives of the FAA Alaskan Region.

(b) The meeting will be open to all persons on a space-available basis. Every effort was made to provide a meeting site with sufficient seating capacity for the expected participation. There will be no admission fee nor other charge to attend and participate.

(c) Any person wishing to make a presentation to the FAA Team will be asked to sign in and estimate the amount of time needed for such presentation. This will permit the Team to allocate an appropriate amount of time for each presenter. The Team may limit the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel. The meeting may be adjourned at any time once all persons present have had the opportunity to speak.

(d) Any person who wishes to present a position paper to the Team pertinent to the aeronautical impact of the tower may do so.

(e) Persons wishing to hand out pertinent position papers to the attendees should present two copies to the presiding officer and have sufficient additional copies available for all attendees.

(f) The meeting will not be formally recorded. However, informal tape recordings may be made of the presentations to ensure that each respondent's comments are noted accurately.

(g) An official verbatim transcript or minutes of the informal airspace meeting will not be made. However, a list of the attendees, written statements received from attendees during and after the meeting, and a digest of discussions during the meeting will be included in the aeronautical study file.

(h) Every reasonable effort will be made to hear each request for presentation consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the Team for up to seven (7) days after the close of the meeting.

Agenda

(a) Opening Remarks and Discussion of Meeting Procedures
(b) Briefing on Tower Proposal
(c) Public Presentations
(d) Closing Comments

* * * * *

Issued in Anchorage, AK, on February 9, 2000.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 00–3700 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: San Francisco City and County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed roadway improvement project in San Francisco City and County, California.

FOR FURTHER INFORMATION CONTACT: G. P. Bill Wong, Acting Team Leader, Project Delivery Team North, Federal Highway Administration, California Division, 980 Ninth Street, Suite 400, Sacramento, California 95814–2724. Telephone: 916–498–5042.

SUPPLEMENTARY INFORMATION: The FHWA, working with the California Department of Transportation and the San Francisco County Transportation Authority, will prepare an environmental impact statement (EIS) on a proposal to improve State Route 101, in the City and County of San Francisco, California. The proposed improvement would involve construction of a new roadway to replace the existing southern approach to the Golden Gate Bridge, between the Golden Gate Bridge Toll Plaza and Broderick Street for a distance of just over one mile. State Route 101 at this location is known as Doyle Drive.

The project is considered necessary to increase safety, to replace the existing elevated 57-year old roadway to meet current seismic standards, to minimize the impacts of the highway and its traffic on the Presidio and the local communities, and improve access to the Presidio. Alternatives under consideration include (1) taking no action; (2) construct six-lane at-grade parkway on same alignment; and (3) transportation system management improvements.

The project area is located within the Presidio of San Francisco, which is part of the Golden Gate National Recreation Area. The Presidio Trust and the National Park Service are land management agencies for the Presidio. The Presidio is a National Historic Landmark.

Letters describing this proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and individuals that have previously expressed, or are known to have, an interest in this proposal. Three public scoping meetings will be held on the following dates, times and locations: (1) Friday, March 3, 2000 from 9:30 a.m. to 1:00 p.m. at 100 Van Ness, 25th Floor, San Francisco; (2) Tuesday, March 14, 2000 from 3:00 p.m. to 8:00 p.m. at the Golden Gate Club, The Presidio Building 135, Fisher Loop, San Francisco; and (3) Wednesday, March 15, 2000 from 6:00 p.m. to 9:00 p.m. at Marin Center Exhibit Hall, Avenue of the Flags, San Rafael, CA.

To ensure that the full range of issues and alternatives related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

(Catalogue of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on February 10, 2000.

G.P. Bill Wong,

Acting Team Leader, Sacramento.

[FR Doc. 00–3607 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Erie and Genesee Counties, New York

AGENCY: Federal Highway Administration (FHWA), New York State Department of Transportation (NYSDOT), New York State Thruway Authority (NYSTA).

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be

prepared for a proposed highway toll barrier project in Erie and Genesee Counties, New York.

FOR FURTHER INFORMATION CONTACT:

Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone (518) 431–4127

Brian O. Rowback, Regional Director, New York State Department of Transportation Region 5, 125 Main Street, Buffalo, New York 14203, Telephone: (716) 847–3238

or

Christopher A. Waite, Director, Office of Design, New York State Thruway Authority, 200 Southern Boulevard, Albany, New York 12209, Telephone (518) 436–2916.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Thruway Authority (NYSTA) and the New York State Department of Transportation, will be preparing an Environmental Impact Statement (EIS) on a proposal to relocate the existing New York State Thruway (Interstate 90) ''Williamsville'' Toll Barrier from the Town of Amherst, Erie County, New York. The proposal would involve construction of 1.2 kilometers of approach/leave roadways, new toll booths/barriers and administration building and an access connection to the local highway system.

The toll barrier relocation is considered necessary because of safety and operational problems at the existing location, recurring congestion and community concerns over noise and air pollution. The objectives of the proposed action are to provide a toll barrier that has sufficient capacity to ensure suitable customer service, maintains public and employee safety, incorporates advances technologies, and addresses impacts to natural and human resources.

Alternatives under consideration include (1) taking no action; (2) improving the toll barrier at its current location; and (3) replacing the toll barrier with a new facility to be constructed at a suitable location between Interchange 49 (Transit Road) in the Town of Cheektowaga, Erie County, New York and Interchange 48A (Pembroke) in the Town of Pembroke, Genesee County, New York. The latter alternative may also involve the elimination of the existing toll facility at Interchange 49.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A formal NEPA scoping meeting will be held between February and March 2000. Public notice of the date(s) and location(s) will be given. In addition, a public hearing will be held in the future at a time and place to be announced. The draft EIS, when prepared, will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA, NYSTA or NYSDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Authority: 23 U.S.C. 315; 23 CFR 771.123.

Issued on: February 4, 2000.

Douglas P. Conlan,

District Engineer, Federal Highway Administration, Albany, New York.

[FR Doc. 00–3592 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–99–6585]

Hours-of-Service of Drivers; Pilot Program for Drivers Delivering Home Heating Oil

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposal to initiate a pilot program; request for comments.

SUMMARY: The FMCSA is announcing its proposal to initiate a pilot program in which the agency would grant an exemption from the weekly hours-of-service restrictions for drivers of commercial motor vehicles (CMVs) making home heating oil deliveries that occur within 100 air-miles of a central terminal or distribution point, during the winter months. The FMCSA also intends to allow States to grant temporary exemptions from the weekly restrictions in their intrastate hours-of-service regulations for the transportation of home heating oil during the winter months for the purpose of enabling intrastate motor carriers conducting such operations to do so under terms and conditions identical to those used in the FMCSA's pilot program. The intrastate carriers would be required by the States in which they operate to report certain accident data to the FMCSA so that the agency can monitor their safety performance, combine the intrastate data with the interstate data, and analyze the results. Under the current regulations, drivers may not drive after being on duty 60 hours in any seven consecutive days if the motor carrier does not operate CMVs every day of the week (60-hour rule), or after being on duty 70 hours in any eight consecutive days if the motor carrier operates CMVs every day of the week (70-hour rule). During the pilot program, participating motor carriers would be allowed to ''restart'' calculations for the 60-hour or 70-hour rule, whichever is applicable, after the driver has an off-duty period encompassing two consecutive nights off-duty that include the period of midnight to 6 a.m. This action is in response to a request from the Petroleum Marketers Association of America (PMAA). The exemption, if granted, would preempt inconsistent State and local requirements applicable to interstate commerce.

DATES: Comments must be received on or before April 17, 2000.

ADDRESSES: Submit written, signed comments with the docket number appearing at the top of this document to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Bus and Truck Standards and Operations, (202) 366–4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Electronic Access Internet users may access all

comments that are submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590-0001, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Creation of New Agency

On December 9, 1999, the President signed the Motor Carrier Safety Improvement Act of 1999 (Public Law 106–159, 113 Stat. 1748). The new statute established the FMCSA in the Department of Transportation. On January 4, 2000, the Office of the Secretary published a final rule notice rescinding the authority previously delegated to the former Office of Motor Carrier Safety (OMCS) (65 FR 220). This authority is now delegated to the FMCSA.

The motor carrier functions of the OMCS's Resource Centers and Division (*i.e.,* State) Offices have been transferred to FMCSA Resource Centers and FMCSA Division Offices, respectively. Rulemaking, enforcement, and other activities of the Office of Motor Carrier Safety while part of the FHWA, and while operating independently of the FHWA, will be continued by the FMCSA. The redelegation will cause no changes in the motor carrier functions and operations previously handled by the FHWA or the OMCS. For the time being, all phone numbers and addresses are unchanged.

Background

National Highway System Designation Act—Home Heating Oil Program

Section 346 of the National Highway System Designation Act (NHS Act) (Public Law 104–59, 109 Stat. 568, at 615, November 28, 1995) required the Secretary to develop and implement a Winter Home Heating Oil Delivery State Flexibility Program (Heating Oil Program). The NHS Act required that the drivers of vehicles making intrastate home heating oil deliveries within 100 air-miles of a central terminal or distribution point of the delivery of such oil be allowed to restart calculations of the 60-hour or 70-hour rule, whichever is applicable, after the driver has been off-duty for a period of 24 or more consecutive hours. The NHS Act allowed the Secretary to approve up to five States to participate in the program during the winter heating season beginning November 1, 1996, without jeopardizing Motor Carrier Safety Assistance Program (MCSAP) funding to those States. The participating States were required to meet criteria set forth in the NHS Act. These included having a substantial number of citizens relying upon home heating oil (which implied that the current hours-of-service regulations may endanger the welfare of these citizens by impeding timely deliveries of home heating oil) and ensuring that participating motor carriers maintain a level of safety equal to or greater than that produced by compliance with the current regulations through proper monitoring of their safety performance and reporting their performance to the FHWA.

Participating States were required to submit a plan to the FHWA describing the conditions of eligibility for participating carriers and the means the State would employ to monitor performance, mitigate safety risks, and evaluate the merits of the program. Each State had to accept responsibility for monitoring the performance of the motor carriers it determined to be eligible and for enforcing the conditions it imposed.

On October 2, 1996 (61 FR 51486), the FHWA published a notice in the **Federal Register** requesting comments on the development and implementation of the program and State applications to participate in the program. The FHWA published the notice of final determination on January 29, 1997 (62 FR 4372). States were authorized to begin granting exemptions on January 29, 1997. This authorization expired April 30, 1997.

Because of delays in completing the notice-and-comment process necessary for establishing the program, the States and motor carriers were limited to a 90-day time-frame for participation. The information available at the end of the program was not sufficient to draw any conclusions about the potential safety impacts of allowing a 24-hour restart for motor carriers delivering home heating oil.

PMAA Request for Home Heating Oil Delivery Flexibility Program

The PMAA requested that the FMCSA implement a three-year Winter Home Heating Oil Delivery Flexibility Program. A copy of the request is included in the docket. The PMAA requested that the new program be available to interstate and intrastate motor carriers operating in any State. The association indicated that elements of the previous heating oil program could be used to address most of the guidelines for the new program, as well as satisfy most of the rules in 49 CFR 381.505, concerning minimum requirements for a pilot program. The PMAA believes a home heating oil program would benefit many citizens and will help to ensure that consumers are not deprived of an essential product during severe weather, without compromising safety.

Although the PMAA letter did not provide details about the need for the program (*i.e.,* a description of exactly how the current hours-of-service regulations prevent motor carriers from delivering heating oil to meet customer demands), the FMCSA believes the previous Congressional mandate to conduct a home heating oil program, and correspondence from the Senate Committee on Commerce, Science and Transportation, Senate Committee on Environment and Public Works, and the House Committee on Transportation and Infrastructure suggests that the agency should, at a minimum, consider initiating a program under the TEA–21 authority. A copy of the correspondence from the chairmen of the committees is in the docket referenced at the beginning of this notice. The agency has carefully considered the PMAA request and believes a pilot program may provide benefits to the home heating oil industry and consumers by providing motor carriers with greater flexibility than the current rules allow, to better respond to consumer demands during severe cold weather. Severe cold weather alone may not necessitate the declaration of an emergency (as defined in 49 CFR 390.5), which would enable motor carriers making home heating oil deliveries to take advantage of the emergency relief provision (49 CFR 390.23). However, severe cold weather would certainly increase the demand for home heating oil and make it less likely that motor carriers could meet consumer demands without some form of hours-of-service flexibility, or hiring additional qualified drivers. The FMCSA requests public comment on the need for a home heating oil pilot program.

FMCSA Authority Concerning Pilot Programs

On June 9, 1998, the President signed the Transportation Equity Act for the 21st Century (TEA–21) (Public Law 105–178, 112 Stat. 107). Section 4007 of

TEA–21 amended 49 U.S.C. 31315 and 31136(e) concerning the Secretary of Transportation's (the Secretary's) authority to grant waivers from the FMCSRs for a person(s) seeking regulatory relief from those requirements. The statute provides the Secretary with the authority to grant waivers and exemptions. The duration of a waiver is limited to three months and the Secretary may grant the waiver without requesting public comment.

By contrast, an exemption may be up to two years in duration, and may be renewed. The Secretary must provide the public with an opportunity to comment on each exemption request prior to granting or denying the request.

Section 4007 also provides the Secretary with authority to conduct pilot programs, research studies in which an exemption(s) would be granted to allow innovative alternatives to certain Federal Motor Carrier Safety Regulations (FMCSRs) to be tested. These programs may include exemptions from one or more regulations. The FMCSA must publish, in the **Federal Register**, a detailed description of each pilot program, including the exemptions being considered, and provide notice and an opportunity for public comment before the effective date of the program. The agency is required to ensure that the safety measures in the pilot programs are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved through compliance with the safety regulations. The duration of pilot programs is limited to three years from the starting date.

The FMCSA is required to immediately revoke participation of a motor carrier, a CMV, or a driver for failure to comply with the terms and conditions of the pilot program, or to immediately terminate a pilot program if its continuation is inconsistent with the goals and objectives of the safety regulations issued under the authority of 49 U.S.C. chapter 313, or 49 U.S.C. 31136.

At the conclusion of each pilot program, the FMCSA must report to the Congress its findings, conclusions, and recommendations of the program, including suggested amendments to laws and regulations that would enhance motor carrier, CMV, and driver safety and improve compliance with the FMCSRs.

On August 20, 1998, the FHWA held a public meeting at the Department of Transportation headquarters to solicit information from interested parties on issues the agency should consider in implementing section 4007 of TEA–21. A notice announcing the meeting was published on July 29, 1998 (63 FR 40387). The notice also provided interested parties with an opportunity to submit written comments to the docket.

On December 8, 1998 (63 FR 67600), the FHWA published an interim final rule adopting regulations to implement section 4007 of TEA–21. The regulations establish the procedures persons must follow to request waivers and to apply for exemptions from the FMCSRs, and the procedures the FHWA will use to process the requests for waivers and applications for exemptions. The regulations also codify statutory requirements concerning the FHWA's administration of pilot programs.

As indicated earlier in this notice, the Secretary has rescinded the authority previously delegated to the FHWA to carry out motor carrier functions and operations. Therefore, the regulations issued by the FHWA are now regulations of the FMCSA. On December 29, 1999 (64 FR 72959), the Office of the Secretary issued a final rule amending the heading for chapter III, title 49 of the Code of Federal Regulations, to reflect the organizational changes.

Use of Pilot Program Authority for the PMAA Request

Although the PMAA requested that the FMCSA consider its request under 49 CFR part 381, section 4007 of the TEA–21 and the implementing regulations generally are applicable only to pilot programs concerning motor carriers engaged in interstate commerce. The only two exceptions are the authority of the FMCSA to grant waivers and exemptions, and to conduct pilot programs, concerning the commercial driver's license and controlled substances and alcohol testing rules. Since these rules are applicable to employers and drivers operating in interstate and intrastate commerce, the FMCSA authority to grant waivers and exemptions from these requirements could be used for intrastate motor carrier operations.

The FMCSA intends to exercise its authority under TEA–21 to initiate a pilot program in which the agency would grant an exemption from the weekly limitation in the Federal hours-of-service regulations for drivers of CMVs making home heating oil deliveries in interstate commerce. The program would cover deliveries that occur within 100 air-miles of a central terminal or distribution point, during the winter months. Deliveries between terminals and distribution points would not be covered by the exemption. The exemption to enable interstate motor carriers to participate in the pilot program would preempt inconsistent State hours-of-service requirements applicable to interstate commerce.

With regard to the PMAA request that the pilot program include drivers making intrastate deliveries of home heating oil, the FMCSA must request assistance from the States in which these drivers operate. The agency intends to allow States to grant temporary exemptions from the weekly limitations provisions of their intrastate hours-of-service regulations for the transportation of home heating oil during the winter months for the purpose of enabling intrastate motor carriers conducting such operations to do so under State-established terms and conditions identical to those used by the FMCSA.

Intrastate motor carriers transporting home heating oil in States that have established identical terms and conditions for the temporary hours-of-service exemption would submit all required information to the FMCSA. The FMCSA would in turn, provide the respective States with lists of the intrastate motor carriers and drivers the FMCSA believes should be considered eligible for the States' approval for participation. The States would allow the intrastate motor carriers and drivers to operate under the terms and conditions of the study based on recommendations from the FMCSA. This process is necessary because the FMCSA does not have the authority to grant intrastate exemptions. The States would be allowed to grant the intrastate exemptions without jeopardizing MCSAP funding to those States. The FMCSA is requesting public comment on allowing the States to grant exemptions because the Tolerance Guidelines for the MCSAP do not provide guidance to States concerning temporary exemptions from intrastate regulations to enable motor carriers to participate in pilot projects or programs.

Tolerance Guidelines for the MCSAP

The objective of the MCSAP is to reduce the number and severity of accidents and hazardous materials incidents involving CMVs by establishing a nationally uniform, consistent program of commercial vehicle safety enforcement to significantly increase the likelihood that safety defects, driver deficiencies and unsafe carrier practices will be detected and corrected. Part 350 of title 49, Code of Federal Regulations, prescribes requirements for MCSAP grants to the States for programs to adopt and enforce Federal rules, regulations, standards and orders applicable to CMV safety or

compatible State rules, regulations, standards and orders.

Among the requirements for receiving a basic grant, States must agree to adopt, and to assume responsibility for enforcing 49 CFR parts 390 through 399. However, some flexibility is provided in appendix C to part 350, Tolerance Guidelines for Adopting Compatible State Rules and Regulations. Appendix C establishes the limits within which a State's deviations or variances in adopting motor carrier safety and hazardous materials rules may extend and still be considered compatible for funding purposes under the MCSAP. Paragraph number 3 of appendix C provides limits or tolerances for State rules and regulations where the U.S. Department of Transportation regulations are not applicable, *i.e.,* generally in intrastate commerce.

Certain tolerances are currently provided for intrastate hours-of-service regulations. Specifically, an expansion of the 10-hour driving rule to a 12-hour driving limit is allowed provided the total period of time spent driving, and on-duty not driving does not exceed 16 hours. Also, an increase in the 60-hour and 70-hour rules such that drivers may accumulate up to 70 hours on-duty in 7 consecutive days, or 80 hours on-duty in 8 consecutive days. However, these tolerances do not appear to provide sufficient flexibility for intrastate motor carriers delivering home heating oil.

On March 9, 1999 (64 FR 11414), the FHWA published a notice of proposed rulemaking to amend the regulations governing the MCSAP by incorporating provisions of the TEA–21. This action would broaden the scope of the MCSAP beyond enforcement activities and programs by requiring participating States to assume greater responsibility for improving motor carrier safety. The proposed amendments would require States to develop performance-based plans reflecting national priorities and performance goals; revise the MCSAP funding distribution formula; and create a new incentive funding program. The tolerance guidelines concerning hours-of-service would be codified under 49 CFR 350.341(e) of the revised part 350. The substance of this specific guideline would remain unchanged.

Neither the current MCSAP regulations nor the proposed revision of 49 CFR part 350 provides guidance to the States concerning temporary exemptions from intrastate regulations to enable motor carriers to participate in pilot projects or programs. Since there are no Federal regulatory or statutory restrictions that would preclude the FMCSA from allowing the States to grant temporary exemptions to intrastate motor carriers for the purpose of participating in a pilot program, the agency is requesting the States' cooperation in conducting the home heating oil pilot program. The FMCSA is asking that the States allow intrastate motor carriers that meet the FMCSA's eligibility criteria to participate in the study. The States would not be required to meet any criteria (*e.g.,* having an approved plan for monitoring the motor carriers, or having a substantial number of citizens relying upon home heating oil, etc.) before being allowed to grant the temporary exemptions. The FMCSA requests comments on whether the agency should limit the number of States and, if so, what criteria should be used to determine which States should be considered eligible.

Structure of the Home Heating Oil Pilot Program

The FMCSA Home Heating Oil Pilot Program is intended to be a simplified version of the intrastate program established in response to the NHS Act. The program would include interstate and intrastate motor carriers delivering home heating oil within 100 air-miles of a central terminal or distribution point, during the winter. Deliveries between terminals or distribution points would not be covered by the exemption. The exemption would cover the period between November 1 and April 30 for three consecutive heating seasons, the first of which beginning on November 1, 2000. The length of the exemption period is intended to accommodate motor carriers operating in regions of the country where there is a significant demand for heating oil before the first official day of winter, or the demand for the product continues after the first official day of spring. The FMCSA would establish the criteria for motor carriers to participate in the study and would collect and analyze data concerning the safety performance of these carriers during the study.

The FMCSA believes the terms and conditions of the pilot program will ensure that the program achieves a level of safety equivalent to, or greater than, the level of safety that would be achieved through compliance with the safety regulations. The terms and conditions, or safety measures, presented below are designed to ensure that the program does not adversely affect safety.

Alternative Hours-of-Service Restart

The FMCSA is proposing that participating motor carriers be allowed to ''restart'' calculations for the 60-hour or 70-hour rule, whichever is applicable, after the driver has an off-duty period encompassing two consecutive nights off-duty that include the periods from midnight to 6 a.m. However, if the driver reached the 60- or 70-hour limit without having taken any such off-duty period, he or she would be required to do so at that time. This restart provision differs from that in the program mandated by the NHS Act where drivers were permitted statutorily to restart their calculations for the 60-hour and 70-hour rules after any off-duty period of 24 or more hours.

The FHWA proposed allowing a 24-hour restart for all motor carriers in 1992 (57 FR 37504; August 19, 1992). Nearly 68,000 comments were received in response to the NPRM. Virtually no substantive information was presented in these comments to support a change in the regulations. Except in very general terms, the agency received little discussion of potential impacts on highway safety that could result from increasing the available on-duty hours. The agency, therefore, declined to make the proposed changes to the rule and, on February 3, 1993 (58 FR 6937), withdrew the proposal and closed the docket.

On November 5, 1996 (61 FR 57252), the agency published an advance notice of proposed rulemaking (ANPRM) on all aspects of the hours-of-service regulations. The agency indicated that it was nearing the completion of several research projects and was seeking the results of other relevant research, including operational tests or pilot regulatory programs conducted anywhere in the world, that could be used in developing a revised regulatory scheme for CMV drivers' hours of service. The FMCSA has reviewed all the research reports submitted by commenters to the rulemaking docket, and scientific information obtained through other sources, and is not aware of any data that would support granting an exemption to use a 24-hour restart. Copies of all known research reports, as well as all comments submitted in response to the ANRPM, are available in FMCSA Docket No. FMCSA–97–2350 (previously FHWA Docket No. FHWA–97–2350).

The FMCSA believes there is sufficient scientific information to support allowing ''restart'' calculations for the 60-hour or 70-hour rule, whichever is applicable, after the driver has an off-duty period encompassing two consecutive nights off-duty that include the periods from midnight to 6 a.m. For weekly off-duty periods, certain studies indicate that at least two consecutive nights off-duty that include the periods from midnight to 6 a.m. are necessary to restore the human body

and negate the effect of accumulated week-long sleep deprivation. Drivers may need even more nights off-duty if they have severe sleep deficit.

Smiley, A. & Heslegrave, R. (1997) [1] cited several scientific studies dealing with recovery time as a portion of their review of scientific literature on rest and recovery requirements. The review was conducted to evaluate the potential adequacy of a 36-hour cumulative-fatigue-recovery provision that had been proposed by motor carrier industry groups to Transport Canada. Smiley and Heslegrave cited a 1967 study by Lille (Lille, F. (1967), ''Le sommeil de jour d'un groupe de travailleurs de nuit,'' Le Travail Humain, Vol. 30) suggesting that a single day off was insufficient for night workers to recover after a sleep debt accumulated over five days. Other studies they cited indicated a preference, in terms of recovery, for a three-day rest period compared to a two-day period after three 12-hour night shifts; one such example was a study (Hildebrandt *et al.* (1974))[2] that illustrated the advantage of two days and three days off, compared to one day off, in operator performance (locomotive engineers with inadequate rest missed multiple in-cab warning signals that resulted in automatic braking being triggered). A 1994 literature review indicated that two nights of sleep are usually sufficient to allow near full recovery after extended periods of sleep loss. Smiley and Heslegrave concluded that, ''nevertheless, although the available research is sparse, it is sufficient to raise concerns about a 36-hour reset that would allow drivers to accumulate up to 92 hours on-duty within a seven-day period, particularly for night driving. It is also clear that there is insufficient scientific foundation on which to base prescriptive solutions for appropriate rest periods.'' (p. 14)

O'Neill, T. *et al.* (1999) [3] studied drivers on long (14-hour) daytime duty schedules in a driving simulator. The drivers did not appear to have accumulated significant sleep loss during the study, but their amount of measured sleep increased and their sleep latency—the duration of time between turning off the lights and falling asleep by polysomnographic criteria—decreased on their first off-duty days. The researchers suggest ''the effectiveness of a full two nights and one day off (that is, 'Friday night' to 'Sunday morning' as a minimum safe restart period '' about 32 hours off-duty) under the conditions tested.'' (p. 48)

Smiley, A. & Heslegrave, R. (1997), O'Neill, T. *et al.* (1999), and Rosekind, M.R. (1997)[4] came to the same conclusion. As Rosekind wrote, ''It is important to maintain an optimal sleep opportunity every 24 hours and also address the potential for cumulative effects. Therefore, appropriate recovery time should be allowed per week (days or rolling hours). Scientific studies show that two nights of recovery sleep are typically needed to resume baseline levels of sleep structure and waking performance and alertness.'' (p. 7.6).

The FMCSA believes an off-duty period that includes two consecutive midnight to 6 a.m. periods to obtain restorative sleep would ensure a level of safety that is equivalent to, or greater than, the level of safety that would be achieved by complying with the current weekly limitations in the hours-of-service regulations. A minimum 32 to 56-hour break that includes the minimum of two consecutive nights of sleep would provide drivers a full day off with two sleep periods between the hours of midnight and 6 a.m.

The minimum off-duty periods are intended to afford the drivers the opportunity for restorative sleep based on the amount of driving and other work they perform. The ''weekend'' may be longer depending on when the motor carrier releases the driver from duty on the last workday of the workweek. The alternative ''restart'' in the pilot program would allow drivers to take as few as 32 consecutive hours off-duty on a ''weekend,'' provided the time period includes two consecutive midnight to 6 a.m. periods to obtain restorative sleep and the driver is released from work at exactly 11 p.m. on the last workday of the workweek.

It is unreasonable to expect that a driver will get full advantage of two consecutive midnight to 6 a.m. sleep periods if he/she is released at or just before midnight, and required to return to work at or just after 6 a.m. Therefore, the FMCSA has chosen 11 p.m. as the latest time drivers could get off work and still get to sleep for the first full midnight to 6 a.m. period on the first night of a ''weekend.'' Likewise, the agency has chosen 7 a.m. as the earliest time drivers could start a new workweek and still sleep the last full midnight to 6 a.m. period on the last night of a ''weekend.''

Generally, drivers would be off duty for more than the minimum 32 consecutive hours, but fewer than the 63 consecutive hours in a ''normal weekend'' (5 p.m. Friday to 8 a.m. Monday). A driver completing a workweek at 11 p.m., for example, could take the minimum 32 hours before beginning the next workweek. A driver completing a workweek at 11:10 p.m., though, would have to be off-duty for approximately 56 hours before beginning the next workweek.

The FMCSA is not suggesting that participating motor carriers provide only 32 hours that include the two consecutive midnight to 6 a.m. periods. That is the minimum off-duty time. The FMCSA expects the participating motor carriers to provide, and drivers to take, as much time as necessary to recover from any sleep debts and other conditions resulting from cumulative weekly fatigue.

The agency requests comments on the alternative restart for calculations of the 60-hour and 70-hour rules during the pilot program.

Management of the Program

The FMCSA would manage the home heating oil program, including the collection and analysis of all data, and the monitoring of all motor carriers participating in the program. The States would make compliance with the FMCSA's monitoring requirements a condition of their waiving the intrastate hours-of-service requirements. The agency would ensure that there is a pilot program plan which includes the elements specified in 49 CFR 381.505. However, prior to preparing that plan, the FMCSA requests public comment on determining a reasonable number of participants necessary to yield statistically valid findings about the impact of the alternative restart on the home heating oil segment of the motor carrier industry. The FMCSA also requests public comment on the development of a data collection and safety analysis plan that identifies a method of comparing the safety performance for participating motor carriers and drivers, with the safety performance of motor carriers and drivers that comply with the current regulations.

Ideally, in order to make a comparison between motor carriers in the program and those complying with the regulations, as required by TEA–21,

[1] Smiley, A. & Heslegrave, R. (1997), ''A 36-Hour Recovery Period for Truck Drivers: Synopsis of Current Scientific Knowledge,'' (Report No. TP 13035E) Montreal: Transport Canada.

[2] Hildebrandt, G., Rohmert, W., & Rutenfranz, J. (1974), ''12 & 24 H Rhythms in Error Frequency of Locomotive Drivers and the Influence of Tiredness,'' International Journal of Chronobiology 2: 175–180.

[3] O'Neill, T.R., Krueger, G.P., & Van Hemel, S.B. (1999), ''Effects of Operating Practices on Driver Alertness,'' Report No. FHWA-MC–99–140, Federal Highway Administration.

[4] Rosekind, M.R., Neri, D.F., & Dinges, D.F. (1997), ''From Laboratory to Flightdeck: Promoting Operational Alertness, Fatigue and Duty Time Limitations '' An International Review:'' 7.1–7.14

the agency would have two groups—a group of carriers operating under the terms and conditions of the exemption, and a control group. However, the FMCSA does not believe it is practicable to structure the pilot program in this manner. First, there is no short-term incentive for motor carriers in the control group. Second, motor carriers operating under the pilot program exemption would have a competitive edge against those in the control group.

The FMCSA would review participating carriers' accident data from the three-years prior to entering the pilot program, and compare this pre-pilot program safety performance data with data collected during the program. The agency believes this before-and-after comparison will provide a practical and effective means of determining whether the alternative restart provision affects safety performance, provided there are no other significant changes in the operating practices of the participating carriers that could also affect safety performance. The FMCSA requests public comments on the plan to conduct a before-and-after comparison of the safety performance of the participating carriers.

Eligibility Criteria for Motor Carriers to Participate

The FMCSA is proposing that interstate motor carriers meet all of the eligibility criteria listed below for participating in the pilot program. The States granting temporary exemptions would require that intrastate carriers meet the same eligibility requirements in order to take advantage of the exemption. The purpose of the eligibility criteria is to keep motor carriers with questionable safety performance and/or safety management controls out of the program. Participating motor carriers—

1. Must be either ''unrated'' by, or have a current safety rating of ''Satisfactory'' issued by the FMCSA (or the FHWA or OMCS prior to the establishment of the FMCSA), or a State;

2. Must not have been the subject of a Federal or State investigation resulting in penalties or fines for violations of motor carrier safety or hazardous materials transportation regulations or laws within the last three years;

3. Must not currently be the subject of any Federal or State investigation of alleged violations of motor carrier safety or hazardous materials transportation regulations or laws; and

4. Must not have had, during the last three years, any accidents (as defined in 49 CFR 390.5) in which a determination was made by a Federal, State, or local official responsible for investigating the cause of CMV accidents, that the motor carrier's CMV was in unsafe operating condition (i.e., a condition likely to cause an accident, or breakdown of the vehicle) and the mechanical condition was a contributing factor in the accident, or that the driver was cited for violation of Federal or State motor carrier safety regulations or laws (whichever were applicable at the time of the accident) and the driver's violation of those regulations or laws was a contributing factor in the accident.

The FMCSA would also have criteria for participating drivers. Participating drivers must not have committed, during the past three years, any disqualifying offences listed in 49 CFR 383.51 concerning commercial driver's license disqualifications and penalties, 49 CFR 391.15 concerning disqualification of drivers operating CMVs in interstate commerce, or comparable State regulations or laws concerning disqualifications of individuals operating CMVs.

The FMCSA believes the first criterion is necessary to ensure that a motor carrier determined by Federal or State officials to be either ''unsatisfactory'' or ''conditional'' is prevented from participating. A safety rating of unsatisfactory is an indicator the motor carrier has significant deficiencies in its safety management controls. A safety rating of conditional means that a motor carrier is not unfit, but is not an indication that all is well with the safety management controls for the carrier's operations. As such, there is little reason to believe that carriers rated either unsatisfactory or conditional could be relied upon to comply with the terms and conditions for participating in the pilot program. The agency requests comments on this criterion, particularly the prospect that motor carriers without safety ratings would be allowed to participate in the study.

The second criterion is intended to keep out motor carriers that have had serious violations of Federal or State motor carrier safety or hazardous materials regulations within the past three years. If the motor carrier's operating practices are such that an investigation followed by penalties or fines was necessary, the safety management controls are not adequate for the purposes of the pilot program. The FMCSA believes this criterion should be used irrespective of the motor carrier's safety rating and requests public comment.

The criterion concerning current investigations would be used to keep out motor carriers that may have problems with their safety management controls. These carriers would not be considered eligible for the duration of the investigation. If the completed investigation does not result in penalties or fines, the motor carrier would then be allowed to participate in the pilot program.

The accident criterion would be used as a means of evaluating motor carriers' accidents during the past three years. If any of the accidents involved a CMV that was in unsafe operating condition which contributed, in whole or in part, to the accident, or a driver that was cited for violating Federal or State regulations and the violations contributed, in whole or in part, to the accident, the motor carrier could not participate in the program. The fact that the motor carrier allowed its vehicle to be operated in a condition resulting in an accident suggests that it would be inappropriate to allow the motor carrier to participate in the pilot program. Similarly, if a driver is cited for violation of Federal or State motor carrier safety regulations or laws and the failure to comply with those regulations was a contributing factor in the accident, the FMCSA believes the accident is a reflection on the motor carrier's management of its drivers, and the motor carrier should not be allowed to participate in the program. The FMCSA requests comments on this criterion.

The driver criteria are intended to prevent unsafe drivers from participating in the pilot program. This determination would be made independent of any decision concerning the motor carrier's eligibility. If the driver has committed a disqualifying offense within the last three years, the driver could not be included in the participating carrier's pool of drivers that use the alternative restart.

Process for Motor Carriers to Apply for Participation in the Pilot Program

In order to be considered for the pilot program interstate motor carriers (or intrastate motor carriers operating in States that agree to grant exemptions consistent with the requirements and conditions of this program) must submit, in writing, the following to the FMCSA:

(1) The name of the motor carrier;

(2) USDOT Number, MC Number, and State-issued motor carrier identification number;

(3) The address for the principal place of business, telephone number, and fax number;

(4) Name and title of company official who will serve as the carrier's point of contact for inquiries from the FMCSA;

(5) A driver roster consisting of names and driver license numbers and State of licensure for all participating drivers;

(6) The number of home heating oil delivery vehicles that will be operated by drivers using the alternative restart;

(7) The total number of accidents for each of the previous three calendar years, and the number of accidents that occurred during each of the previous winters seasons (November 1 through April 30);

(8) The following certification signed by a motor carrier official: I certify that (*Name of the motor carrier*) operates CMVs used to deliver home heating oil, and is not currently rated ''Unsatisfactory'' or ''Conditional'' by the FMCSA (or the FHWA prior to the establishment of the FMCSA), or a State. I certify that each of the drivers listed on the roster is eligible to participate in the project, that each operates a CMV used to transport home heating oil, and that we have verified that the driving record of each driver does not include any convictions within the past three years of any disqualifying offense. I have read and agree to be bound by the requirements for notification and submission of information to the FMCSA outlined in the section entitled ''The Agreement'' in this notice of final determination of this project. I certify under penalty of perjury pursuant to 28 U.S.C. 1746 that the foregoing is true and correct. Executed on *(Date)*

Signature _____
Name _____
Title _____
Name of Motor Carrier _____

Intrastate motor carriers operating in States that provide a temporary exemption would also submit their requests for participation to the FMCSA. The FMCSA would provide the State with a list of the motor carriers and drivers for the State's approval for participation in the Study. If the State agrees with the FMCSA's recommendation, the carriers and drivers would be allowed to participate in the study and must agree to submit required accident information to the FMCSA during the study.

The Agreement

If the FMCSA determines that a motor carrier applicant is qualified to participate in the pilot program, the agency would notify the carrier by letter. The agency would notify intrastate motor carriers after the State in which they operate approves their participation in the study. A copy of the letter would then be made available by the motor carrier to each driver. By agreement, participating motor carriers must do the following:

1. Within 10 business days following an accident (as defined in 49 CFR 390.5) or any unintentional discharge of home heating oil that requires the submission of the Department of Transportation Hazardous Materials Incident Report (DOT Form F 5800.1) (see 49 CFR 171.16) involving any of the motor carrier's CMVs, irrespective of whether the CMV was being operated by a participating driver, the motor carrier must submit the following information:

(a) Date of the accident,

(b) City or town in which the accident occurred, or city or town closest to the scene of the accident,

(c) Driver's name and license number,

(d) Vehicle number and State license number,

(e) Number of injuries,

(f) Number of fatalities, and

(g) Whether hazardous materials, other than fuel spilled from the fuel tanks of the motor vehicles involved in the accident, were released,

(h) The police-reported cause of the accident,

but, if no earlier date is fixed, then on the second Tuesday in April (i) Whether the driver was cited for violating any traffic laws, motor carrier safety regulations, or hazardous materials discharge.

(j) Whether the driver was participating in the pilot program, and if so, the total driving time, on-duty time since the last restart period prior to the accident, and the length of the last restart period.

2. Within 10 business days, notify the FMCSA of the addition of a new driver operating under the alternative restart pilot program, including the name, driver license number, and date of employment of the new driver,

3. Within 10 business days, notify the FMCSA when a participating driver ceases to be employed by the motor carrier, including the driver's name, license number, and date of termination,

4. Within 10 business days, notify the FMCSA when a participating driver is no longer participating in the program, including the driver's name, license number, and date participation ended.

Removal From the Project

The FMCSA does not believe that any motor carrier satisfying the eligibility criteria of this project will experience any deterioration of its safety record. However, should this occur, the FMCSA will, consistent with the statutory requirements of TEA–21, take all steps necessary to protect the public interest, as well as the integrity of the program. Participation in this program is voluntary, and the FMCSA will immediately revoke participation of an interstate motor carrier or driver for failure to comply with the terms and conditions of the pilot program, or immediately terminate the pilot program if its continuation proves to be inconsistent with the goals and objectives of the safety regulations issued under the authority of 49 U.S.C. chapter 313, or 49 U.S.C. 31136.

With regard to intrastate motor carriers and drivers, the FMCSA would notify State officials immediately if the agency determines that the carrier or driver has failed to comply with the terms and conditions of the pilot program. The FMCSA will request that the State agency granting the temporary exemption immediately revoke participation of the intrastate motor carrier or driver.

FMCSA Use of Data

The FMCSA plans to carefully review the data in preparing a report to the Congress as required by the TEA–21. The agency would document findings, conclusions, and recommendations of the program, including whether there are any suggested amendments to laws and regulations that would enhance motor carrier and driver safety and improve compliance with the hours-of-service regulations.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FMCSA has determined that this proposal is subject to the PRA and the required clearance documents will be submitted to the OMB for its approval of this information collection requirement.

This **Federal Register** notice proposes a voluntary pilot program for participation by certain motor carriers that transport home heating oil. In return for receiving an exemption to the weekly limitations in the Federal hours-of-service regulations, or comparable State hours-of-service requirements, each program motor carrier would be required to develop and/or furnish certain information about its operations, determine the eligibility of its drivers to participate in the program, provide information about past accidents, and agree to provide detailed information about accidents that occur during the pilot program. It is anticipated that the

initial application will require on average, about one hour to complete. This document is necessary to identify those motor carriers that believe they are eligible to participate in the project, and to indicate their desire to be included in the project.

Participating motor carriers would be required to submit to the FMCSA: (1) The total number of CMVs that will be operated by a driver using the alternative to the 60-hour/70-hour restart; (2) the names and driver license numbers for all drivers using the alternative restart; (3) the total number of accidents (as defined in 49 CFR 390.5) for each of the three years prior to participating in the project, including the total number of injuries and fatalities; (4) information about all accidents that occur while the carrier is participating in the program; and (5) information about the addition or removal of drivers from the project.

The most likely respondents to this information collection will be motor carriers operating CMVs transporting home heating oil during the winter, with a safety rating of satisfactory or unrated. The FMCSA does not have a precise count of the total number of carriers that would be eligible to participate in the program. However, the PMAA represents approximately 8,000 motor carriers that supply heating oil. For the purposes of estimating the information collection burden, the FMCSA will use an estimate of 8,000 motor carriers.

It is proposed that each accident involving project drivers would be reported to the FMCSA within 10 calendar days. This information is necessary in order to detect immediately those motor carriers whose safety performance is declining during the project and would also be used to assist in making the before-and-after comparison of each carrier's safety performance. The reporting and recordkeeping burden for this information is estimated to be 15 minutes per accident.

With regard to the total reporting requirement, if 8,000 motor carriers participate, a total of 8,000 hours would be expended by these carriers to apply for the project. If each of the motor carriers averages two accidents per winter, the burden for each year would be 4,000 hours (0.25 hours per accident × (2 accidents per year × 8,000 motor carriers) = 4,000 hours per year. The total burden for submitting accident data during the three-winter period would be 12,000 hours. Therefore, the FMCSA estimates approximately 20,000 burden hours during the pilot project.

With respect to the collection of information described above, the FMCSA invites comments on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden on the proposed collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of these collections of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. Comments on this proposed information collection may be submitted to the FMCSA.

Request for Comments

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FMCSA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material.

Authority: 49 U.S.C. 31136 and 31315; and 49 CFR 1.73.

Issued on: February 9, 2000.

Julie Anna Cirillo,

Acting Deputy Administrator.

[FR Doc. 00–3660 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than April 17, 2000.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., N.W., Mail Stop 17, Washington, D.C. 20590, or Ms. Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., N.W., Mail Stop 35, Washington, D.C. 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130_____. Alternatively, comments may be transmitted via facsimile to (202) 493–6265 or (202) 493–6170, or E-mail to Mr. Brogan at robert.brogan@fra.dot.gov, or to Ms. Deal at dian.deal@fra.dot.gov. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., N.W., Mail Stop 17, Washington, D.C. 20590 (telephone: (202) 493–6292) or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., N.W., Mail Stop 35, Washington, D.C. 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 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 provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection

activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below are brief summaries of three currently approved information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Railroad Locomotive Safety Standards and Event Recorders.

OMB Control Number: 2130–0004.

Abstract: Under regulations issued pursuant to Congressional mandate, 49 U.S.C. 20137, trains must be equipped with event recorders. Event recorders are devices that record train speed, hot box detection, throttle position, brake application, brake operations, time and signal conditions, and any other function that FRA considers necessary to monitor the safety of train operations. Event recorders provide FRA with information about how trains are operated, and, if a train is involved in an accident, the devices afford data to FRA and other investigators necessary to determine the probable causes of the accident. Moreover, under 49 CFR Part 229, railroads are required to conduct daily, periodic, annual, and biennial tests of locomotives to measure the level of compliance with Federal regulations. The collection of information requires railroads to prepare written records indicating the repairs needed, the person making the repairs, and the type of repairs made. This information provides a locomotive engineer with information that the locomotive has been inspected and is in proper condition for use in service, and enables FRA to monitor compliance with the regulatory standards. Other information collection requirements in Part 229 are indicated in the chart below.

Form Number(s): FRA F 6180.49A.

Affected Public: Businesses.

Respondent Universe: 685 railroads.

Frequency of Submission: On occasion; annually, biennially, recordkeeping.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
229.95—Movement of noncomplying locomotive.	685 railroads	21,000 tags	1 minute	350 hours	$10,850.
229.17—Accident reports.	685 railroads	1 report	15 minutes	.25 hour	$8.
229.21—Daily inspection.	685 railroads	5,460,000 Inspections	3 minutes	273,000 hours	$10,374,000.
229.113—Steam generator warning notice.	No Steam Generators are in service today.	None	N/A	N/A	N/A.
Locomotive inspection and repair record (Form FRA–F–6180.49A).	685 Railroads	21,000 Forms	2 minutes	700 hours	$18,200.
229.31—Locomotive noise emission test.	685 railroads	100 Tests	15 minutes	25 hours	$650.
229.23—Periodic inspection.	685 railroads	Included on form FRA–F–6180.49A.	Included on form FRA–F–6180.49A.	Included on form FRA–F–6180.49A.	Included on Form FRA–F–6180.49A.
229.27/229.29—Annual & biennial tests.	685 railroads	Included on form FRA–F–6180.49A.	Included on form FRA–F–6180.49A.	Included on form FRA–F–6180.49A.	Included on form FRA–F–6180.49A
229.31—Main reservoir tests.	685 railroads	84,000 Tests	10 hours	840,000 hours	$21,840,000.
229.33—Out-of-use credit.	685 railroads	2,400 Out-of-use credits.	2 minutes	80 hours	$2,080.
Written copy of instructions.	685 railroads	200 Amendments	15 minutes	50 hours	$1,550.
Data verification readout record.	685 railroads	72,000 Tests/record	30 minutes	36,000 hours	$1,116,000.
Written record when event recorder is removed from service.	685 railroads	6,000 Removals	1 minute	100 hours	$3,100.
Record of event record data.	685 railroads	100 Accidents/data records.	15 minutes	25 hours	$775.

Total Responses: 5,666,801.

Estimated Total Annual Burden: 1,150,330 hours.

Status: Regular Review.

Title: Railroad Signal System Requirements.

OMB Control Number: 2130–0006.

Abstract: The regulations pertaining to railroad signal systems are contained in 49 CFR Parts 233 (Signal System

Reporting Requirements), 235 (Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System), and 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Systems, Devices, and Appliances). Section 233.5 provides that each railroad must report to FRA within 24 hours after learning of an accident or incident arising from the failure of a signal appliance, device, method, or system to function or indicate as required by part 236 of this title that results in a more favorable aspect than intended or other condition hazardous to the movement of a train. Section 233.7 sets forth the specific requirements for reporting signal failures within 15 days in accordance with the instructions printed on Form FRA F 6180.14. Finally, Section 233.9 sets forth the specific requirements for the ''Signal System Five Year Report.'' It requires that every five years, each railroad must file a signal systems status report. The report is to be prepared on a form issued by FRA in accordance with the instructions and definitions provided. Title 49, Part 235 of the Code of Federal Regulations, sets forth the specific conditions under which FRA approval of modification or discontinuance of railroad signal systems is required and prescribes the methods available to seek such approval. The application process prescribed under Part 235 provides a vehicle enabling FRA to obtain the necessary information to make logical and informed decisions concerning carrier requests to modify or discontinue signaling systems. Section 235.5 requires railroads to apply for FRA approval to discontinue or materially modify railroad signaling systems. Section 235.7 defines ''material modifications'' and identifies those changes that do not require agency approval. Section 235.8 provides that any railroad may petition FRA to seek relief from the requirements provided under 49 CFR Part 236. Sections 235.10, 235.12, and 235.13 describe where the petition must be submitted, what information must be included, the organizational format, and the official authorized to sign the application. Section 235.20 sets forth the process for protesting the granting of a carrier application for signal changes or relief from the rules, standards, and instructions. This section provides the information that must be included in the protest, the address for filing the protest, the time limit for filing the protest, and the requirement that a person requesting a public hearing explain the need for such a forum. Section 236.110 requires that the test results of certain signaling apparatus be recorded and specifically identify the tests required under §§ 236.102–109; §§ 236.376 to 236.387; §§ 236.576, 236.577; and §§ 236.586–236.589. Section 236.110 further provides that the test results must be recorded on preprinted or computerized forms provided by the carrier and that the forms show the name of the railroad; place and date of the test conducted; equipment tested; tests results; repairs, replacements, and adjustments made; and the condition of the apparatus. This section also requires that the employee conducting the test must sign the form and that the record be retained at the office of the supervisory official having proper authority. Results of tests made in compliance with § 236.587 must be retained for 92 days, and results of all other tests must be retained until the next record is filed, but in no case less than one year. Additionally, § 236.587 requires each railroad to make a departure test of cab signal, train stop, or train control devices on locomotives before that locomotive enters the equipped territory. This section further requires that whoever performs the test must certify in writing that the test was properly performed. The certification and the test results must be posted in the locomotive cab with a copy of the certification and test results retained at the office of a supervisory official having proper authority. However, if it is impractical to leave a copy of the certification and test results at the location of the test, the test results must be transmitted to either the dispatcher or one other designated official at each location, who must keep a written record of the test results and the name of the person performing the test. All records prepared under this section are required to be retained for at least 92 days. Finally, Section 236.590 requires the carrier to clean and inspect the pneumatic apparatus of automatic train stop, train control, or cab signal devices on locomotives every 736 days, and to stencil, tag, or otherwise mark the pneumatic apparatus indicating the last cleaning date.

Form Number(s): FRA F 6180.14, 6180.47.

Affected Public: Businesses.

Respondent Universe: 685 railroads.

Frequency of Submission: On occasion; every five years, recordkeeping.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
233.5—Reporting of accidents.	685 railroads	10 phone calls	30 minutes	5 hours	$155.
233.7—False proceed signal failures report.	685 railroads	200 reports	15 minutes	50 hours	$1,550.
233.9–5 Year signal system report.	N/A	Outside. scope of PRA.	Outside scope of PRA.	Outside scope of PRA.	Outside scope of PRA.
235.5—Block signal applications.	80 railroads	111 applications	10 hours	1,110 hours	$34,410.
235.8—Applications for relief.	80 railroads	24 relief requests	2.5 hours	60 hours	$1,860.
235.20—Protest letters	685 railroads	84 protest letters	30 minutes	42 hours	$1,302.
236.110—Record-keeping.	80 railroads	936,660 report forms	.4568 hour	427,881 hours	$13,264,311.
236.587–Departure tests.	18 railroads	730,000 tests/record	4 minutes	48,667 hours	$1,508,677.
235.590—Pneumatic valves.	18 railroads	6,697 stencilings or tags.	22.5 minutes	2,511 hours	$77,841.

Total Responses: 1,673,786.

Estimated Total Annual Burden: 480,326 hours.

Status: Regular Review.

Title: New Locomotive Certification, Noise Compliance Regulations.

OMB Control Number: 2130–0527.

Abstract: On January 14, 1976, the Environmental Protection Agency (EPA) issued noise emission standards pursuant to the Noise Control Act of 1972. The standards, 40 CFR Part 201, establish limits on the noise emissions generated by railroad locomotives under both stationary and moving conditions. Section 17 of the Noise Control Act also requires the Secretary of Transportation to enforce these regulations and promulgate separate regulations to ensure compliance with the same. On December 23, 1983, FRA published 49 CFR Part 210 to ensure compliance with the EPA standards. The certification and testing data ensure that locomotives built after December 31, 1979 have passed prescribed decibel standards for noise emissions under EPA regulations.

Form Number(s): N/A.

Affected Public: Businesses.

Respondent Universe: 2 Manufacturers.

Frequency of Submission: On occasion; one-time.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
Request for certification info.	2 manufacturers	40 requests	30 minutes	20 hours	$480
Apply badge or tag to cab of locomotive.	2 manufacturers	40 badges/tags	30 minutes	20 hours	480
Noise emission measurement.	2 manufacturers	40 measurements	3 hours	120 hours	2,880

Total Responses: 120.

Estimated Total Annual Burden: 160 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, D.C. on February 10, 2000.

Margaret B. Reid,

Acting Director, Office of Information Technology and Support Systems, Federal Railroad Administration

[FR Doc. 00–3694 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–06–U

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–475 (Sub–No. 3X)]

New Hampshire and Vermont Railroad Company Inc.—Discontinuance of Trackage Rights Exemption—in Windsor and Orange Counties, VT, and Grafton County, NH

New Hampshire and Vermont Railroad Company, Inc. (NHVT) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to discontinue trackage rights over a line of railroad extending between approximately milepost 123.19, in White River Junction, VT, and approximately milepost 163.67, in Woodsville, NH, a total distance of approximately 40.48 miles in Windsor and Orange Counties, VT, and Grafton County, NH (line). The line traverses United States Postal Service Zip Codes 05001, 05047, 05033, 05074, 05081, and 03785.

NHVT has certified that: (1) It has not utilized the track for local or overhead traffic for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirement at 49 CFR 1152.50(d)(1) (notice to governmental agencies) has been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 17, 2000, unless stayed pending reconsideration. Petitions to stay [1] and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] must be filed by February 28, 2000. Petitions to reopen must be filed by February 16, 2000, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: David Anderson, 288 Littleton Road, Suite 21, Westford, MA 01886 If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: February 9, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–3529 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–00–P

[1] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c)(6).

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–15–91]

Proposed Collection; Comment Request For Regulation Project.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, INTL–15–91, Taxation of Gain or Loss from Certain Nonfunctional Currency Transactions (Section 988 Transactions) (§ 1.988–5).

DATES: Written comments should be received on or before April 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Taxation of Gain or Loss from Certain Nonfunctional Currency Transactions (Section 988 Transactions).

OMB Number: 1545–1312.

Regulation Project Number: INTL–15–91.

Abstract: This regulation provides that if a taxpayer identifies a hedge and a dividend, rent, or royalty payment as a hedged qualified payment, then the taxpayer may integrate such transactions. The regulation also allows taxpayers to elect a mark to market method of accounting for foreign currency gains and losses.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 1,500.

Estimated Time Per Respondent: 40 minutes.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

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.

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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB 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.

Approved: February 8, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–3566 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209813–96]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG–209813–96, Reporting Requirements for Widely Held Fixed Investment Trusts (§ 1.671–4(j)).

DATES: Written comments should be received on or before April 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Reporting Requirements for Widely Held Fixed Investment Trusts.

OMB Number: 1545–1540.

Regulation Project Number: REG–209813–96.

Abstract: Under regulation section 1.671–4(j), the trustee or the middleman who holds an interest in a widely held fixed investment trust for an investor will be required to provide a Form 1099 to the IRS and a tax information statement to the investor. The trust is also required to provide more detailed tax information to middlemen and certain other persons, upon request.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,200.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 2,400.

The following paragraph applies to all of the collections of information covered by this notice:

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.

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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB 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.

Approved: February 8, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–3567 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–104–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, FI–104–90 (TD 8390), Tax Treatment of Salvage and Reinsurance (Section 1.832–4(d)).

DATES: Written comments should be received on or before April 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Tax Treatment of Salvage and Reinsurance.

OMB Number: 1545–1227.

Regulation Project Number: FI–104–90.

Abstract: Section 1.832–4(d) of this regulation allows a nonlife insurance company to increase unpaid losses on a yearly basis by the amount of estimated salvage recoverable if the company discloses this to the state insurance regulatory authority.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,500.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 5,000.

The following paragraph applies to all of the collections of information covered by this notice:

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. 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB 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.

Approved: February 7, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–3568 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–P

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–P, U.S. Partnership Declaration and Signature for Electronic Filing.

DATES: Written comments should be received on or before April 17, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Partnership Declaration and Signature for Electronic Filing.

OMB Number: 1545–0970.

Form Number: 8453–P.

Abstract: This form is used to secure the general partner's signature and declaration in conjunction with the electronic filing of a partnership return (Form 1065). Form 8453–P, together with the electronic transmission, will comprise the partnership's return.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 49 min.

Estimated Total Annual Burden Hours: 410.

The following paragraph applies to all of the collections of information covered by this notice:

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. 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.

Request for Comments: Comments submitted in response to this notice will

be summarized and/or included in the request for OMB 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.

Approved: February 3, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–3569 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2688

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2688, Application for Additional Extension of Time To File U.S. Individual Income Tax Return.

DATES: Written comments should be received on or before April 17, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Additional Extension of Time To File U.S. Individual Income Tax Return.

OMB Number: 1545–0066.

Form Number: 2688.

Abstract: Internal Revenue Code section 6081 permits the Service to grant a reasonable extension of time to file a return. Form 2688 allows individuals who need additional time to file their U.S. income tax return to request an extension of time to file after the automatic 4-month extension period ends.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,453,000.

Estimated Time Per Respondent: 46 minutes.

Estimated Total Annual Burden Hours: 1,104,280.

The following paragraph applies to all of the collections of information covered by this notice:

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. 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB 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.

Approved: February 7, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–3570 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–F

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–F, U.S. Estate or Trust Income Tax Declaration and Signature for Electronic and Magnetic Media Filing.

DATES: Written comments should be received on or before April 17, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Estate or Trust Income Tax Declaration and Signature for Electronic and Magnetic Media Filing.

OMB Number: 1545–0967

Form Number: 8453–F

Abstract: This form is used to secure taxpayer signatures and declarations in conjunction with electronic or magnetic media filing of trust and fiduciary income tax returns. Form 8453–F, together with the electronic or magnetic media transmission, will comprise the taxpayer's income tax return (Form 1041).

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 1,000

Estimated Time Per Respondent: 50 min.

Estimated Total Annual Burden Hours: 830

The following paragraph applies to all of the collections of information covered by this notice:

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. 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB 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.

Approved: February 2, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–3571 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W–2G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form W–2G, Certain Gambling Winnings.

DATES: Written comments should be received on or before April 17, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certain Gambling Winnings.

OMB Number: 1545–0238.

Form Number: W–2G.

Abstract: Internal Revenue Code sections 6041, 3402(q), and 3406 require payers of certain gambling winnings to withhold tax and to report the winnings to the IRS. IRS uses the information to verify compliance with the reporting rules and to verify that the winnings are properly reported on the recipient's tax return.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, state or local governments, and non-profit institutions.

Estimated Number of Responses: 4,104,771.

Estimated Time Per Response: 19 min.

Estimated Total Annual Burden Hours: 1,272,479.

The following paragraph applies to all of the collections of information covered by this notice:

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.

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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB 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.

Approved: February 7, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–3572 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–208172–91]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–208172–91 [TD 8787], Basis Reduction Due to Discharge of Indebtedness, (§§ 1.108–4, and 1.1017–1).

DATES: Written comments should be received on or before April 17, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be

directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Basis Reduction Due to Discharge of Indebtedness.

OMB Number: 1545–1539.

Regulation Project Number: REG–208172–91.

Abstract: This regulation provides ordering rules for the reduction of bases of property under Internal Revenue Code sections 108 and 1017. The regulation affects taxpayers that exclude discharge of indebtedness from gross income under Code section 108. The collection of information is required for a taxpayer to elect to reduce the adjusted bases of depreciable property under section 108(b)(5), to elect to treat section 1221(l) real property as either depreciable property or depreciable real property, and to account for a partnership interest as either depreciable property or depreciable real property.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Responses: 10,000.

Estimated Time Per Response: 1 hour.

Estimated Total Annual Burden Hours: 10,000.

The following paragraph applies to all of the collections of information covered by this notice:

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. 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB 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.

Approved: February 10, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–3573 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 97–22

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 97–22, 26 CFR 601.105 Examination of returns and claims for refund, credits or abatement; determination of correct tax liability.

DATES: Written comments should be received on or before April 17, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: 26 CFR 601.105 Examination of returns and claims for refund, credits or abatement; determination of correct tax liability.

OMB Number: 1545–1533.

Revenue Procedure Number: Revenue Procedure 97–22.

Abstract: This revenue procedure provides guidance to taxpayers who maintain books and records by using an electronic storage system that either images their paper books and records or transfers their computerized books and records to an electronic storage media, such as an optical disk. The information requested in the revenue procedure is required to ensure that records maintained in an electronic storage system will constitute records within the meaning of Internal Revenue Code section 6001.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, Federal Government, and state, local or tribal governments.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 20 hours, 1 minute.

Estimated Total Annual Burden Hours: 1,000,400.

The following paragraph applies to all of the collections of information covered by this notice:

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. 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB 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.

Approved: February 8, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–3574 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97–19 and Notice 98–34

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97–19 and Notice 98–34, Guidance for Expatriates under Internal Revenue Code sections 877, 2501, 2107 and 6039F.

DATES: Written comments should be received on or before April 17, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of these notices should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Guidance for Expatriates under Internal Revenue Code sections 877, 2501, 2107 and 6039F.

OMB Number: 1545–1531.

Notice Number: Notice 97–19 and Notice 98–34.

Abstract: Notice 97–19 and Notice 98–34 provide guidance regarding the federal tax consequences for certain individuals who lose U.S. citizenship, cease to be taxed as U.S. lawful permanent residents, or are otherwise subject to tax under Code section 877. The information required by these notices will be used to help make a determination as to whether these taxpayers expatriated with a principal purpose to avoid tax.

Current Actions: There are no changes being made to these notices at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals.

Estimated Number of Respondents: 12,350.

Estimated Time Per Respondent: 32 minutes.

Estimated Total Annual Burden Hours: 6,525.

The following paragraph applies to all of the collections of information covered by this notice:

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. 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB 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.

Approved: February 8, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–3575 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Determination of Necessity for Renewal of the Art Advisory Panel

SUMMARY: It is in the public interest to continue the existence of the Art Advisory Panel.

FOR FURTHER INFORMATION CONTACT: Karen E. Carolan, C:AP:AS, 1099 14th Street, NW., room 4200E, Washington, DC 20005, telephone (202) 694–1861, (not a toll free number).

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (1982), the Commissioner of Internal Revenue announces the renewal of the following advisory committee:

Title. The Art Advisory Panel of the Commissioner of Internal Revenue.

Purpose. The Panel assists the Internal Revenue Service by reviewing and evaluating the acceptability of property appraisals submitted by taxpayers in support of the fair market value claimed on works of art involved in Federal Income, Estate or Gift taxes in accordance with sections 170, 2031, and 2512 of the Internal Revenue Code of 1986.

In order for the Panel to perform this function, Panel records and discussions must include tax return information. Therefore, the Panel meetings will be closed to the public since all portions of the meetings will concern matters that are exempted from disclosure under the provisions of section 552b(c)(3), (4), (6) and (7) of Title 5 of the U.S. Code. This determination, which is in accordance with section 10(d) of the Federal Advisory Committee Act, is necessary to protect the confidentiality of tax returns and return information as required by section 6103 of the Internal Revenue code.

Statement of Public Interest. It is in the public interest to continue the existence of the Art Advisory Panel. The Secretary of Treasury, with the concurrence of the General Services Administration, has also approved renewal of the Panel. The membership of the Panel is balanced between museum directors and curators, art dealers and auction representatives to afford differing points of view in determining fair market value.

Authority for this Panel will expire two years from the date the Charter is approved by the Assistant Secretary for Management and Chief Financial Officer and filed with the appropriate congressional committees unless, prior to the expiration of its Charter, the Panel is renewed.

The Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to

the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Charles O. Rossotti,

Commissioner of Internal Revenue.

[FR Doc. 00–3576 Filed 2–15–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

February 9, 2000.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before March 17, 2000.

OMB Number: 1550—0061.

Form Number: Not applicable.

Type of Review: Regular renewal.

Title: Outside Borrowings.

Description: Information is collected from savings associations that do not meet capital requirements. These institutions must give 10 days prior notification before making long-term borrowings. Information submitted by the institution is used to monitor their safety and soundness.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 1.

Estimated Burden Hours Per Response: 4 hours.

Frequency of Response: One submission per subject institution.

Estimated Total Reporting Burden: 4 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

John E. Werner,

Director, Information & Management Services Division.

[FR Doc. 00–3676 Filed 2–15–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0171]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine an applicant's eligibility for tutorial assistance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 17, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0171'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application and Enrollment Certification for Individualized Tutorial Assistance, VA Form 22–1990t.

OMB Control Number: 2900–0171.

Type of Review: Extension of a currently approved collection.

Abstract: VA uses the information collected to determine eligibility for tutorial assistance. The form is sent by the applicant to the school for certification and transmission to VA. The school will transmit the form to the appropriate VA regional office (*i.e.,* Atlanta, Buffalo, Muskogee, or St. Louis) with jurisdiction over the area where the school is located. VA is authorized to pay tutorial assistance under 38 U.S.C. chapters 30, 32 and 35, and under 10 U.S.C. chapter 1606. Tutorial assistance is a supplementary allowance payable on a monthly basis for up to 12 months. The student must be training at one-half time or more in a post-secondary degree program, and must have a deficiency in a unit course or subject that is required as part of, or prerequisite to, his or her approved program. The student uses VA Form 22–1990t, Application and Enrollment Certification for Individualized Tutorial Assistance, to apply for the supplemental allowance. On the form the student provides information such as: name; Social Security Number; mailing address; telephone number; program and enrollment information; the course or courses for which he or she requires tutoring, the name of the tutor; and the date, number of hours and charges for each tutorial session. The tutor must verify that he or she provided the tutoring at the specified charges, and that he or she is not a close relative of the student. The Certifying Official at the student's school must verify that the tutoring was necessary for student's pursuit of a program, that the tutor was qualified, and that the charges for the tutoring did not exceed the customary charges for other students.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,000 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,000.

Number of Responses Annually: 2,000.

Dated: February 9, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 00–3664 Filed 2–15–00; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0460]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 17, 2000.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0460.''

SUPPLEMENTARY INFORMATION:

Title: Request for Verification of Employment, VA Form 26–8497.

OMB Control Number: 2900–0460.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–8497 is used by lenders to verify a loan applicant's income and employment information when making guaranteed and insured loans. The VA, however, does not require the exclusive use of this form for verification purposes; any comprehensible form or independent verification would be acceptable, provided all information presently shown on VA Form 26–8497 is provided. The form is also used in processing direct loan cases, offers on acquired properties, and release of liability/substitution of entitlement cases when needed.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 28, 1999 at page 52372.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 50,000 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 300,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0460'' in any correspondence.

Dated: February 3, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 00–3663 Filed 2–15–00; 8:45 am]

BILLING CODE 8320–01–U

Federal Register

Wednesday,
February 16, 2000

Part II

Department of Transportation

Coast Guard

33 CFR Parts 174 and 187

Vessel Identification System; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 174 and 187

[USCG–1999–6420]

RIN 2115–AD35

Vessel Identification System

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its regulations on the voluntary Vessel Identification System (VIS). VIS is a nationwide system for collecting information on vessels and vessel ownership to help identify and recover stolen vessels, deter vessel theft, and assist in deterring and discovering security-interest and insurance fraud. These amendments concern the requirements for States electing to participate in VIS. The amendments would improve the integrity and uniformity of the system and reflect recent statutory changes.

DATES: Comments and related material must reach the Docket Management Facility on or before May 16, 2000. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before April 17, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–1999–6420), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call ENS Christopher Williammee, Office of Information Resources, Coast Guard, telephone 202–267–6989, electronic mail CWilliammee@comdt.uscg.mil. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–1999–6420), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know when they were received, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of the comments.

Public Meeting

We do not now plan to hold a public meeting. But, you may request one by submitting a request to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold a meeting at a time and place announced by a later notice in the **Federal Register**.

Regulatory History

The following table outlines the regulatory history of this rulemaking project:

Document type	Federal Register cite	Date published	Comments
Advance Notice of Proposed Rulemaking.	54 FR 38358	9/15/1989	Requested comments and information on establishing a Vessel Identification System (VIS).
Notice of Proposed Rulemaking	58 FR 51920	10/5/1993	Proposed requirements for States electing to participate in VIS, as required by statute.
Interim Final Rule	60 FR 20310	4/25/1995	Established the requirements for participating in VIS; became effective 4/24/1996, with the exception of 33 CFR part 187, subpart D.
Re-opening of comment period and notice of public hearing.	60 FR 53727	10/17/1995	Reopened the comment period for the Interim Final Rule and scheduled two public hearings.
Change in effective date	61 FR 6943	2/23/1996	Delayed the effective date of 33 CFR part 187 subpart D until 4/24/1998.
Re-opening of comment period	62 FR 54385	10/20/1997	Reopened the comment period for the Interim Final Rule (60 FR 20310).
Change in effective date	63 FR 19657	4/21/1998	Delayed the effective date of 33 CFR part 187 subpart D until 4/24/1999.
Change in effective date	64 FR 19039	4/19/1999	Delayed the effective date of 33 CFR part 187 subpart D until 10/24/1999.
Final Rule (removing subpart D)	64 FR 56965	10/22/1999	Removed 33 CFR part 187 subpart D, which never went into effect.

Background and Purpose

The Secretary of Transportation is required to establish a Vessel Identification System (VIS)(46 U.S.C. 12501). VIS is a nationwide system for collecting information on vessels and vessel owners and other information that will assist law enforcement officials in their investigations of stolen vessels or other crimes, such as fraud. It benefits consumers, lenders, insurers, the marine industry, and national boating organizations by increasing the probability of recovering stolen vessels and by decreasing the probability of a person unknowingly purchasing a vessel that is stolen or that has a lien or other claim against it. In turn, VIS should decrease the probability of theft. The responsibility for establishing VIS was delegated by the Secretary of Transportation to the Coast Guard (49 CFR 1.46).

This Supplemental Notice of Proposed Rulemaking (SNPRM) concerns the Coast Guard's regulations in 33 CFR part 187 (Vessel Identification System), which—

(1) Establish minimum requirements for States electing to participate in VIS;

(2) Prescribe guidelines for State vessel titling systems; and

(3) Explain how States may obtain certification of compliance with the vessel titling system guidelines for the purpose of conferring preferred status under 46 U.S.C. 31322(d) on mortgages, instruments, or agreements for State-titled vessels.

State participation in VIS is entirely voluntary; however, to participate, States must comply with certain requirements to ensure the integrity and uniformity of the information provided to VIS.

Most of the information to be included in VIS is already collected by States that number vessels under 33 CFR part 174. This SNPRM proposes to amend the requirements in 33 CFR part 187 for States electing to participate in VIS and makes corresponding changes to the standard numbering system regulations in §§ 174.17 and 174.19.

This notice also proposes a new 33 CFR part 187, subpart D, Guidelines for State Vessel Titling Systems, and clarifies the procedures for obtaining certification of compliance with those guidelines. Under 46 U.S.C. 31322(d)(1), a perfected mortgage covering the whole of a vessel titled in a State that participates in VIS and has a certified vessel titling system will be deemed to be a preferred mortgage. Compliance with the State titling guidelines and requests for certification are entirely voluntary by a State.

Discussion of Comments and Changes to the Proposed Rule

We received 120 comments from April 25, 1995, through December 4, 1997. All comments received, during the two public hearings and in writing, were considered in the development of this SNPRM. The issues raised by the comments, and the sections that have been revised or added since publication of the interim final rule, are discussed. For clarity, some sections were revised or reorganized. For example, existing § 187.1 (Applicability) would be separated into proposed §§ 187.1, 187.3, and 187.5 addressing both applicability and purpose.

A significant number of the changes, including changes to the standard numbering system regulations in §§ 174.17 and 174.19, are the result of comments and recommendations developed jointly by the primary stakeholders in VIS. These stakeholders include representatives of State numbering and titling agencies, the marine lending industry, and the maritime law community. Some additions and deletions to the information that must be provided to VIS have been made.

Sections 174.17, Contents of Application for Certificate of Number, and 174.19, Contents of a Certificate of Number

Several comments recommended that the information used to identify vessels in VIS be consistent with the information required for a certificate of number and that it be updated to meet current needs. We aligned proposed §§ 174.17(a) and 174.19(a) with the changes to part 187, which use the terms in the Boating Accident Report Database (BARD) for identifying vessels. The recommendations are discussed in more detail under the discussion of § 187.103. The remaining paragraphs in §§ 174.17 and 174.19 have been rewritten in plainer language without substantive change.

Section 187.1, Which States Are Affected by This Part?, and Section 187.3, What Vessels Are Affected by This Part?

Part 187 applies to all States that choose to participate in VIS and covers vessels that are numbered or titled under the laws of those States. For vessels documented by the Coast Guard, we will continue to collect information pertaining to them under current vessel documentation regulations in 46 CFR part 67.

1. One comment suggested that information concerning any mortgage and any notice of a claim of a lien on file with respect to a documented vessel should be made available through VIS. The comment further noted that this is of critical importance to members of the public dealing with documented vessels.

VIS will provide the same access to information on vessels documented by the Coast Guard that is available on State-titled vessels. Specifically, we will provide an indicator whether a security interest is recorded against the vessel and where additional information can be obtained.

2. One comment suggested that the final rule specifically include barges in VIS.

The Abandoned Barge Act of 1992 amended 46 U.S.C. 12301 to require the numbering of undocumented barges greater than 100 gross tons. We published a notice on October 18, 1994, (59 FR 52646) seeking comments on the development of a numbering system for barges. Currently, barges are not numbered and the Coast Guard is considering a mandatory numbering system under a separate rulemaking. This proposed rule applies only to vessels numbered or titled under the laws of a State. Therefore, VIS does not cover barges. However, when we establish a barge numbering system, the information will be made available through VIS.

Section 187.5, What Are the Purposes of This Part?

This new section is derived from existing § 187.1(a) and is added for clarity without substantive change.

Section 187.7, What Are the Definitions of Terms Used in This Part?

Based on comments received, some definitions in the current rule would be amended for clarification or deleted and new ones added to reflect the proposed changes in the regulations. For example, we deleted the definition of ''lienholder'' and replaced it with a definition of ''secured party'' to reflect the meaning of that term as defined in the Uniform Commercial Code (UCC) in effect in the States.

Section 187.9, What Is a Vessel Identifier and How Is One Assigned?

1. Revisions to this section clarify that the vessel identifier for a vessel having a valid hull identification number (HIN) is the HIN and further delineate the priority of other possible vessel identifiers for vessels without an HIN. Circumstances are specifically enumerated where the Official Number assigned to a documented vessel or the State certificate of number for

undocumented vessels would be used as a vessel identifier. If a vessel does not have a valid HIN and is transferred to a new owner or moved to a new State of principal operation, then the vessel would be assigned an HIN by the issuing authority for the State in which the vessel is principally operated or by the Coast Guard if the vessel is documented.

To ensure the unique character of a State number as a vessel identifier if there is no HIN, the number issued to a vessel cannot later be reissued by the State to a different vessel. This requirement is addressed in proposed §§ 174.23(c) and 187.9.

2. Several comments suggested that the HIN be submitted with each application for documentation of a vessel for which an HIN is required. They also suggested that the HIN for all vessels in VIS, including documented vessels also identified by their official number, should be made available to users of VIS. The comments further stated that having the HIN available in both the Federal documented vessel and the State vessel registration data banks is essential in making VIS more useful.

The Coast Guard has determined that this recommendation is outside the scope of this rulemaking and should be addressed in amendments to the regulations governing the documentation of vessels.

Section 187.11, What Are the Procedures To Participate in VIS?

Changes in this section clarify the process for State certification if it complies with the VIS participation requirements in subpart C of part 187. These changes are not substantive in nature.

Section 187.13, What Are the Procedures for Obtaining Certification of Compliance With Guidelines for State Vessel Titling Systems?

Changes in this section clarify the procedures for State certification if it complies with the titling guidelines in subpart D of part 187. These changes are not substantive in nature.

Section 187.15, When Is a Mortgage a Preferred Mortgage?

This section has been separated from § 187.13 to define a preferred mortgage. This change is not substantive in nature.

Section 187.101, What Information Must Be Collected To Identify a Vessel owner?

Several comments from the marine lending industry stressed their need for access to vessel ownership information and suggested that we revise our VIS regulations to address ownership concerns, rather than just law enforcement concerns. Some comments indicated opposition to the availability of this information to the general public.

According to the Coast Guard's notice under the Privacy Act of 1974 (5 U.S.C. 552a)(63 FR 2171, January, 14, 1998), we will provide the information in VIS only to authorized persons. We will control access to specific vessel and vessel owner information in VIS through user accounts and passwords established by our Operating Systems Center.

In identifying who should have access to the information in VIS, we must consider the legislative history of the statute requiring establishment of VIS. In debate on the floor of the House of Representatives during consideration of the legislation, the sponsors of the bill clearly stated several times that the purpose for collecting the information is not only to allow law enforcement officers to track interstate movement of stolen boats, but also to allow purchasers to obtain complete information before buying. To meet this legislative intent, it is necessary to provide information from VIS to potential buyers, lenders, and others in the maritime community having business with the vessel in question. Data subject to the Privacy Act may be deleted from information to be made available publicly, as distinct from information to be made available to State agencies, in order to prevent unwarranted invasion of privacy. The Coast Guard solicits comments as to what information should be made available publicly (*e.g.,* to potential buyers and lenders) and what information should not be disclosed to the public.

To disclose information, other than to participating States that provide information to or request information from VIS, we may charge a fee under 31 U.S.C. 9701 and 46 U.S.C. 12505. We will establish fees by a separate regulatory project; however, comments submitted in response to this SNPRM that suggest what fees should be charged to members of the public will be considered during development of the project to establish such fees.

Section 187.103, What Information Must Be Collected To Identify a Vessel?

1. Several comments suggested that collecting the information regarding a vessel's propulsion type, fuel type, type of operation, and number previously issued by another issuing authority would be overly burdensome to the States.

We disagree because the States with approved numbering systems under 33 CFR part 174 are already required to collect this information. The inclusion of this information in VIS should cause no additional information collection requirements for the States.

2. Several comments recommended that information to identify vessels in VIS should be consistent with the information required for a certificate of number and that some categories of information should be updated to meet current needs. The National Association of State Boating Law Administrators (NASBLA), the National Marine Bankers Association (NMBA), and individual States recommended that the information to identify a vessel in various systems should be consistent to the greatest extent possible. In particular, it was recommended that the information required for a certificate of number and for VIS be consistent, to the maximum extent possible, with the information used to identify vessels in the Boating Accident Report Database (BARD).

We agree. Not only should the information collected be consistent but it also should be updated to reflect changes in the boating industry. One example is the inclusion of the term ''personal watercraft'' as a type of vessel.

Over the past several years, we have worked closely with State agencies responsible for recreational boating safety programs to develop BARD. The data collected for BARD is essential to identify the causes of boating accidents and steps that can be taken to reduce the number and severity of accidents. Boating safety professionals, after careful consideration, defined the terms needed to describe vessels in BARD. We agree that the terms for type of vessel, hull material, propulsion, engine and fuel used in BARD should be adopted for purposes of certificates of number for undocumented vessels and VIS and have amended §§ 174.17, 174.19, and 187.103 accordingly.

To further update the regulations, we also propose to include ''charter fishing'' as a new category under ''primary use'' of a vessel. The National Marine Fisheries Service (NMFS) has a statutory requirement to establish a fishing vessel registration system and fisheries information system. To meet that mandate, NMFS proposes to get its basic information about fishing vessels and their owners from the VIS and has requested that we include the term ''charter fishing'' as a category under ''primary use'' of a vessel. The addition of this classification of use is similar to adding the term ''personal watercraft'' as a type of vessel and is considered a reasonable update to the numbering

system regulations to reflect current needs.

We realize that States would need to revise their forms for applications and certificates of number to comply with the proposed changes in the information required to be collected by their vessel numbering systems. The maximum period for which a certificate of number can be valid is 3 years. Therefore, while recommending that States adopt the changes as soon as possible, we propose to allow States a maximum of 4 years to come into compliance. During this period, VIS will accept vessel information from the States as currently required in §§ 174.17 and 174.19.

Section 187.105, What Information on Titled Vessels Must Be Collected and What May Be Collected?

1. The comments generally agreed on the information on titled vessels that must or may be collected by a participating State. We propose to revise this section to show that a State that titles vessels must provide, in addition to the information required for numbered vessels—

(a) The title number;

(b) The issuance date of the most recently issued title or duplicate; and

(c) Information on where evidence may be found of a security interest or lien against a vessel titled in that State, together with the name and address (city and State) of each secured party.

2. Comments suggested that existing paragraph (b) of this section should also be revised to reflect additional information that may be made available to VIS if the information is recorded by the titling authority in a State. The information provided would be useful for purposes of confirming the status of a security interest against the vessel, such as information on—

(a) Any assignment of a security interest;

(b) The date of discharge of a security interest;

(c) The surrender of the certificate of title issued by the titling authority in that State; and

(d) Additional mailing addresses and telephone numbers of any secured party.

As currently designed, VIS can only accept information on the date of discharge of a security interest and the surrender of a certificate of title. Persons seeking other information will need to contact the State in which the vessel is titled. The name and telephone number to contact are available through VIS.

Section 187.107, What Information Must Be Made Available To Assist Law Enforcement Officials and What Information May Be Made Available?

We propose to amend this section to add ''Date of notice of law enforcement status'' and ''National Crime Information Center code'' to the list of information that must be made available to law enforcement officials. Also, we would add language to allow law enforcement officials the option of providing notice that a vessel is being sought for law enforcement purposes other than those described by the usual terms of ''lost,'' ''stolen,'' ''destroyed,'' ''abandoned,'' or ''recovered.''

Section 187.201, What Are the Compliance Requirements for a Participating State?

1. This section would require a State to collect previous certificates of documentation, number, and title when issuing new certificates of number or title. One comment stated that the documentation process would encounter a VIS-caused delay by returning a surrendered certificate of documentation to the Coast Guard. The comment added that retaining and making available the evidence establishing the accuracy of data would require another database.

We understand that most States retain information collected in the application process on microfiche, microfilm, or other electronic storage. This meets the requirement of the regulation. A State may retain or dispose of the previous documents as it sees fit. Because a State is free to dispose of the actual documents, we do not agree that the provision is overly burdensome and have retained the provision.

2. One comment stated that retaining a record on line for the purpose of marking it inactive or transferred to another State would be costly and overly burdensome.

We modified the requirement to provide that States must notify VIS of any transactions that enter, modify, or cancel records in the States' vessel files. After notification, VIS will maintain the information and States may delete or archive the information if they wish to do so.

3. We changed this section to clarify that a participating State may receive a certificate of documentation for a documented vessel, as well as a certificate of number or a certificate of title. The State must notify the issuing authority or the Coast Guard by mail or electronic message of the receipt of the document.

Additionally, the participating State must update the information required to be made available to VIS by providing, within 48 hours, a copy of transactions that enter, modify, or cancel records in the vessel files of that State. These provisions will ensure that a vessel may pass from the Federal documentation system to a VIS participating State Vessel Titling System without jeopardizing the accuracy of vessel ownership information, the legal perfection of the preferred mortgage, or the security interest in the vessel held by a secured party. Transactions received by the State must be made available to VIS on a prompt basis, affording the secured party an opportunity to learn of the change.

Section 187.203, What Are the Voluntary Provisions for a Participating State?

One comment stated that requiring a participating State to provide data for a vessel not in its system (*i.e.,* a vessel numbered in another State that does not participate in VIS) would be unrealistic. This provision is voluntary, and States are not required to do so.

Subpart D, Guidelines for State Vessel Titling Systems

Based on comments received from the States, the marine lending industry, and maritime law interests, subpart D is the most amended portion of the proposed part 187. Several comments suggested that we should petition Congress to amend the statutes that govern VIS to address concerns of the maritime lending and legal communities regarding Coast Guard-documented and/or State-titled vessels. The marine lending industry requested such amendments be enacted by Congress and they were included in the Coast Guard Authorization Act of 1998 (Pub. L. 105–383). Under those amendments, Federal statute now prohibits a vessel being both documented by the Coast Guard and titled by a State (46 U.S.C. 12124).

Section 187.301, What Are the Eligibility Requirements for Certification of a State Titling System To Confer Preferred Mortgage Status?

One comment questioned how preferred mortgage status can transcend to State jurisdiction and how the mechanics of enforcing State laws will be handled when there are maritime liens. The comment expressed concern that costly litigation may ensue and suggested that admiralty and maritime counsel be consulted regarding the practicality of enforcing a preferred ship mortgage on a State-titled vessel.

For preferred mortgage status, 46 U.S.C. 31322(d)(1)(A) and (B) state that

a mortgage perfected under State law, covering the whole of a vessel, is deemed to be a preferred mortgage if the State's titling system is certified to be in compliance with the titling guidelines issued by the Secretary of Transportation and if the information on the vessel covered by the mortgage is made available to VIS.

Section 187.303, What Terms Must a State Define?

We made changes to this section to clarify that a State must define the listed terms substantially as we defined them in § 187.7.

Section 187.304, What Vessels Must Be Titled

We added this section to clarify that a State must require that all vessels numbered in that State under 46 U.S.C. chapter 123 be titled only by that State's titling authority if the State issues titles to vessels of that class. Thus, a State numbering a vessel may not permit the vessel to be titled in another State if the numbering State issues titles to vessels of that class. If a State issues titles to a certain class of vessels, it should be clear that the vessel is principally operated and numbered in that State, and also that no other State should issue a title for that vessel.

Section 187.305, What Are the Requirements for Applying for a Title?

1. One comment suggested that VIS must require disclosure that a vessel may have been registered in a foreign country immediately prior to the application for a title in a State complying with subpart D.

We agree and changed paragraph (c) of this section to require such disclosure.

2. One comment suggested that VIS must require submission of the Certificate of Origin (COO) for a vessel not previously numbered, titled, documented or registered under the laws of a foreign country.

We agree and added a new paragraph (d) to this section to require submission of the COO for a vessel not previously numbered, titled, documented or registered under the laws of a foreign country. We re-designated the current paragraph (d) as paragraph (e).

3. One comment stated that requiring individuals to disclose existing indebtedness, or the State or country in which the vessel was last numbered or titled, would be overly burdensome.

We do not agree that capturing this data would be overly burdensome. The data is needed to help prevent the fraudulent re-titling of vessels in a new State without disclosing an unsatisfied security interest.

4. One State commented that the phrase ''under penalty of perjury'' is not used on its application form and would like to ensure that the States retain latitude with regard to the wording that is used to state that false statements carry penalties.

We agree that States should have such latitude; the requirement only ensures that there are legal penalties for false statements on applications for title.

Section 187.307, What Are Dealer and Manufacturer Provisions?

1. We made changes to this section to address the concerns applicable to dealers and manufacturers who may own a vessel only for resale, or who may own a vessel for use in their businesses. Dealers and manufacturers must not be allowed to apply for a certificate of title for a vessel not required to be numbered in a State. Dealers and manufacturers owning a new or used vessel primarily used in their businesses and held for sale or lease and that otherwise is required to be numbered in the State, may be either permitted or required to apply for a certificate of title for the vessel. The State is free to impose other reporting requirements on dealers and manufacturers in the State. The changes to this section require that dealers and manufacturers, transferring a vessel required to be titled, must transfer any COO for the vessel or any certificate of title that has been issued and not surrendered.

2. One comment suggested that, if a dealer applies for a title for a new unnumbered vessel in Ohio, the COO must be surrendered to the County Clerk issuing the title. Therefore, if the dealer titled the new unnumbered vessel, the dealer could not provide a COO to the vessel owner to initiate a chain of title. The comment further explained that allowing a dealer to title a new vessel and have it remain unnumbered would not work in some States. Some States' numbering and titling authorities commented that requiring dealers to report the acquisition of used numbered vessels for resale would not serve any worthwhile purpose for their programs and, further, that it would be administratively burdensome. Additionally, the option that dealers must apply for a certificate of title would be in direct conflict with most States' laws, which now exempt dealers from the titling requirement.

We changed paragraph (d) of this section to ensure that a dealer or manufacturer must not provide a duplicate COO to the vessel owner without receipt of information, declared under penalties of perjury, concerning the original COO and the circumstances of its loss, theft, mutilation or destruction, together with any recovered original COO or remains from the vessel owner. The term ''DUPLICATE'' must be clearly and permanently marked on the face of any duplicate COO.

Section 187.309, What Are the Requirements for Transfer of Title?

Amendments to this section are for clarification and are not substantive.

Section 187.311, What Are the Application Requirements for a Certificate of Title Because of a Transfer by Operation of Law or Order of Court?

Amendments to this section are for clarification and are not substantive.

Section 187.313, Must a State Honor a Prior State Title, Coast Guard Documentation, and Foreign Registry?

This section would be amended to address, in separate paragraphs, the requirement that a State must honor (1) a current and valid title issued by another State, (2) a Certificate of Ownership or a Certificate of Deletion issued by the Coast Guard, and (3) an authenticated copy of a foreign registry or evidence of deletion from a foreign registry.

Section 187.315, What Happens When a Title Is Surrendered for the Purposes of Documentation?

We wish to emphasize that the statutory prohibition in 46 U.S.C. 12124 against a vessel being documented by the Coast Guard and titled by a State applies to all State-titled vessels, whether or not the title-issuing State participates in VIS or follows these titling guidelines. If a recreational vessel owner has obtained a State title for purposes of convenience or as required by State law and also has a Certificate of Documentation (COD), then the owner must surrender either the State title or the COD.

For a vessel engaged in a trade for which documentation is required under Federal law, the owner cannot choose to relinquish the COD and continue to employ the vessel in trade. Three States (Iowa, New Jersey, and Vermont) require that a vessel receive a State title if its owner resides in the State or if it is principally used in the State, whether or not the Coast Guard documents the vessel. Federal documentation laws in 46 U.S.C. chapter 121 preempt State titling requirements. The COD of a vessel engaged in trade will remain valid and its State title will be void, even if State law requires the title.

This preemption does not extend to recreational vessels, which are not required by Federal law to be documented, unless the vessels are covered by a preferred mortgage. A recreational vessel that is Federally documented is ineligible for State titling, and the vessel owner will have to surrender either the title to the issuing State authority or the COD to the Coast Guard. However, an owner cannot surrender the COD of a vessel covered by a preferred mortgage. States that require titling of Coast Guard-documented vessels may wish to review their titling requirements and make statutory or regulatory changes.

If a title issued by a State is surrendered to us for vessel documentation purposes, we will notify the State titling authority of that fact and the State must administratively process the cancellation of the title.

Section 187.317, What Information Must Be on a Certificate of Title?

One comment argued against including the name and addresses of additional lienholders. None of the States that commented collect this information. One State commented that when a lien is recorded, it electronically enters the date the lien was recorded, not the date of the recording by the lienholder. The date the State records the lien is part of the batch number and does not appear on the certificate of title. Printing the date the State records the lien on the title document would entail extensive system and title document changes. Another comment stated that satisfaction of lien and transfer of lien information is recorded on a separate form (Notice of Recorded Lien, MV–901). The comment also noted that to incorporate this information on the certificate of title would necessitate extensive changes to forms, procedures, and data processing programs with no benefit to a State's system.

Lien information is specifically required to be included in VIS under 46 U.S.C. 12501(b)(5). Lien information is very important in the development of the integrated vessel information and titling system envisioned by Congress. Therefore, we retained in this rulemaking the requirement to include lien information on the certificate of title for States that elect to seek certification under these regulations.

Section 187.319, What Are the Requirements for Applying for a Duplicate Title?

Amendments to this section are for clarity and are not substantive.

Section 187.321, What Are the Hull Identification Number (HIN) Provisions?

Amendments to this section are for clarity and are not substantive.

Section 187.323, What Are the Procedures for Perfection of Security Interests?

Changes to this section are based on the substantial input of marine banking and maritime law interests. Changes to paragraph (a) of this section include specific provisions for perfection of a security interest in a vessel titled in a State. These provisions must be specified by that State and include—

- Delivery of an application for a new or amended certificate of title on which the secured party shall be noted;
- Surrender of any outstanding certificate of number and/or title issued by another State;
- Surrender of a certificate of documentation of any documented vessel that is to be numbered and titled by the State;
- Delivery of an authenticated foreign registry of the vessel or evidence of deletion from the foreign registry of any foreign-registered vessel that is to be numbered and titled by the State; and
- Determination of the date of perfection.

Paragraphs (b), (c), and (d) of this section clarify requirements of 46 U.S.C. 31322(d) and (e), which must be recognized by a State. Paragraph (e) of this section states that a State must provide that certain liens must not be perfected by notation on the title of the vessel. These include, but are not limited to, a security interest in a vessel created by a dealer or manufacturer who holds the vessel for sale, whether or not the vessel is titled, and a security interest claimed in a vessel's proceeds, if the security interest does not have to be noted on the vessel's title in order to be perfected.

Section 187.325, Is a State Required To Specify Procedures for the Assignment of a Security Interest?

We propose to change this section to show the assumption that a security interest may be assigned, in place of the assumption that the assignment necessarily must be perfected. The perfection of the assignment of security interests in vessels is an issue on which States' laws vary.

Section 187.327, What Are a State's Responsibilities Concerning a Discharge of Security Interests?

We propose to change this section to show that a security interest may be discharged as a matter of record, notwithstanding that the debt secured is necessarily satisfied.

Section 187.329, Who Prescribes and Provides the Forms To Be Used?

We propose to change this section to show that a State must prescribe forms necessary to comply with its titling system provisions, without enumeration of those forms.

Section 187.331, What Information Is To Be Retained by a State?

We removed the 3-year requirement to retain and make available the information required for vessel titling purposes. A 3-year time limit is inappropriate in circumstances where the security interest deemed to be a preferred mortgage in a vessel might continue much longer than three years.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed rule would impose zero mandatory costs. For States that choose to participate in VIS, it is expected to impose an average one-time cost of $55,000 per State and an average recurring cost (for correcting inaccurate data entries) equal to $0.75 times 2 percent of the number of annual registration changes per State.

I. Costs

This rulemaking does not impose mandatory costs on States. A State may elect to participate in the Standard Numbering System (SNS) or VIS but is not compelled to do so. Participation is entirely voluntary. All States except Alaska currently participate in the Standard Numbering System. In our estimation of hour and cost burdens, we assumed a 100% participation rate in VIS by 2009.

The total cost of this rulemaking to a State participating in VIS (and SNS) is the sum of the one-time costs and recurring costs. Over the 10-year period of analysis, the present-value total cost of this rule to States that elect to participate in VIS is estimated to be $2,917,450.

(a) One-time Costs.

There are two one-time costs. The largest one-time cost is the cost of developing the VIS/State database interface and update programming at the State level. We estimate the average cost of developing VIS at the State level would be $55,000 per participant. Assuming a 100% participation rate by the year 2009, we estimate that the total one-time cost of developing VIS, in present-value terms, would be $2,366,574 in 1999 dollars.

The second one-time cost is the cost to comply with the proposed data revisions in the Standard Numbering System. The Coast Guard expects most States would not incur this cost because the required changes to the States' databases would probably be covered under most States' service plans. Consequently, we expect the total SNS one-time cost would be negligible; and we estimate the present value total one-time cost of this rule would be $2,366,574.

(b) Recurring Costs.

There are two recurring costs. The first is the cost to produce a daily summary update of registration changes, which is transmitted to VIS. The second is the cost of correcting data entry errors of registration changes.

The daily summary update of registration changes will be generated automatically by the computer program that is developed when a State initially elects to participate in VIS. Consequently, the Coast Guard estimates that the cost to a State of producing approximately 250 annual summary updates would be zero. If a State improperly enters the data for a change of registration, an error report is generated from VIS. A State that receives an error report will be required to correct the data entry. We estimate 2 per cent of a State's registration changes will be improperly entered and generate error reports. In most cases, we expect the error will be limited to a particular field in the data set, and its correction will be quick.

We estimate it would cost an average of $0.75 to correct a data entry (assuming it takes an average of 3 minutes or 0.05 hours at an average of $15 per hour to correct an entry). The corrected data entry will then be automatically included in that day's summary update. So, if a State has an average of 100,000 registration changes per year, we would expect an average of 2,000 data entry mistakes and a recurring cost of $1,500 per year (100,000×0.02×$0.75=$1,500).

The present-value total recurring cost of this rule to States is estimated to be $550,876. When added to the estimated present-value total start-up cost to States of $2,366,574, the present-value total cost of this rule to States over the 10-year period of analysis is $2,917,450 ($550,876+$2,366,574=$2,917,450).

The present-value total cost of this rule to States and to the Federal government to support and maintain VIS is estimated to be $8,688,439 in 1999 dollars ($2,917,450 to States and $5,770,989 to the Federal government).

II. Benefits

(a) Benefits of the Standard Numbering System.

The benefit of the proposed changes to the Standard Numbering System is consistency among various systems requiring the collection of vessel data—the Standard Numbering System, VIS, and the Boating Accident Report Database. The amendments to the Standard Numbering System regulations, which have not been updated in many years, reflect changes in the boating industry, such as identification of personal watercraft as a type of vessel. These changes more accurately reflect the current boating environment and include information to better identify the recreational boating community and the locations where services such as boating safety education, boating law enforcement, or search and rescue activities may be needed. This information is essential to all facets of the national and State recreational boating safety programs.

(b) Benefits of VIS.

The primary benefits of VIS would come from its ability to serve as a tracking device for vessels, with the vessel identifier serving much like the Vehicle Identification Number found in automobiles. As a tracking device, the benefits of VIS would be in the—

(1) Improved odds of recovering a stolen or missing vessel, which benefits boat owners and insurers, and local and State law enforcement agencies;

(2) Decreased odds of unknowingly purchasing a stolen vessel, which can be a financial disaster if the rightful owner shows up to claim it; and

(3) Decreased odds of unknowingly purchasing a vessel that has a lien, unpaid taxes, or other claim(s) lodged against it, which can become the responsibility of the new owner.

VIS establishes penalties for those persons who—

(1) Intentionally provide false information to the issuing authority regarding the identification of a vessel, or

(2) Tamper with, remove, or falsify a unique vessel identification number.

Combining those penalties with its feature as a tracking device, a secondary benefit of VIS would be the reduction in theft of vessels. A third benefit of VIS would be the preferred mortgage status of a perfected mortgage covering the whole of a vessel titled in a State that participates in VIS and has a certified vessel titling system.

(c) Other benefits.

We seek public comment on additional benefits of VIS. We estimate that 10% of stolen vessels are currently recovered. If VIS were to be implemented, how much, if any, would the percentage of recovered vessels increase? In addition to potentially increasing the number of recovered stolen vessels, what other quantifiable benefits would VIS produce?

Collection of Information

This proposed rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). We submitted a copy of the rule, as required by 44 U.S.C. 3507(d), to the Office of Management and Budget (OMB) for its review of the collection of information. OMB approved the collection. The section numbers are §§ 187.11, 187.13, 187.101, 187.103, 187.105, 187.107, 187.201, and 187.301 and the corresponding approval number is OMB Control Number 2115–0607. The changes proposed in this SNPRM would have no appreciable effect on the collection of information as approved.

As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule, if adopted, would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rulemaking affects U.S. States. It imposes zero mandatory costs. According to the U.S. Bureau of the Census, none of the States eligible to participate in VIS has a population less

than 50,000. Thus, there are no small entities affected and no impact upon small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult ENS Christopher Williammee, Office of Information Resources, Coast Guard, telephone 202–267–6989, electronic mail CWilliammee@comdt.uscg.mil.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have federalism implications to warrant the preparation of a Federalism Assessment under that Order.

This rule is not expected to infringe upon the rights of States to regulate, or preempt existing State regulations. State participation is entirely voluntary. However, once electing to participate, a State must comply with the requirements to ensure integrity and uniformity of information in both the Standard Numbering System and VIS. Likewise, requesting certification that a State vessel titling system complies with the guidelines is also voluntary. Such certification, for participating States, confers preferred status on mortgages covering the whole of vessels titled in that State.

However, as stated earlier in the discussion of section 187.315, Federal law (46 U.S.C. 12124) prohibits a vessel from being both documented by the Coast Guard and titled by a State. This prohibition applies to all State-titled vessels, whether or not the title-issuing State participates in VIS or follows the titling guidelines. States that require documented vessels to be titled should consider amending their laws and regulations on this issue.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule establishes a nationwide information system for identifying vessels and vessel owners, and guidelines for State vessel titling systems. This action clearly would have no environmental consequences. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 187

Administrative practice and procedure, Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 174 and 187 as follows:

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

1. The authority citation for part 174 continues to read as follows:

Authority: 46 U.S.C. 6101, 12302; 49 CFR 1.46.

2. Revise § 174.17 to read as follows:

§ 174.17 Contents of application for certificate of number.

(a) An application form for a certificate of number must contain the following information:

(1) Name(s) of owner(s).

(2) Owner(s)' address.

(3)–(4) [Reserved]

(5) State in which the vessel is or will be principally used.

(6) Number previously issued by an issuing authority.

(7) Application type—new number, renewal of number, or transfer of ownership.

(8) Primary use. Authorized terms are ''pleasure,'' ''rent or lease,'' ''dealer or manufacturer demonstration,'' ''charter fishing,'' ''commercial fishing,'' ''commercial passenger carrying,'' or ''other commercial operation.''

(9) Manufacturer, builder, or make.

(10) Model year, manufacture year, or year built.

(11) Manufacturer's hull identification number, if any.

(12) Overall length.

(13) Vessel type. Authorized terms are ''open motorboat,'' ''cabin motorboat,'' ''auxiliary sail,'' ''sail only,'' ''personal watercraft,'' ''pontoon,'' ''houseboat,'' ''rowboat,'' ''canoe/kayak,'' or ''other.''

(14) Hull material. Authorized terms are ''wood,'' ''aluminum,'' ''steel,'' ''fiberglass,'' ''rigid hull inflatable,'' ''rubber/vinyl/canvas,'' or ''other.''

(15) Propulsion type. Authorized terms are ''propeller,'' ''sail,'' ''water jet,'' ''air thrust,'' or ''manual.''

(16) Engine drive type. Authorized terms are ''outboard,'' ''inboard,'' or ''inboard/stern drive.''

(17) Fuel type. Authorized terms are ''gasoline,'' ''diesel,'' or ''electric.''

(18) The signature of the owner.

(b) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit the information under paragraphs (a)(9) through (a)(17) of this section.

(c) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit the information under paragraphs (a)(16) and (a)(17) of this section.

3. Revise § 174.19 to read as follows:

§ 174.19 Contents of a certificate of number.

(a) Except as allowed in paragraphs (b), (c), and (d) of this section, each certificate of number must contain the following information:

(1) Number issued to the vessel.

(2) Expiration date of the certificate.

(3) State of principal use.

(4) Name(s) of owner(s).

(5) Owner(s)' address.

(6) Primary use. Authorized terms are ''pleasure,'' ''rent or lease,'' ''dealer or manufacturer demonstration,'' ''charter fishing,'' ''commercial fishing,'' ''commercial passenger carrying,'' or ''other commercial operation.''

(7) Manufacturer's hull identification number, if any.

(8) Manufacturer, builder, or make.

(9) Model year, manufacture year, or year built.

(10) Overall length.

(11) Vessel type. Authorized terms are ''open motorboat,'' ''cabin motorboat,'' ''auxiliary sail,'' ''sail only,'' ''personal watercraft,'' ''pontoon,'' ''houseboat,'' ''rowboat,'' ''canoe/kayak,'' or ''other.''

(12) Hull material. Authorized terms are ''wood,'' ''aluminum,'' ''steel,'' ''fiberglass,'' ''rigid hull inflatable,'' ''rubber/vinyl/canvas,'' or ''other.''

(13) Propulsion type. Authorized terms are ''propeller,'' ''sail,'' ''water jet,'' ''air thrust,'' or ''manual.''

(14) Engine drive type. Authorized terms are ''outboard,'' ''inboard,'' or ''inboard/stern drive.''

(15) Fuel type. Authorized terms are ''gasoline,'' ''diesel,'' or ''electric.''

(b) A certificate of number issued for a vessel that has a valid manufacturer's hull identification number may omit the information under paragraphs (a)(8) through (a)(15) of this section if the hull identification number is plainly marked on the certificate.

(c) A certificate of number issued to a manufacturer or dealer for use on a vessel for test or demonstration purposes may omit the information under paragraphs (a)(7) through (a)(15) of this section if the word ''manufacturer'' or ''dealer'' is plainly marked on the certificate.

(d) A certificate of number issued for a vessel that is to be rented or leased without propulsion machinery may omit paragraphs (a)(14) and (a)(15) of this section if the words ''livery vessel'' are plainly marked on the certificate.

(e) An issuing authority may print on the certificate of number a quotation of State boating regulations or other boating safety information.

4. In § 174.23, add a new paragraph (c) to read as follows:

§ 174.23 Form of number.

* * * * *

(c) Once issued, a number assigned by an issuing authority to a vessel cannot later be reassigned to a different vessel.

5. Revise part 187 to read as follows:

PART 187—VESSEL IDENTIFICATION SYSTEM

Subpart A—General

Sec.
187.1 Which States are affected by this part?
187.3 What vessels are affected by this part?
187.5 What are the purposes of this part?
187.7 What are the definitions of terms used in this part?
187.9 What is a vessel identifier and how is one assigned?
187.11 What are the procedures to participate in VIS?
187.13 What are the procedures for obtaining certification of compliance with guidelines for State vessel titling systems?
187.15 When is a mortgage a preferred mortgage?

Subpart B—Information To Be Collected by Participating States

187.101 What information must be collected to identify a vessel owner?
187.103 What information must be collected to identify a vessel?
187.105 What information on titled vessels must be collected and what may be collected?
187.107 What information must be made available to assist law enforcement officials and what information may be made available?

Subpart C—Requirements for Participating in VIS

187.201 What are the compliance requirements for a participating State?
187.203 What are the voluntary provisions for a participating State?

Subpart D—Guidelines for State Vessel Titling Systems

187.301 What are the eligibility requirements for certification of a State titling system to confer preferred mortgage status?
187.303 What terms must a State define?
187.304 What vessels must be titled?
187.305 What are the requirements for applying for a title?
187.307 What are dealer and manufacturer provisions?
187.309 What are the requirements for transfer of title?
187.311 What are the application requirements for a certificate of title because of a transfer by operation of law or order of court?
187.313 Must a State honor a prior State title, Coast Guard documentation, and foreign registry?
187.315 What happens when a title is surrendered for the purposes of documentation?
187.317 What information must be on a certificate of title?
187.319 What are the requirements for applying for a duplicate title?
187.321 What are the hull identification number (HIN) provisions?
187.323 What are the procedures for perfection of security interests?
187.325 Is a State required to specify procedures for the assignment of a security interest?
187.327 What are a State's responsibilities concerning a discharge of security interests?
187.329 Who prescribes and provides the forms to be used?
187.331 What information is to be retained by a State?

Appendix A to Part 187—Participating Authorities

Appendix B to Part 187—Participating and Certified Vessel Titling Authorities

Authority: 46 U.S.C. 2103, 12501; 49 CFR 1.46.

Subpart A—General

§ 187.1 Which States are affected by this part?

States electing to participate in the Vessel Identification System (VIS) are affected by this part.

§ 187.3 What vessels are affected by this part?

Only vessels numbered or titled by a participating State are affected by this part. Vessels documented under 46 U.S.C. chapter 121 and 46 CFR parts 67 and 68 are not affected.

§ 187.5 What are the purposes of this part?

The purposes of this part are to—

(a) Establish minimum requirements for States electing to participate in VIS;

(b) Prescribe guidelines for State vessel titling systems; and

(c) Explain how to obtain certification of compliance with State guidelines for vessel titling systems for the purpose of conferring preferred status on mortgages, instruments, or agreements under 46 U.S.C. 31322(d).

§ 187.7 What are the definitions of terms used in this part?

As used in this part—

Approved Numbering System means a numbering system approved by the Secretary of Transportation under 46 U.S.C. Chapter 123.

Certificate of Documentation means the certificate issued by the Coast Guard for a documented vessel under 46 U.S.C. 12103 (Form CG–1270).

Certificate of Origin or *COO* means a document establishing the initial chain of ownership, such as a manufacturer's certificate of origin (MCO) or statement of origin (MSO), an importer's certificate of origin (ICO) or statement of origin (ISO), or a builder's certification (Form CG–1261; see 46 CFR part 67).

Certificate of Ownership means the Certificate of Ownership issued by the Coast Guard under 46 CFR part 67 (Form CG–1330).

Commandant means the Commandant of the United States Coast Guard.

Dealer means any person who engages wholly or in part in the business of buying, selling, or exchanging new or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage or otherwise. A dealer must have an established place of business for the sale, trade, and display of such vessels.

Documented vessel means a vessel documented under 46 U.S.C. chapter 121.

Hull Identification Number or *HIN* means the number assigned to a vessel under subpart C of 33 CFR part 181.

Issuing authority means either a State that has an approved numbering system or the Coast Guard in a State that does not have an approved numbering system.

Manufacturer means any person engaged in the business of manufacturing or importing new vessels for the purpose of sale or trade.

Owner means a person, other than a secured party, having property rights in, or title to, a vessel. ''Owner'' includes a person entitled to use or possess a vessel subject to a security interest in another person, but does not include a lessee under a lease not intended as security.

Participating State means a State certified by the Commandant as meeting the requirements of subpart C of this part. States meeting this definition are listed in Appendix A to this part.

Person means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity and includes a trustee, receiver, assignee, or similar representative of any of them.

Secured party means a lender, seller, or other person in whose favor there is a security interest under applicable law.

Security interest means an interest that is reserved or created by an agreement under applicable law and that secures payment or performance of an obligation.

State means a State of the United States, the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, U.S. Virgin Islands, and any other territory or possession of the United States.

Titled vessel means a vessel titled by a State.

Titling authority means a State whose vessel titling system has been certified by the Commandant under subpart D of this part. Titling authorities participating in VIS are listed in Appendix B to this part.

Vessel includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Vessel Identification System or *VIS* means a system for collecting information on vessels and vessel ownership as required by 46 U.S.C. 12501.

§ 187.9 What is a vessel identifier and how is one assigned?

(a) The vessel identifier for a vessel having a valid HIN is the HIN.

(b) If a vessel does not have a valid HIN, a vessel identifier is assigned under the following table:

If the vessel is:	And does not have a valid HIN:	Then the vessel identifier is:
(1) Documented		The official number assigned by the Coast Guard under 46 CFR part 67.
(2) Documented	And is transferred to a new owner	The HIN assigned by the Coast Guard.
(3) Undocumented	And must be numbered under 33 CFR parts 173 and 174.	The number issued on a certificate of number by the issuing authority of the State of principal operation, provided the number will not be used in the future to identify a different vessel.
(4) Undocumented	And is transferred to a new owner	The HIN assigned by the issuing authority of the State of principal operation.
(5) Undocumented	And the vessel is required to be numbered or titled in a new State of principal operation.	The HIN assigned by the issuing authority of the State of principal operation.

§ 187.11 What are the procedures to participate in VIS?

(a) A State must submit a written request to the Commandant (G–OPB) certifying that it will comply with the VIS participation requirements in subpart C of this part.

(b) The Commandant will review the request and determine if the State is complying with the VIS participation requirements. If so, the Commandant will certify compliance by listing the State in Appendix A to this part.

(c) Appendix A to this part lists those States certified by the Commandant to participate in VIS. When the Commandant determines that a State is not complying with the participation requirements, it will lose its certification and will be deleted from Appendix A to this part.

§ 187.13 What are the procedures for obtaining certification of compliance with guidelines for State vessel titling systems?

(a) A State must submit a written request to the Commandant (G-OPB). The request must include a copy of the State's titling laws, regulations and administrative procedures, and certify that the State will comply with the VIS participation requirements in subpart C of this part.

(b) The Commandant will review the request and determine if the State is complying with the Guidelines for State Vessel Titling Systems in subpart D of this part. If the state is complying with the guidelines, the Commandant will certify compliance and list the State in Appendix B to this part.

(c) Appendix B to this part lists States certified by the Commandant. When the Commandant determines that a State is not complying with the vessel titling guidelines, it will lose its certification

and be deleted from Appendix B to this part.

§ 187.15 When is a mortgage a preferred mortgage?

A mortgage, instrument, or agreement granting a security interest perfected under State law covering the whole of a vessel titled under the law of a participating State is a preferred mortgage if the State is certified under § 187.13.

Subpart B—Information To Be Collected by Participating States

§ 187.101 What information must be collected to identify a vessel owner?

(a) A participating State must collect the following information for a vessel it has numbered or titled when an individual owns the vessel:

(1) Names of all owners.

(2) Principal residence of one owner.

(3) Mailing Address, if different from the address in paragraph (a)(2) of this section.

(4) One of the following unique identifiers for each owner:

(i) Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN).

(ii) If the SSN or ITIN is not available, birth date and driver's license number.

(iii) If the SSN, ITIN, and driver's license number are not available, birth date and other unique identifier prescribed by the State.

(b) A participating State must collect the following information for a vessel that it has numbered or titled when the vessel's owner is not an individual, but a business or other type of organization:

(1) Names of all businesses or organizations that own the vessel.

(2) Principal address of one business or organization.

(3) Mailing address, if different from the address in paragraph (b)(2) of this section.

(4) Taxpayer Identification Number (TIN) for the principal business or organization.

(5) If the TIN for the principal business or organization is not available, one of the following unique identifiers for a corporate officer, a partner, or the individual who signed the application for numbering:

(i) Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN).

(ii) If the SSN or ITIN is not available, birth date and driver's license number.

(iii) If the SSN, ITIN, and driver's license number are not available, birth date and other unique identifier prescribed by the State.

§ 187.103 What information must be collected to identify a vessel?

A participating State must collect the following information on a vessel it has numbered or titled:

(a) Manufacturer's hull identification number (HIN), if any.

(b) Official number, if any, assigned by the Coast Guard or its predecessor.

(c) Number on certificate number assigned by the issuing authority of the State.

(d) Expiration date of certificate of number.

(e) Number previously issued by an issuing authority.

(f) Name of manufacturer, builder, or make.

(g) Model year, manufacture year, or year built.

(h) Overall length.

(i) Vessel type. Authorized terms are ''open motorboat,'' ''cabin motorboat,'' ''auxiliary sail,'' ''sail only,'' ''personal watercraft,'' ''pontoon,'' ''houseboat,'' ''rowboat,'' ''canoe/kayak,'' or ''other.''

(j) Hull material. Authorized terms are ''wood,'' ''aluminum,'' ''steel,'' ''fiberglass,'' ''rigid hull inflatable,'' ''rubber/vinyl/canvas,'' or ''other.''

(k) Propulsion type. Authorized terms are ''propeller,'' ''sail,'' ''water jet,'' ''air thrust,'' or ''manual.''

(l) Engine drive type. Authorized terms are ''outboard,'' ''inboard,'' or ''inboard/stern drive.''

(m) Fuel. Authorized terms are ''gasoline,'' ''diesel,'' or ''electric.''

(n) Primary use. Authorized terms are ''pleasure,'' ''rent or lease,'' ''dealer or manufacturer demonstration,'' ''charter fishing,'' ''commercial fishing,'' ''commercial passenger carrying,'' or ''other commercial operation.''

§ 187.105 What information on titled vessels must be collected and what may be collected?

(a) A participating State must collect the following information on a vessel it has titled and make it available to VIS:

(1) Information required under § 187.103.

(2) Title number.

(3) Issuance date of the most recently issued title or duplicate.

(4) Where evidence may be found on the security interest or lien against the vessel.

(5) Name of each secured party.

(6) Address (city and State) of each secured party.

(b) A participating State may collect the following information on a vessel it has titled and make it available to VIS:

(1) Information concerning the discharge of the security interest.

(2) Information concerning the surrender of the certificate of title.

§ 187.107 What information must be made available to assist law enforcement officials and what information may be made available?

(a) A participating State must make the following information available to law enforcement officials:

(1) Vessel identifier(s), as required by § 187.9.

(2) Notice of law enforcement status. Authorized terms are ''lost,'' ''stolen,'' ''destroyed,'' ''abandoned,'' or ''recovered.''

(3) Date of notice of law enforcement status.

(4) Point of contact for the agency or official reporting the status.

(5) National Crime Information Center code for the reporting agency or official.

(b) A participating State may make the following information available to law enforcement officials:

(1) Notice that the vessel is being sought for a law enforcement purpose other than a purpose listed in paragraph (a)(2) of this section.

(2) Location of vessel when reported lost, stolen, destroyed, abandoned, or recovered.

(3) Vessel insurance policy number.

(4) Name of insurance company.

(5) Address of insurance company.

(6) Mailing address of insurance company, if different from the address in paragraph (b)(5) of this section.

(7) Telephone number of insurance company.

(8) Date the vessel was recovered.

(9) Location of the vessel when recovered.

(10) Names and telephone numbers of contacts not listed under paragraph (a)(4) of this section.

(11) Request to be notified if vessel is sighted.

(12) Purpose of sighting notification request.

(13) Date and time vessel last sighted.

(14) Location of vessel when last sighted.

Subpart C—Requirements for Participating in VIS

§ 187.201 What are the compliance requirements for a participating State?

A participating State must comply with the following requirements:

(a) Collect the required information listed in subpart B of this part and provide that information to VIS under the applicable Coast Guard-State Memorandum of Agreement.

(b) Obtain specific evidence of ownership, such as the COO or current certificate of title and/or number, to identify a vessel's owner.

(c) Retain previously issued evidence of ownership, such as certificate of

number, title, or Certificate of Documentation, and notify the issuing authority or the Coast Guard by mail or electronic message.

(d) Retain information identifying the type of evidence used to establish the accuracy of the information required to be made available to VIS and make it available to the Commandant upon request.

(e) Update the information required to be made available to VIS by providing, within 48 hours, a copy of transactions that enter, modify, or cancel records in the vessel files.

§ 187.203 What are the voluntary provisions for a participating State?

A participating State may—

(a) Provide VIS with the optional information listed in subpart B of this part;

(b) Make available to VIS updated information provided by the vessel owner, government agency, or secured party about a vessel that has been moved to a non-participating State of principal operation; and

(c) Interact with non-participating States to make information available to, or request information from, VIS concerning a vessel or nationwide statistics.

Subpart D—Guidelines for State Vessel Titling Systems

§ 187.301 What are the eligibility requirements for certification of a State titling system to confer preferred mortgage status?

The Commandant, under 46 U.S.C. 31322(d)(1)(A) and § 187.13, may certify a State vessel titling system that meets the requirements of this subpart as complying with the guidelines for vessel titling systems. This certification is for the purpose of conferring preferred mortgage status on a mortgage, instrument, or agreement granting a security interest perfected under State law, covering the whole of a vessel titled in that State. The State must also comply with the VIS participation requirements of § 187.11 and subpart C of this part and make vessel information it collects available to VIS.

§ 187.303 What terms must a State define?

A State must define the terms ''certificate of origin,'' ''dealer,'' ''documented vessel,'' ''issuing authority,'' ''manufacturer,'' ''owner,'' ''person,'' ''secured party,'' ''security interest,'' ''titling authority,'' and ''vessel'' substantially as defined in § 187.7.

§ 187.304 What vessels must be titled?

A State must require that all vessels required to be numbered in the State under 46 U.S.C. chapter 123 be titled only in that State, if that State issues titles to that class of vessels.

§ 187.305 What are the requirements for applying for a title?

(a) A State must require application for a title within a specified period of time, not to exceed 60 days, after a vessel required to be titled is first purchased, ownership is transferred, or there is a change in vessel data listed on the certificate of title.

(b) A State must require disclosure in its titling application form of any secured party holding an unsatisfied security interest in the vessel.

(c) The application must include an entry for identification of the State or country in which the vessel was last numbered, titled, documented, or registered under the laws of a foreign country.

(d) A State must require that a COO for a vessel be submitted together with the application for any new vessel not previously numbered, titled, documented, or registered under the laws of a foreign country.

(e) A State must require that the application include a signed certification that the statements made are true and correct to the best of the applicant's knowledge, information, and belief, under penalty of perjury or similar penalties as prescribed by State law.

§ 187.307 What are dealer and manufacturer provisions?

A State must include the following provisions applicable to any dealer or manufacturer building, buying, acquiring, selling, or transferring a vessel in that State:

(a) Dealers or manufacturers must not be allowed to apply for a certificate of title for a vessel not required to be numbered. Dealers or manufacturers owning a new or used vessel primarily used in their business, held for sale or lease, and required to be numbered may be either permitted or required to apply for a certificate of title for the vessel. The State may impose other reporting requirements on dealers or manufacturers.

(b) Dealers or manufacturers transferring a vessel required to be titled in the name of the dealer or manufacturer must be required to assign the title to the new owner or, for a new vessel, assign a COO for a new vessel. Dealers or manufacturers transferring a vessel permitted to be titled in their name must be required to assign to the new owner any certificate of title which has been issued and not surrendered.

(c) Dealers or manufacturers must not be permitted to provide a duplicate COO if VIS contains information concerning the vessel.

(d) Dealers or manufacturers must be permitted to provide a duplicate COO to the vessel owner only upon receipt of information concerning the original certificate and the circumstances of its loss, theft, mutilation, or destruction and receipt of any recovered original COO or remains from the vessel owner. This information must be declared under penalty of perjury or similar penalties as prescribed by State law. The term ''DUPLICATE'' must be clearly and permanently marked on the face of a duplicate COO.

(e) Dealers or manufacturers must be required to maintain for at least 3 years a record of any vessel bought, sold, exchanged, or received for sale or exchange, and open such records for inspection by the State.

§ 187.309 What are the requirements for transfer of title?

To complete the sale, assignment, or transfer of a titled vessel, a State must require that a manufacturer, dealer, or individual must deliver the vessel's certificate of title to the new owner or new owner's designee, except for transfers by operation of law or order of court.

§ 187.311 What are the application requirements for a certificate of title because of a transfer by operation of law or order of court?

A State must require a new owner to apply for a certificate of title within a specified period of time, not to exceed 60 days, after ownership of a vessel is transferred by operation of law or order of court. This application must include an original or authenticated copy of the legal transfer document.

§ 187.313 Must a State honor a prior State title, Coast Guard documentation, and foreign registry?

(a) A State must honor a title issued by another State as proof of ownership for transfer or sale of a vessel and for applying for a certificate of number or title in the new State of principal operation.

(b) A State must honor a Coast Guard-issued Certificate of Ownership or a Certificate of Deletion as proof of ownership and deletion from documentation.

(c) A State must honor an authenticated copy of a foreign registry, or evidence of deletion from the foreign registry, as proof of ownership and deletion from the foreign registry.

§ 187.315 What happens when a title is surrendered for the purposes of documentation?

A State title is invalid when it is surrendered to the Coast Guard in exchange for a Certificate of Documentation. Upon notification from the Coast Guard of the surrender of a title, a State must process the cancellation of the title.

§ 187.317 What information must be on a certificate of title?

(a) A certificate of title must contain the following information concerning the vessel:

(1) Names of all owners (individuals, businesses, and organizations).

(2) Address of one individual, business, or organization owning the vessel.

(3) Title number.

(4) Date of issuance of title.

(5) Vessel identifier under § 187.9.

(6) Name of manufacturer, builder, or make.

(7) Model year, manufacture year, or year built.

(8) Overall length.

(9) Vessel type. Authorized terms are ''open motorboat,'' ''cabin motorboat,'' ''auxiliary sail,'' ''sail only,'' ''personal watercraft,'' ''pontoon,'' ''houseboat,'' ''rowboat,'' ''canoe/kayak,'' or ''other.''

(10) Hull material. Authorized terms are ''wood,'' ''aluminum,'' ''steel,'' ''fiberglass,'' ''rigid hull inflatable,'' ''rubber/vinyl/canvas,'' or ''other.''

(11) Propulsion type. Authorized terms are ''propeller,'' ''sail,'' ''water jet,'' ''air thrust,'' or ''manual.''

(12) Engine drive type. Authorized terms are ''outboard,'' ''inboard,'' or ''inboard/stern drive.''

(13) Name of each secured party.

(14) Address (city and State) of each secured party.

(15) Recording or perfection date of new security interest and original recording or perfection date of any security interest outstanding.

(b) Space must be provided on the title form for assignment of interests in the vessel, with a signed certification that the statements made are true and correct to the best of the owner's knowledge, information, and belief, under penalty of perjury or similar penalties as prescribed by State law.

§ 187.319 What are the requirements for applying for a duplicate title?

(a) A State must require the holder (owner or secured party) of an original title to apply for a duplicate title after the discovery of the loss, theft, mutilation, or destruction of the original.

(b) The holder must provide information, declared under penalty of perjury or similar penalties as prescribed by State law, concerning the original certificate and the circumstances of its loss, theft, mutilation, or destruction.

(c) The holder must surrender to the State any recovered original title or remains.

(d) The State must clearly and permanently mark the face of a duplicate certificate of title with the term ''Duplicate.''

§ 187.321 What are the hull identification number (HIN) provisions?

A State must—

(a) Upon proof of ownership, assign an HIN and require that it be affixed to a vessel that does not have an HIN at the time of application for certificate of number or title; and

(b) Prohibit removal or alteration of an HIN without authorization from the Commandant.

§ 187.323 What are the procedures for perfection of security interests?

(a) A State must specify, at a minimum, the following procedures for perfection of a security interest in a vessel titled in that State:

(1) Delivery of an application for new or amended certificate of title on which the secured party must be noted.

(2) Surrender of any outstanding certificate of number and any outstanding title issued by another State.

(3) Surrender of the Certificate of Documentation of any documented vessel that is to be numbered and titled by the State.

(4) Delivery of an authenticated copy of any foreign registry of the vessel and evidence of deletion from the foreign registry of the vessel that is to be numbered and titled by the State.

(5) Determination of the date of perfection.

(b) A State must recognize, under 46 U.S.C. 31322(e)(1), that, if a vessel is covered by a preferred mortgage when an application for a certificate of title is filed in that State, then the status of the preferred mortgage covering the vessel is determined by the law of the jurisdiction in which the vessel is currently titled or documented.

(c) A State must recognize, under 46 U.S.C. 31322(d)(2), that, if a vessel titled in a State is covered by a preferred mortgage, that mortgage will continue to be a preferred mortgage even if the vessel is no longer titled in the State where the mortgage, instrument, or agreement granting a security interest perfected under State law became a preferred mortgage.

(d) A State must recognize, under 46 U.S.C. 31322(d)(1), the preferred status of a mortgage, instrument, or agreement granting a security interest perfected under State law covering the whole of a vessel titled in a State after the Commandant has certified that State's titling system and the State participates in VIS with respect to the vessel.

(e) The State must provide that the perfection procedures required to be established under this section do not apply to—

(1) A lien given by statute or rule of law to a supplier of services or materials for the vessel;

(2) A lien given by statute to the United States, a State, or a political subdivision thereof;

(3) A lien arising out of an attachment of a vessel;

(4) A security interest in a vessel created by a dealer or manufacturer who holds the vessel for sale, irrespective of whether the vessel is titled;

(5) A security interest claimed in a vessel's proceeds, as defined in the Uniform Commercial Code in effect in the State, if the security interest in the vessel did not have to be noted on a vessel's title in order to be perfected; or

(6) Any vessel for which a certificate of title is not required in the State.

§ 187.325 Is a State required to specify procedures for the assignment of a security interest?

Yes, a State must specify the procedures that apply to the assignment of a security interest in a vessel titled in that State.

§ 187.327 What are a State's responsibilities concerning a discharge of security interests?

A State must specify the evidence and information that a secured party is required to submit regarding discharge of a security interest and establish procedures for its submission.

§ 187.329 Who prescribes and provides the forms to be used?

A State must prescribe and provide the forms needed to comply with the titling system.

§ 187.331 What information is to be retained by a State?

A State must retain the evidence used to establish the accuracy of the information required for vessel titling purposes and make it available on request to the Coast Guard, participating States, and law enforcement authorities.

Appendix A to Part 187—Participating Authorities

The following States comply with the requirements for participating in VIS:

[Reserved].

Appendix B to Part 187—Participating and Certified Titling Authorities

The following States comply with the requirements for participating in VIS and have a certified titling system:

[Reserved].

Dated: February 9, 2000.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–3496 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–15–U

Federal Register

Wednesday,
February 16, 2000

Part III

Department of Agriculture

Farm Service Agency

Commodity Credit Corporation

7 CFR Parts 718, 723, 1400, et al.
1999 Crop and Market Loss Assistance; Final Rule

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Commodity Credit Corporation

7 CFR Parts 718 and 723

7 CFR Parts 1400, 1412, 1421, 1427, 1430, 1434, 1435, 1439, 1447, 1464, 1469, 1478

RIN 0560–AG13

1999 Crop and Market Loss Assistance

AGENCIES: Farm Service Agency, Commodity Credit Corporation; USDA.

ACTION: Final Rule.

SUMMARY: This final rule implements crop and market loss provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, (the 2000 Act), and the Omnibus Consolidated Appropriations Act, 2000. This action will implement the statutory provisions related to the 1999 Crop Disaster Program, the Livestock Assistance and Livestock Indemnity Programs, Market Loss Assistance Programs for Dairy, Peanuts, and Tobacco, the Milk Price Support Program, Recourse Loan Programs for Mohair and Honey, advance production flexibility contract payments, revision of the Upland Cotton User Marketing Certificate Program, postponement of the Dairy Recourse Loan Program and elimination of the enforcement of sugar marketing assessments through FY 2001. This rule will also amend the regulations to implement several other, related provisions, such as payment limitations and the transfer of flue-cured tobacco quota.

EFFECTIVE DATE: February 11, 2000.

FOR FURTHER INFORMATION CONTACT: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, FSA, USDA, STOP 0540, 1400 Independence Avenue, SW, Washington, D.C. 20250–0540, Telephone: (202) 205–5851.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be economically significant and has been reviewed by the Office of Management and Budget. A cost-benefit assessment was completed and is summarized after the background section explaining the actions this rule will take.

Federal Assistance Programs

The titles and numbers of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are: Commodity Loan Deficiency Payments-10.051; Production Flexibility Payments for Contract Commodities-10.055; Conservation Reserve Program-10.069, Disaster Reserve Assistance-10.452.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because the USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Small Business Regulatory Enforcement Fairness Act of 1996

Section 824 of the 2000 Act requires that the regulations necessary to implement Title VIII, Subtitle A of the 2000 Act be issued as soon as practicable and without regard to the notice and comment provisions of 5 U.S.C. 553. It also requires that the Secretary use the provisions of 5 U.S.C. 808, which provides that a rule may take effect at such time as the agency may determine if the agency finds for good cause that public notice is impracticable, unnecessary, or contrary to the public purpose. These regulations affect the incomes of an extraordinarily large number of agricultural producers who have been hit hard by natural disasters and poor market conditions. Accordingly, because it would be contrary to the public interest to delay this rule, as expressed in the 2000 Act, this rule is effective immediately.

Paperwork Reduction Act

As provided in section 824 of the 2000 Act, these regulations are to be promulgated without regard to the Paperwork Reduction Act. However, the forms necessary to conduct these programs will be submitted for clearance to the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

Background

This Final Rule will implement requirements of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, (Pub. L. 106–78) (the 2000 Act), and the Omnibus Consolidated Appropriations Act, 2000 (Pub. L. 106–113) related to crop and market loss assistance for agricultural producers. It will also implement several other provisions of those and other Acts that are related to but not in themselves crop or market loss assistance provisions. Crop and market loss provisions of the Acts that are being implemented are the 1999 Crop Disaster Program, the Livestock Assistance and Livestock Indemnity Programs, Market Loss Assistance Programs for Dairy, Peanuts, and Tobacco, and advance production flexibility contract payments.

This rule will also amend the regulations to implement a related provision of the 2000 Act, increased payment limitations. Other provisions, such as revision of the Upland Cotton User Marketing Certificate Program, the Milk Price Support Program, Recourse Loan Programs for Mohair and Honey, postponement of the Dairy Recourse Loan Program, elimination of the enforcement of sugar marketing assessments through FY 2001 and the transfer of flue-cured tobacco quota, while not necessarily related to crop or market loss assistance, are mandated by the same subtitle, Subtitle A of Title VIII of the 2000 Act, that mandated the crop and market loss provisions. Regulations implementing Subtitle A were mandated by the 2000 Act to be promulgated without regard to the public comment requirements of the Administrative Procedures Act, 5 U.S.C. 553. Thus, this final rule is a logical place to finalize these additional provisions. Finally, the revisions to the Upland Cotton User Marketing Certificate Program include finalization of proposed rules that were published earlier to implement other legislation,

and removal of obsolete regulations. These revisions are appropriate in order to provide consistent and uniform regulations for the implementation of the revisions mandated by the 2000 Act.

Descriptions of the provisions being implemented by this rule follow.

1. 7 CFR 718 Farm Constitution for Transfer of Tobacco Quota

Section 803 of the 2000 Act amended Section 379(b) of the Agricultural Adjustment Act of 1938 (the 1938 Act) with respect to the organization of tobacco farms. Prior to the enactment of the 2000 Act, the 1938 Act provided explicitly, for tobacco, that where the same owner has tracts of land in contiguous counties, the owner could combine the tracts as one ''farm'' for program purposes so long as one of the tracts had a burley tobacco poundage quota and the local county FSA committee determined that the tracts would be operated as a single farming unit. The 2000 Act extended that allowance to flue-cured tobacco farms. The reconstitution provision at 7 CFR 718.201(a)(4)(ii)(A) has been revised accordingly.

2. 7 CFR 723 Tobacco Quotas and Allotments

This rule will also implement section 755 of the 2000 Act, which amends section 319(l) of the 1938 Act to permit, in Kentucky, Ohio, and Indiana, the lease and transfer of burley tobacco quota across county lines if such leasing is approved in a referendum of growers. Previously, such leasing within those states was only allowed within the same county. Referenda were previously allowed in Tennessee and Virginia. Referenda were held in Tennessee and Virginia in which Tennessee growers favored cross county line leasing, whereas Virginia growers opposed such leasing. Additional referenda will not be held in Tennessee or Virginia unless growers petition the Secretary. Under the amendments made by the 2000 Act, such referenda would be allowed in five states instead of two.

In a related matter also implemented in this rule, section 803 of the 2000 Act amends section 316(g) of the 1938 Act to permit the Secretary, on request of at least 25 percent of the active flue-cured tobacco producers within a State, to conduct a referendum to determine whether the producers favor or oppose permitting the sale of a flue-cured tobacco allotment or quota from a farm in the State to any other farm in the State. That section specifies that such sales shall be allowed if the majority of the voters approve the allowance of such transfers.

Further, section 803 of the 2000 Act modifies section 316(e) of the 1938 Act to exempt flue-cured tobacco from the prohibition of having a tobacco allotment that, in acres, is more than 50 percent of the total cropland on the farm. That provision is also implemented in this rule. In addition, though the 2000 Act amendments exempt flue-cured tobacco from the coverage of section 316(e), the amendments to section 316(e) retain in that subsection a definition of ''tillable cropland.'' As that definition, however, only had significance with respect to the flue-cured tobacco and the application of section 316(e), that definition is removed by this rule from the program regulations in part 723.

Finally, section 803 of the 2000 Act also amends section 379(b) of the 1938 Act, which provided explicitly that where the same owner has tracts of land in contiguous counties, the owner can combine the tracts as one ''farm'' for program purposes so long as one of the tracts has a burley tobacco poundage quota and the local county FSA committee determines that the tracts will be operated as a single farming unit. The 2000 Act amendments extend the allowance to flue-cured tobacco farms. That provision is implemented in this rule. Because that provision involves the general regulations dealing with farm reconstitutions that are codified at 7 CFR Part 718, it is also described in that section of this rule.

3. 7 CFR 1400 Limitation on 1999 Marketing Loan Gains and Loan Deficiency Payments

This rule amends 7 CFR Part 1400 to set forth a revised limitation on Marketing Loan Gains (MLG's) and Loan Deficiency Payments (LDP's) for 1999 contract commodities and oilseeds as required by the 2000 Act. Specifically, Section 813(a) of the 2000 Act increased to $150,000 the maximum total amount of payments identified in section 1001(3) of the Food Security Act of 1985 (7 U.S.C. 1308(1)) (the 1985 Act) that a person may receive under the Agricultural Marketing Transition Act (AMTA) for one or more contract commodities and oilseeds produced during the 1999 crop year. This rule does not amend any other provisions of part 1400. It should be emphasized that the change to the $150,000 limitation on MLG's and LDP's is applicable only to the 1999 crop year. The revised limitation for 1999 MLG's and LDP's does not affect any other payment eligibility and limitation requirements contained in part 1400, or any price support benefit or price support loan making eligibility requirements that may be contained in parts 1421 or 1427 of this chapter, or elsewhere.

4. 7 CFR Part 1410 Recission of the Highly-Erodible Land Restriction for the Conservation Reserve Program

Section 763 of the 2000 Act deleted section 1232(a)(11) of the 1985 Act, as amended. That section required, as a condition of contract compliance for certain producers with Conservation Reserve Program contracts, that the producer not use any newly-acquired highly-erodible land for the production of certain crops unless the land had a history of crop use. This rule revises the CRP regulations at 7 CFR Part 1410 accordingly.

5. 7 CFR Part 1412 Production Flexibility Contracts

This rule amends the regulations governing Production Flexibility Contracts (PFC's) to provide for greater flexibility in the timing of the FY 1999 through 2002 program payments, as required by section 811 of the 2000 Act. It also amends the regulations to reduce payments when contract acreage is planted to wild rice, to change the deadline for enrolling land that is under an expiring Conservation Reserve Program (CRP) contract into the PFC program and to provide that PFC payment shares must be redesignated within 30 days of official approval of any reconstitution of a PFC farm. These latter changes are intended to improve program delivery.

The PFC program, enacted in 1996, allows persons with farms with crop bases under previous commodity support programs to enter into agreements for payments for the 1996–2002 crop years in return for limiting the use of the contract acres during the contract period.

Section 727 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Pub. L. 105–277) (1999 Appropriations Act), provides that the number of acres on which a participant will be eligible for 1999 PFC payments must be reduced, acre for acre, for each contract acre on which wild rice is planted. Additionally, Section 727 of the 2000 Act provides that the number of acres on which a participant will be eligible for 2000 and future years' PFC payments must be reduced, acre for acre, for each contract acre on which wild rice is planted. Section 1412.206 has been amended accordingly. Also, the Emergency Farm Financial Relief Act (Pub. L. 105–228) amended section 112(d) of AMTA (7 U.S.C. 7212(d)) to provide greater flexibility in the timing

of the issuance of the 1999 PFC payments. The 2000 Act authorizes the same payment options for FY 1999–2002. Section 1412.302 of the regulations is amended accordingly. In addition, to help establish clear program eligibility, 7 CFR 1412.201 is amended to provide that the shares on a PFC must be designated or redesignated within 30 days of the approval of a reconstitution on a PFC. The 30-day limitation is in addition to other limits that may apply. Finally, to allow greater time for a producer to consider the producer's options, this rule will allow land with a Conservation Reserve Program (CRP) contract expiring after August 1, 1998, to be enrolled in the PFC program anytime up until April 1 of the fiscal year following the fiscal year in which the CRP contract expires. Prior to this amendment, the deadline for enrolling in a PFC would have been the last day of November of the fiscal year following the year in which the CRP contract expires. Section 1412.501(d) and (e) have been amended for that reason and for clarity. These amendments still will not allow any land to generate both a PFC and CRP payment for the same year.

6. 7 CFR Part 1421 New Eligibility Rules for MLG's and LDP's

Section 813(a) of the 2000 Act increased the payment limitation for MLG's and LDP's for one or more contract commodities and oilseeds produced during the 1999 crop year from $75,000 to $150,000. Section 813(b) directed the Secretary, in administering the increased payment limitation, to allow a producer that marketed a quantity of an eligible 1999 crop for which an MLG or LDP was not received to receive such payment or gain as of the date the quantity was marketed or redeemed.

Rules governing MLG's and LDP's are codified in 7 CFR Part 1421.1, and those regulations are modified in this rule to reflect these new statutory provisions. Subject to certain conditions, the new rules will allow a producer that is otherwise eligible to receive a payment to receive an MLG or LDP even though the producer has already marketed the commodity. This will only apply for commodities marketed on or before date of publication of this rule and to otherwise eligible producers on commodities for which no MLG or LDP has been paid.

This rule makes similar changes regarding eligibility requirements for MLG's and LDP's in part 1427.

7. 7 CFR Part 1427 Upland Cotton User Marketing Certificate Program

This rule amends the Upland Cotton User Marketing Certificate Program regulations to implement both 2000 Act provisions and changes required by earlier legislation. The amendments will accomplish three distinct objectives:

A. Changes to the regulations for the user marketing certificate program are necessitated by statutory changes made by section 731 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998 (Pub. L. 105–86), by section 762 of the 1999 Appropriations Act, and by section 806 of the 2000 Act. These acts amended the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act) to change the requisite conditions in the cotton market under which user marketing certificates must be made available. The 1996 Act, as amended, requires that user marketing certificates be made available to domestic users and exporters for raw upland cotton grown in the United States and consumed or exported after four consecutive weeks during which the U.S. price quotation for upland cotton, including cost, insurance, and freight (C.I.F.), delivered in northern Europe, exceeds the average quotation for the five cheapest growths of upland-style cotton quoted for delivery, C.I.F. northern Europe, by more than 1.25 cents per pound.

If marketing certificates are being made available, the 1996 Act, as amended, provides that such certificates are interrupted whenever the adjusted world price (AWP) at which upland cotton marketing loan repayments are made rises to a level in excess of 134 percent of the current loan rate.

B. About mid-April each year, price quotations for both the old-crop (current) and new-crop (forward) marketing years become available and are usually published concurrently until the end of the marketing year on July 31. Given the parallel sets of price data, administration of the user marketing certificate program requires a procedure to effect the transition from the old crop to the new crop during the four weeks following July 31.

On August 7, 1997, CCC established a transition procedure with respect to the weekly determination as to whether the requisite period of consecutive weeks has passed in which U.S. price quotations, C.I.F. northern Europe, have exceeded the average quotation for the five cheapest growths of upland-style cotton quoted for delivery, C.I.F. northern Europe, by more than 1.25 cents per pound. Under this transition procedure, current-crop price quotations are considered for the weeks prior to the first Thursday after July 31 to determine whether each week's data should be counted toward the four consecutive weeks the passage of which could cause special global import quotas to be opened.

Under current regulations, user marketing certificate payment rates throughout the year are based on current-crop quotations. However, current regulations require that, at the marketing year transition period, price quotations for the forward crop be considered for the three weeks prior to the first Thursday after July 31 to determine whether four consecutive qualifying weeks have passed that would require user marketing certificate payments to be made available. This procedure is inconsistent with the procedure now used for the determination regarding the special global import quota. This final rule sets forth an end-of-year transition procedure that is identical to the procedure USDA established on August 7, 1997, and thereby attains consistency by establishing that current-crop price quotations from the weeks prior to the first Thursday after July 31 will be used for the 4-week determinations for both the special global import quota and the user marketing certificate program.

C. Current regulations contain language that is obsolete and applied only to situations that have passed and cannot recur. The language remained following the regulatory revisions in 1996 so that prior existing claims under the user marketing certificate program could be handled. There is no further need for this language, so it is deleted from the regulations.

A Notice of Proposed Rulemaking was published in the **Federal Register** on December 9, 1998, (63 FR 67806) regarding these issues. No comments were received, and those changes have been adopted in this rule along with the additional modifications needed to reflect provisions of the recent appropriations bill which revives this program by effectively removing the spending cap that formerly was codified in the legislation at $701 million.

8. 7 CFR Part 1430 Price Support Program for Milk, Dairy Recourse Loan Program, and Dairy Market Loss Assistance Program

Section 807 of the 2000 Act postpones the termination date of the Milk Price Support Program until December 31, 2000, and continues the $9.90 per hundredweight support rate for milk that was in effect during calender year 1999 through the year 2000. Section 807

of the 2000 Act postpones the start of the Recourse Loan Program for Commercial Processors of Dairy Products from January 1, 2000, to January 1, 2001. This rule modifies the provisions of 7 CFR part 1430 accordingly.

Sections 805 and 825 of the 2000 Act provided $325 million for assistance for livestock and dairy producers who suffered economic losses in 1999. Of that $325 million, $125 million must be made available to dairy producers. The assistance will be provided by extending the Dairy Market Loss Assistance Program (DMLAP), which was established by a final rule published in the **Federal Register** on May 10, 1999 at 64 FR 24933. This present rule amends part 1430 to expand the current regulation to cover the second Dairy Market Loss Assistance Program.

The original DMLAP implemented section 1121 of Pub. L. No. 105–277, which directed the Secretary to provide $200 million in assistance to dairy producers. Eligible dairy producers received payments under this program for the first 26,000 hundredweight (cwt.) of milk marketings in either calendar year 1997 or 1998, but not both. Eligible operations had to have been in existence during the fourth quarter of 1998. The $200 million was divided among all the eligible dairy operations that applied during the initial application period that ended on May 21, 1999.

Under the new provisions of this rule, signup has been extended through February 28, 2000. Dairy operations may apply in person at county FSA offices during regular business hours, and at that time complete the application form. Dairy operations that applied for and received payments under the May 1999 dairy market loss assistance program do not need to reapply. Additional payments will be issued based upon the original application. The per-cwt. payment rate will be the $125 million available divided by the eligible production of milk (limited to 26,000 cwt. per dairy operation) marketed commercially during the base period.

9. 7 CFR Part 1434 Recourse Loan Regulations for Honey

Section 1122 of Pub. L. 105–277 provided that in order to assist producers of honey to market their honey in an orderly manner during a period of low prices, the Secretary would be required to make recourse loans to producers of the 1998 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary. That section specified a particular loan rate and specified that repayment of such loans would require, in addition to repayment of principal and interest, collection of such administrative costs as necessary to operate the program on a no net cost basis. Thereafter, regulations were issued that were codified in 7 CFR part 1434 by a final rule published on March 8, 1999 (64 FR 10923). Subsequently, in Pub. L. 106–31, Congress amended the no net cost provision of Section 1122 of Pub. L. 105–277 to specify that no administrative costs should be charged against this program to the extent that those costs were costs which would have been incurred otherwise.

More recently, section 801 of the 2000 Act provided for a similar program for the 1999 crop. That section provides generally for the use of $1.2 billion in CCC funds to make emergency financial assistance available to producers on a farm that have incurred losses in a 1999 crop due to a disaster as determined by the Secretary. With respect to honey, however, that section specifies that in order to assist producers of honey to market their honey in an orderly manner during a period of low prices, the Secretary may use funds otherwise made available for use under Section 801 to make available recourse loans to producers of the 1999 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary. As with the program provided in Pub. L. 105–277 for the 1998 crop, the 2000 Act specifies that the loan rate shall be 85 percent of the average price of honey during the 5-crop year period preceding the crop year for which the loan is made, excluding the crop year in which the average price of honey was the highest and the crop year in which the average price was the lowest in the period. This final rule will amend part 1434 to expand the current regulation to cover 1999-crop honey as well. The 1999-crop program will be operated in the same manner as the 1998-crop program given the similarity of the 1999-crop statutory provisions to those for the 1998 crop. Program details were set out in the March 8, 1999, rule. The adopted regulations specify that the final loan date for 1999-crop honey will be March 31, 2000. Also, the rule amends section 1434.9 to reflect the change in the no-net-cost aspect of the program brought about by Pub. L. 106–31.

10. 7 CFR Part 1435 Sugar Marketing Assessments

Section 803(b) of the 2000 Act provides that none of the funds appropriated or otherwise made available by this Act or any other Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out or enforce section 156(f) of the 1996 Act through fiscal year 2001. Section 156(f) of the 1996 Act provides for a marketing assessment for sugar, and regulations for that assessment are codified in 7 CFR part 1435. This rule modifies part 1435 in light of the provisions of section 803(b) of the 2000 Act. Section 156(f) of the 1996 Act requires first processors to pay an assessment on the marketing of all raw cane sugar and raw beet sugar in fiscal years 1996–2003. That part calls for an accounting on a monthly basis and also provides that at the end of each fiscal year processors must pay an assessment on their inventories on hand even though those inventories have not yet been marketed.

Section 803 does not apply to particular sugar but rather to the enforcement of the assessment during a certain period. However, the orientation of the assessment statute itself is toward month to month accounting and reporting. Processors will not be required to file reports during the period October 23, 1999, through September 30, 2001. Sugar that is marketed during September of 2001 will be sugar on which the assessment will be due when the report on that sugar is due in October of 2001.

11. 7 CFR Part 1439 Livestock Assistance and Livestock Indemnity Programs

Section 805 of the 2000 Act provides that the Secretary shall use $325 million of CCC funds to provide assistance directly to livestock and dairy producers in a manner determined appropriate by the Secretary to compensate the producers for economic losses incurred during 1999. Section 825 of the 2000 Act provides that of the funds provided in section 801 (which deals with crop losses) and section 805 of the 2000 Act, no less than $200 million shall be used for livestock producers for losses due to drought or other natural disasters. This rule will implement the livestock requirements through the Livestock Assistance Program (LAP) and the Livestock Indemnity Program (LIP).

Several programs dealing with livestock matters are codified at 7 CFR part 1439. That part was amended in March 1999 (64 FR 13497, March 19, 1999) to set out a 1998 LAP based on Pub. L. 105–277. A new LAP program based on the 2000 Act will be created using the same criteria that were used for the 1998 LAP program. The program for 1998 was successful in identifying needy producers in an efficient manner. Use of the same criteria will help avoid confusion and should serve as well in

making it possible for benefits to be made available more rapidly.

There is a suggestion in the 2000 Act conference report that last year's LAP limit per person of $40,000 in benefits be, for this year, increased to a higher level. However, on consideration, it has been decided not to adopt that suggestion as it would draw funds away from potentially needier farmers with smaller operations.

As with the 1998 LAP program, benefits under the new program will be provided to eligible livestock producers only in those counties where a severe natural disaster occurred, and that were subsequently designated eligible counties by the Deputy Administrator for Farm Programs of FSA. To be designated an eligible county, the county must have suffered a 40-percent or greater grazing loss for 3 consecutive months during the 1999 calender year as a result of damage due to a drought or other natural disaster. Each county must qualify on its own, unlike in some programs in the past where contiguous counties have also been eligible. Further, the livestock producer must have suffered at least a 40-percent loss of normal grazing for the producer's eligible livestock for a minimum of 3 consecutive months. Losses will only be compensable up to 80 percent of the total grazing available and the compensable loss cannot exceed a maximum determined and announced by the local county committee. The program will be administered through the Deputy Administrator for Farm Programs, FSA. The producer's gross loss eligibility will be computed using a formula that takes into account the composition of the producer's livestock holdings and will be subject to funding and other limitations, including a per person payment limitation and a provision which precludes participation for persons whose 1998 gross revenues exceed $2.5 million. As with the 1998 program, the regulations allow for a final payment eligibility not to exceed 50 percent of the eligible loss amount. To the extent that the funds available for the program are not enough to cover the claims, the claims will be pro-rated using a national factor, if applicable. For purposes of per-person payment limits for the new program, the regulations in 7CFR 1400 will be used to determine who qualifies as a separate ''person'.

In addition to the LAP, a new LIP will compensate producers for losses of livestock. The new LIP, referred to as 1999 LIP, Phase II, will follow closely upon the LIP program promulgated in regulations published at 64 FR 58766 on November 1, 1999. That LIP program, which will now be known as 1999 LIP, Phase I, is authorized by provisions of the 1999 Emergency Supplemental Appropriations Act (Pub. L. 106–31), enacted on May 21, 1999, which made $3,000,000 available to the Secretary of Agriculture to implement a livestock indemnity program for qualifying livestock losses occurring in the period beginning on May 2, 1998, and ending on May 21, 1999. That legislation specified that the covered losses had to be due to natural disasters declared by the President or Secretary of Agriculture. Further, that legislation specified that the request for qualifying declaration had to be submitted by May 21, 1999, and that, to the extent practicable, benefits had to be provided in a manner similar to that used for the livestock indemnity programs carried out by the Secretary during 1997 and 1998. Also, Pub. L. 106–31 specified that benefits under the program would be subject, to the extent practicable, to the gross income means test and payment limitations of the 1996-crop Disaster Reserve Assistance Program (DRAP) previously codified in 7 CFR part 1437. Under the 1996 DRAP, no person could receive more than $50,000 in payments and no person could receive any payment at all if that person's annual gross revenue exceeded $2.5 million. The 2000 Act does not carry that specificity with respect to livestock losses but rather, as indicated, simply provides generally that at least $200 million of the funds available under Sections 801 and 805 of the 2000 Act for 1999 crop and livestock disaster losses must be made available to livestock producers.

The LIP, Phase I, was a successful and fair way of making assistance available to producers and following the existing program will allow for an efficient and cohesive way of providing additional assistance.

Accordingly, this rule simply expands the existing LIP rules in part 1439 to allow for the new LIP by extending benefits to losses that occurred in that part of 1999 not covered by Phase I, namely, losses that occurred due to a natural disaster that was the subject of a Presidential or Secretarial disaster declaration that was requested between May 22, 1999 and December 31, 1999, inclusive, and subsequently approved. Losses of livestock due to drought conditions are deemed to have been avoidable and are not eligible for benefits under LIP. Benefits were available to producers under LAP, which would have compensated the producer for purchased feed. Otherwise, with one exception noted below, this rule will follow the substantive terms of Phase I, the details of which were set out in the November 1, 1999, rule.

For the 1999 livestock indemnity programs, payment rates will vary by class of livestock involved and the payment rate will be a percentage of the assigned market price for the class.

As in Phase I, no person can receive benefits if that person's gross revenue, as defined by applicable regulations, exceeds $2.5 million. The only substantive variance between the two phases, other than the time period covered, will be in dealing with the per-person payment limit. As indicated above, Phase I had a $50,000 per person limit, whereas LAP had a $40,000 payment limit. In order to provide for consistency with LAP and to provide for a better disbursal of benefits to smaller farms, which are generally less able to deal with adverse market conditions, this rule adopts a $40,000 per person payment limit for LIP, Phase II. Phase I and Phase II will be considered separate programs for payment limitation purposes and payments for a loss will be compensated only under one of these two programs. Only $200 million will be allotted to the new livestock programs and claims will be prorated as needed.

12. 7 CFR Part 1447 1999 Peanut Marketing Assistance Program

Section 803(a) of the 2000 Act provides that the Secretary shall use such amounts as are necessary of funds of the Commodity Credit Corporation to provide payments to producers of quota or additional peanuts to partially compensate them for continuing low commodity prices and increasing costs of production for the 1999 crop year. The 2000 Act specifies that the amount of the payment to producers on a farm of quota or additional peanuts shall be equal to the product obtained by multiplying the quantity of quota peanuts or additional peanuts produced or considered produced by the producers by an amount equal to 5 percent of the loan rate established for quota peanuts or additional peanuts, respectively, under section 155 of AMTA. In order to implement this new program new regulations are codified by this rule in part 1447. In the case of so-called ''fall transfers'' where a farmer with a quota is unable to sell the quota peanuts, the farmer will be considered to have been the producer of quota peanuts and will be eligible at the quota rate for peanuts. The transferee will also be considered the producer of quota peanuts because the peanuts will have been marketed using a quota. In the case of spring transfers, the transferrer will not be eligible for a payment unless the

transferrer actually planted peanuts or was prevented from doing so by conditions beyond the producer's control. While the transferrer in those cases receives what is called ''considered produced credit'', which allows the transferrer to avoid losing the quota for non-use, the transferrer is not considered to have actually produced any peanuts. Thus, for example, in traditional disaster programs such transferrers have not received disaster payments whereas a farmer who planted peanuts but lost them due to a disaster was considered to have produced the peanuts and was, therefore, eligible for payments. Persons wanting to participate in the new program must file an application the payment by January 31, 2000, or such other date as may be set by the Deputy Administrator for Farm Programs, FSA. Applications will be spot-checked and validated by FSA.

13. 7 CFR 1464 Tobacco Loss Assistance Program

This rule provides for several amendments to existing regulations regarding tobacco. First, section 803 of the 2000 Act authorizes the Secretary to use $328 million of funds of CCC to make payments to States on behalf of persons whose 1999 quota or acreage allotment for tobacco was reduced from the 1998 crop year level due to a drop in the national marketing quota or poundage quota for a kind of tobacco. This rule implements this provision by an amendment to 7 CFR part 1464 providing for a Tobacco Loss Assistance Program (TLAP) to distribute those funds to the States. The rule provides that CCC will allocate funds to State governments with eligible growers. It appears that the States that will be eligible for receipt of the quota reduction funds will be those states in which burley, flue-cured, fire-cured and cigar-filler and binder tobaccos are grown. There is, it is noted, some question under the statute about the scope of the coverage of the program. That debate arises because burley and flue cured tobaccos are the only tobaccos for which poundage quotas are assigned at the farm level and because of the existence of a colloquy in the Senate's consideration of the bill in which it was stated that the intent of the provision in the statute was to grant relief for burley and flue-cured growers. For other kinds of tobacco the farm does not receive a farm poundage quota as such, but receives an allotment that limits the number of acres that can be devoted to the crop. However, the statute provides that those farms that will be eligible for the payment will be those farms for which the ''quantity of quota allotted'' to the farm was reduced between the two years in question. Thus, there is no specific limitation in the statute to burley and flue-cured tobacco that could have been easily implemented and that would have been clearly understood. Further, while for other tobaccos there are not farm poundage quotas but farm acreage allotments, which limit the number of acres that can be devoted to the crop, the farm's allotment is determined by apportioning a national marketing quota for the farm based on yield calculations. Hence, there is, in that sense, when there is a drop in the overall quota, as there was for fire-cured and cigar-filler and binder tobaccos, a reduction in the quota allotted to the farm. For that reason, it appears that for producers of those tobaccos the statutory condition for payment is met. On the other hand, while the colloquy does mention cigarette tobaccos, the statute does specifically limit its coverage to those tobaccos for which there are quotas and allotments. Thus, cigarette tobaccos for which there are no such quota or allotments, because they have been rejected by referenda conducted among producers, are not eligible for the distribution.

Insofar as distribution of the monies are concerned, the rule provides generally that the Secretary will distribute the $328 million quota reduction funds only to the State or their agents rather than to growers directly. The States, however, would take the sums obligated, except for the costs of distributing the principal and any interest earned on it to eligible growers in accordance with the terms of the 2000 Act. The 2000 Act generally calls for the distribution to be made, where applicable, in the same manner as the current distributions are being made under the National Tobacco Growers Settlement Trust (the Trust), a special $5 billion trust created by tobacco companies to provide compensation to tobacco growers. States not party to the Trust are eligible for disaster funds but must submit a distribution plan for approval by the Executive Vice-President, CCC. Questions of eligibility under the new $328 million program would have to be resolved by complainants with the States themselves. In order, however, to allow for maximum flexibility, the rule would allow for CCC to make direct distributions to eligible persons if a compelling need should arise.

14. 7 CFR Part 1469 Mohair Recourse Loans

Section 1126 of the 1999 Appropriations Act provided that in order to assist producers of mohair to market their mohair in an orderly manner during a period of disastrously low prices, the Secretary would be required to make available recourse loans to producers who produced or had mohair on hand before or during FY 1999. Section 1126 specified a loan rate of $2.00 per pound and that such loans would require repayment of principal only. The program regulations were codified at 7 CFR part 1469 by a final rule published on March 8, 1999 (64 FR 10929).

Section 801 of the 2000 Act provided for a similar program for mohair produced or on hand before or during FY 2000. Section 801 provides generally for the use of $1.2 billion in CCC funds to make emergency financial assistance available to producers on a farm that have incurred losses in a 1999 crop due to a disaster as determined by the Secretary. Regarding mohair, Section 801 specifies, in language that is the same in substance as that for the FY 1999 program provided by the 1999 Appropriations Act, that in order to assist producers of mohair to market their mohair in an orderly manner during a period of low prices, the Secretary may use funds otherwise made available for use under Section 801 to make available recourse loans to producers of mohair produced during or before FY 2000 on fair and reasonable terms and conditions, as determined by the Secretary. The interest free provision specified in section 137(c)(4) of the 1999 Appropriations Act was removed by section 801(h)(2) of the 2000 Act. Loans made during FY 2000 will accrue interest as provided in 7 CFR part 1405. This rule amends 7 CFR part 1469 to expand the current regulations consistent with the new legislation. The FY 2000 program will be operated in the same manner as the FY 1999 program. The final loan application date for FY 2000 mohair will be September 30, 2000.

15. 7 CFR Part 1478 1999 Crop Disaster Program

Section 1102 of the 1999 Appropriations Act provided for a crop loss program that covered, with certain conditions, disaster-related crop losses for 1998 and prior years. The Secretary was directed, in that connection, not to discriminate against or penalize producers on a farm who had purchased crop insurance under the Federal crop insurance program. In order to implement that program, new rules, codified at 7 CFR part 1477, were published on April 15, 1999 (64 FR 18553). Those rules were later amended with respect to an offset issue by a rule

published on November 1, 1999 (64 FR 58769). Now, in Section 801 of the 2000 Act, and Pub. L. 106–113, Congress has provided that $1.386 billion of the funds of CCC be made available to make emergency financial assistance available to producers on a farm that have incurred losses on a 1999 crop due to a disaster, as determined by the Secretary. Section 801 specifies that such assistance be made available in the same manner as provided under the 1998-crop program, including use of the same loss thresholds. Section 801(d) specifies that the program shall be applicable to losses for all crops (including losses of trees from which a crop is harvested, livestock, and fisheries), as determined by the Secretary, due to disasters. This rule implements those provisions of section 801 essentially by adopting the single-year program regulations that were published for the 1998 program. However, because the necessary differences between the 1999 and the 1998 and earlier programs would produce unnecessarily confusing regulations if the 1999 program were to be implemented by revising the existing regulations at 7 CFR part 1477, the 1999 program regulations will be promulgated in a new part, 7 CFR part 1478. In addition to the new program being a single-year program only instead of having a multi-year program element, the rules for 1999 differ from the rules for 1998 due to other clarifications and modifications, including the following:

Adding a definition of ''eligible crops'' to clarify that all crops eligible for noninsured crop disaster assistance (NAP) or crop insurance are eligible for the 1999 Crop Disaster Program (CDP);

Modifying the crop insurance linkage requirement so that crop insurance will be required for all 2000 and 2001 crops for which the producer received CDP payments for the 1999 crop year. Previously, the producer only had to obtain crop insurance on crops of ''economic significance'' to the producer. This eliminates the need for a determination of economic significance and makes enforcing compliance with the provision much more efficient;

Removing the definition of ''economic significance';

Adding a provision clarifying that the use of approved yields may only be used if production reports were submitted prior to the enactment of the 2000 Act;

Adding language regarding crops with multiple uses that allows CCC to request proof of marketing history when a crop had different payment rates for each intended use;

Adding vegetable and root stock as a value loss crop to more accurately reflect the way these types of crops are grown or sold; and

Removing language regarding Federal Crop Insurance Corporation (FCIC) premium discounts. Section 814 of the 2000 Act requires the Secretary to transfer $400 million of CCC funds to FCIC to assist agricultural producers in purchasing additional crop insurance for crop year 2000. Previously, such premium discounts were provided directly by CCC.

Producers who seek benefits under this part must file an application for benefits during the sign-up period, December 13, 1999, to February 25, 2000, or other ending date as determined by the Deputy Administrator. False certification carries strict penalties and the Department will spot-check and validate applications. Because funding for the program is limited, national factors for reducing payments will be determined after the end of sign-up, if necessary, to ensure that total outlays do not exceed the amount of funds made available under this program.

As with the 1998 program, there is a per-person payment limit of $80,000 and, in addition, no person can receive benefits if that person's gross revenue as determined under the applicable rule exceeds $2.5 million. Producers seeking benefits under this new program will be required to purchase crop insurance as a condition of receiving benefits, and the benefits that can be received may be reduced, if needed, for a failure, in connection with the 1998 crop program, to acquire crop insurance. Loss level requirements and payment criteria are essentially the same as for the 1998-crop program and are set out in this rule. With respect to livestock, however, benefits for such livestock will not be addressed within the provisions of the new part, but under the livestock assistance program and dairy indemnity programs which are otherwise provided for in this rule.

Cost-Benefit Assessment

The table and the discussion following summarize the Cost/Benefit Assessments for the major provisions of this rule. For FY 2000, outlays total approximately $2.742 billion, including the elimination of sugar marketing assessments, which actually represent reduced revenues. Incomes of producers, processors and shippers will increase approximately $2,998–$3.197 billion. The differences between outlays, which are virtually all direct transfers to program participants, and income, are made up of increased dairy prices and the product of increased cotton prices and increased cotton production.

SUMMARY OF FY 2000 OUTLAYS AND CHANGES IN PRODUCER/PROCESSOR/SHIPPER INCOMES

Program	Outlays $ million	Change in income $ million
Milk Price Support and Dairy Recourse Loan Program	173	$400—600
Sugar Marketing Assessments	41.6	41.6
Upland Cotton	400	475
Crop Disaster Program (includes honey and mohair)	1,386	[1] 1,340
Livestock Programs	200	200
Dairy Market Loss	125	125
Tobacco Quota Loss	328	328
Peanut Market Assistance	49	49
Increased Payment Limit for MLG and LDP [2]	39.4	39.4
Advance AMTA Payment [3]	1,971	.....
Total	[4] 2,742	2,998–3,198

[1] After allowances for administrative costs provided under section 822 of the 2000 Act and additional rice loan deficiency payments under section 801(f) of the 2000 Act.

[2] 1999: $39.4 million; 2000: $29.8 million; 2001: $9.6 million.

[3] The acceleration of FY 2000–2002 PFC payments will advance payments of $1,971 in 2000, $1,584 million in 2001, and $1,537 in 2002.

[4] Does not include advance AMTA payments.

Limitation on Marketing Loan Gains and Loan Deficiency Payments

Marketing loan provisions allow a producer to repay a loan at a rate that is the lesser of the applicable loan rate and charges plus per-unit accrued interest or an alternative repayment rate determined by CCC. A marketing loan gain (MLG) is the amount of principal waived when a producer repays a loan at an alternative loan repayment rate that is less than the applicable loan rate. In lieu of securing a commodity loan, a producer may instead opt for a loan deficiency payment (LDP) if the alternative repayment rate is below the applicable loan rate. Once a given quantity of a commodity has received an LDP, however, the quantity is no longer eligible for a commodity loan. Moreover, a quantity that has received an MLG is not eligible for an LDP.

Combined MLG's plus LDP's for crops harvested in a given year are subject to a statutorily-specified payment limitation. Prior to a statutory change in this limit for the 1999 crops made by the 2000 Act, the payment limit had been $75,000 per person. This payment limitation is viewed by many as a means of targeting program benefits to small- and medium-size farming operations. However, the payment limit does not prevent large operations from receiving such benefits, but it may effectively limit the amount of benefits that large operations receive.

The relatively high crop prices received by producers in 1995 and 1996 began to decline in 1997 as world demand slackened and as world supplies increased due to generally favorable growing conditions. The price decline has continued into the 1998 and 1999 crop years.

Because alternative repayment rates are tied to prices, the low 1998-and 1999 crop prices have triggered considerable MLG and LDP payments to producers. Due to the relatively high 1999-crop MLG and LDP payment rates that have been available to producers, and due to the considerable amount of loan-eligible quantities that many producers have, potential LDP plus MLG payments have easily exceeded $75,000 for many such producers. In the absence of a change in the payment limit for the 1999 crops to a value higher than $75,000, some of these producers would have had an incentive to obtain loans on those quantities that would be ineligible for LDP and MLG benefits due to the payment limit, and subsequently forfeit the crop to CCC. Any indirect program benefits realized by a producer by forfeiting a commodity to CCC (*i.e.*, the loan rate at which the quantity is forfeited exceeds the loan repayment rate at the time of forfeiture) are not subject to the payment limitation.

By increasing the payment limitation, there will be a reduction in payment limit-related forfeitures and producers with large farming operations will be able to receive increased program benefits, especially at a time when prices are low and numerous other income-stabilizing actions were enacted in the 2000 Act. Specifically, section 813(a) of the 2000 Act amended section 1001 of the 1985 Act by increasing to $150,000 the maximum MLG plus LDP payments a person may receive for the 1999 crops. The existing $75,000 payment limitation for the 2000 and subsequent crops was unaffected by this statutory change.

This statutory change has some notable effects. A majority of the relatively large operators whose 1999-crop payments will exceed or have exceeded $75,000 will be able to receive MLG's and/or LDP's on quantities of a commodity that were previously ineligible for such payments due to the $75,000 limit. The incentive for these producers to pledge their production as collateral for loans and possibly forfeit the collateral at maturity is significantly reduced for all except operators with very large operations. Thus, corresponding quantities of commodities not pledged as collateral for a loan will be free to flow into the market. The effect of this change on CCC inventories and stock-holding is expected to be relatively small, however, because most forfeited quantities, regardless of the payment limitation, are sold by CCC within a short time after they have been forfeited.

Another effect is that CCC outlays will increase. Payments not made due to a payment limitation are a Government savings. Thus, increasing the payment limitation reduces such savings and results in an increase in outlays. The outlays associated with foregone payment limit savings will be offset to some extent by savings on such things as reduced CCC storage costs associated with a reduction in CCC inventories.

The increase in the payment limit occurred at a time when many individuals had already reached the previously established payment limit of $75,000. Several of these producers sold those quantities that were ineligible for an MLG or LDP prior to enactment of the higher 1999-crop payment limit. By selling those quantities, the producers lost beneficial interest and, in the absence of a statutory change, were therefore ineligible for additional benefits on those quantities despite the increase in the payment limit.

Due to this situation, section 813(b) of the 2000 Act stipulated that producers who would otherwise be ineligible for such payments or gains because they had marketed the commodity could receive a benefit based on the relevant loan repayment rate and LDP rate that was in effect on the date on which the quantity was marketed or redeemed. This change will lead to a relatively small increase in outlays. It will increase the benefits to and income of the affected producers up to the $150,000 limit, but it will have no effect on marketings since such marketings have already occurred.

Price Support Program for Milk and the Recourse Loan Program for Commercial Processors of Dairy Products

The total cost to CCC for extending the milk price support program is estimated at $173 million. Extending the milk price support program will help maintain the all-milk price and dairy farm incomes because CCC's purchase price is providing a floor under the current market price for nonfat dry milk (NDM). The domestic price of NDM would be expected to fall at least 10 cents per pound if the program were not extended. The 10-cent-per-pound drop in the price of NDM would be expected to allow a drop in the all-milk price of about 20–40 cents per cwt., which would reduce dairy income by about $400–600 million.

Advance Production Flexibility Contract Payments

AMTA provided for payments to producers who signed Production Flexibility Contracts (PFC). These payments under AMTA were required to be made in two equal payments, with the first on December 15 or January 15 at the owner's or producer's option. The second payment was then made at the end of the fiscal year in September. For Fiscal Year (FY) 1999, the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 1999, Public Law 105–277, (''1999 Act'') provided that producers could elect to receive their entire fiscal year PFC payment in a single payment or two equal payments anytime during the fiscal year. The 2000 Act authorizes the same payment options for FY 2000–2002.

The option for producers to receive all their FY 1999 PFC payments in a single lump sum pushed forward the disbursement of $2,138 million in funds that otherwise would have been held until the final two months of the fiscal year. The acceleration of FY 2000–2002

PFC payments under a single-payment option can be expected to put as much as an additional $1,971 million into the hands of producers by early 2000, $1,584 million by early 2001, and $1,537 million by early 2002. Under the two-payment requirement, these funds would not be available to producers until as late as September in each of these years. In addition to easing cash-flow and debt-servicing problems for many producers, the earlier availability of these funds could mean a savings of as much as $238 million in reduced interest costs for U.S. grain producers over the four-year period.

Suspending the Sugar Marketing Assessment

Suspending the enforcement of the sugar marketing assessment is expected to reduce government revenues $41.6 million in FY 2000 and $41.8 million in FY 2001, for a total loss to the Federal government of $83.4 million. The savings on program administration are estimated to be insignificant—less than $10,000 per year. Processors and growers are expected to save about $16.7 million and $66.7 million, respectively, in assessment payments. Elimination of the reporting requirement for FY 2000 and FY 2001 will save the industry about $50,000 in bookkeeping costs.

Upland Cotton User Marketing Certificate Program

Step 2 payments had been authorized to begin with the 1991 crop and were re-authorized for the 1996 through 2002 crops in the 1996 Act. Outlays were limited to $701 million for Step 2 under that Act. The program began operating in July 1997 after a hiatus of 131 weeks. It operated until December 1998, when the entire amount of funding was exhausted. The payment rate during the operational period averaged 5.7 cents per pound. About 15.8 million bales were consumed by domestic textile mills and about 9.6 million bales of U.S.-grown cotton were exported and were the subject of payments under the program.

For the 1997 marketing year the average payment rate for exporters was 4.6 cents per pound. The payment is believed to have contributed about 250,000 to 375,000 bales to total U.S. exports in 1997/98. These additional exports would be worth about $150 million to $200 million in additional farm sales receipts. Payments to exporters totaled $156 million. For mill use in the 1997 marketing year, the payment may have contributed between 150,000 and 250,000 bales to total mill use worth $125 million to $175 million. Payments to mills in 1997 totaled $234 million.

The upland cotton crop in the United States in 1998 was down by nearly 3.8 million bales (22 percent) from the level of 1997. Total supplies of upland cotton were down by 4.4 million bales (20 percent) for the 1998 marketing year. Despite domestic mill use that was 9 percent lower than in 1997, and even though exports dropped by over 40 percent, end-of-year cotton stocks held about constant at 3.8 million bales.

In the 1998 marketing year, the Step 2 payment rate averaged over 10 cents per pound but covered less than half the crop. With limited U.S. supplies and early exhaustion of the funds, Step 2 made only a limited contribution to total use. However, it likely raised domestic prices more than it had in other years, sending more of the Step 2 funds to farmers. The program is thought to have increased exports by between 100,000 and 150,000 bales, worth $200 million to $250 million. Payments to exporters in 1998 totaled $116 million. In 1998, mill use is thought to have been increased by 150,000 to 300,000 bales, worth $250 million to $300 million. Payments to mills were $191 million.

Now that Step 2 has been funded for the 1999 marketing year and beyond, USDA's cotton estimates committee projects that exports might be increased by 200,000 to 350,000 bales per year. Mill use was determined not to respond as well to Step 2 payments when supplies are normal, and the program is estimated by the committee as likely to lead to increases in mill use of only 60,000 to 100,000 bales per year. These increases would be accompanied by annual expenditures of about $400 million in Step 2 payments and would increase farm sales receipts by an average of $250 million to $300 million per year due to a combination of higher prices and greater production.

Step 3 also was authorized to begin with the 1991 crop and was re-authorized in the 1996 Act. There have been two periods of sustained triggering of the import quotas. The first was over October 1995 through March 1997, when 70 consecutive quotas were announced. Imports from these quotas totaled about 800,000 bales. Due to the end of Step 2 in December of 1997, the second series of 35 consecutive weeks of import quotas began in February 1999 and ended in October 1999. Imports resulting from these quotas are still possible, but about 400,000 bales have been imported under these quotas so far.

Supplies are now adequate in the United States, and imports have dwindled to virtually nothing in recent weeks. Step 3 quotas totaling over 900,000 bales remain open. With U.S. prices now quite low and competitive, few imported bales are expected for the remainder of this marketing year. No significant imports are projected through the 2002 crop year.

Honey Recourse Loan Program

The 1999-crop loan rate will be established at 59 cents per pound based on the statutory formula. At the current reduced price level the 1999-crop loan rate resulting from the statutory formula is expected to exceed most current market prices. Producers who use the 1999-crop loan program are expected to save $480,000 in reduced borrowing costs compared with commercial loans. With current market prices in the range of 40 to 55 cents per pound, a market price increase of about 1.5 cents per pound would be needed to recover the loan interest. Domestic honey prices are closely related to prices of imports because of our sizeable imports. Without higher foreign honey prices, it would seem likely that domestic honey prices will remain low in spite of the 1999 honey loan program. The amount of honey estimated to be loan collateral would not be sufficient to create significant upward price pressure. With prices expected to be unaffected by the loan program, domestic consumers will not be impacted.

Livestock Programs

The Livestock Assistance Program (LAP) will provide emergency feed assistance to eligible livestock producers for grazing losses in counties where a severe natural disaster occurred during calendar 1999 and which has been approved by the Deputy Administrator for Farm Programs, FSA. Counties where precipitation was 40 percent or more below or above normal for at least 4 months and where there was at least a 40 percent, or greater, grazing loss for at least 3 consecutive months, are eligible for approval.

Eligible livestock are beef and dairy cattle; buffalo or beefalo when maintained on the same basis as beef cattle; sheep; goats; swine; and equine animals used commercially for human food or kept for the production of food or fiber on the owner's farm. Livestock must have been owned for at least three months before they are eligible for LAP benefits.

Individual producer eligibility is based on whether a natural disaster caused the producer in an approved county to suffer a 40-percent or greater loss of grazing for a 3-consecutive-month period in calendar year 1999. The amount of assistance is based upon

the value of feed calculated on a corn-equivalence basis factored by the percentage of grazing loss during the approved grazing period. In addition, producers must certify that they have an annual gross income of less than $2.5 million.

Benefits paid to eligible producers will be determined by the value of feed needed to maintain the eligible livestock on the farm, the percentage of feed production lost due to the disaster, and the rate of coverage of loss. Benefits are reduced if the producer did not have sufficient grazing to support eligible livestock under normal grazing conditions.

The value of feed needed to maintain the eligible livestock is determined by the daily energy requirement for the kind and type of livestock owned by the producer, the number of each kind, type, and weight class of eligible livestock, the number of days in the payment period, the five-year (1994 through 1998 crops) average price, excluding the highest and the lowest years, received by the farmers for corn (established at $.0441 per pound, or $2.47 per bushel divided by 56 pounds per bushel) and the amount of grazing land available for eligible livestock.

Outlays were estimated for the proposed livestock assistance program based on the estimate of the number of livestock in the affected region that are likely to qualify for program benefits and an estimate of the average feed production loss suffered in the affected region (see Table 1). About 1,800 counties are expected to be designated as eligible for LAP based on losses in 1999 (compared with 1,194 eligible based on losses in 1998). A 60-percent forage production loss level was assumed.

Total feed needs were calculated for the entire period for each type of eligible livestock based on the daily energy requirement and the quantity of corn needed to provide the energy requirement. The daily energy requirement (in pounds of corn equivalent) for a given kind of livestock was multiplied by 120 days times the estimated number of livestock in the affected region times the estimated percent loss of feed production in the region times 4.41 cents per pound corn price.

The potential cost of LAP (before application of a national factor) is estimated to be about $1.15 billion. It is estimated that over 25 million head of cattle, 500,000 horses, and 2 million sheep are in the affected regions.

Because projected claims exceed the funds appropriated for the program, each producer's payment will be prorated based on the ratio of the maximum allowed benefits to total claims. Funds available for LAP and LIP total $200 million. A total of approximately $9.8 million will be used for administrative expenses for the two programs, leaving $190.2 million for program benefits. Prorating expected total claims under each program ($1.15 billion for LAP and $6 million for LIP) results in payments under the LAP program of about $189 million. The prorating factor is 16.45 percent ($190 million/$1,156 million).

The impact of the payments on livestock prices and feed prices is expected to be small. Without this program, some producers would have been forced to liquidate their herds, increasing livestock supplies and lowering prices in the short term. The changes would likely be small and temporary. Thus, the impact on consumers would be negligible. Aggregate farm income in 1999 is expected to be $199 million higher. Federal outlays will also increase by the indemnity payments of $199 million.

The 1999 LIP Phase II will provide financial assistance to livestock producers for losses of eligible livestock due to natural disasters between May 22, 1999, and December 31, 1999. Eligible livestock are beef, dairy, sheep goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, and buffalo/beefalo when maintained on the same basis as beef cattle.

On a sectoral basis, the $1 million ($6 million in claims multiplied by a 0.1667 national factor) expected to be paid under 1999 LIP Phase II represents a small fraction of the $55.3 billion value of production in 1998 (the most recent year for which data are available).

For those producers who actually suffered the losses, however, the impact on their equity and cash flow positions is significant. Indemnity payments will assist producers affected by the disaster in meeting their financial obligations for inputs used in the production of the lost livestock and to replace breeding stock. It is assumed, in part as a result of the LIP, that producers affected by the disaster would remain in business and rebuild their foundation herds to their previous size.

These funds will assist producers in meeting outstanding financial obligations against inputs used in the production of livestock which were lost in the disasters and to replace breeding livestock lost in the disasters. The impact of the indemnity payments on livestock and milk market prices and consumers is not expected to be measurable. Aggregate farm income in 1999 is expected to be $1 million higher, equaling the amount of indemnity payments. Federal outlays would also increase by the indemnity payment of $1 million.

Peanut Market Loss Assistance Program

The 1999 Peanut Marketing Loss Assistance program will provide financial assistance to producers who have experienced increased costs of production and lower market prices over the last four years. The program will provide about $49 million to peanut producers, including those who fall-leased peanuts either to or from their farm. Producers with unmarketed quota pounds left on their marketing cards after harvest were determined to have shared in the risk of production and will be compensated as well as those who leased their quota pounds. Payments will assist peanut producers to meet their financial obligations and are not likely to impact market price for peanut products. No measurable impact is likely for consumers. Aggregate farm income will increase by about the $49 million in Federal outlays. Approximately 40,000 peanut farms are expected to participate in the program.

Mohair Recourse Loan Program

The intent of the mohair loan provision in the 1999 Act was to target benefits to producers and their co-operatives, not to speculators. Therefore, the regulation for the Mohair Recourse Loan Program specifies that beneficial interest in the mohair must reside with the person requesting the loan until the loan is repaid. The person must have a separate, identifiable interest in both the goats and the mohair and must have been responsible for the financial risk of production. If the person is handling the marketing through a co-operative, the beneficial interest must remain with the co-operative member, and the member must share in any marketing proceeds realized by the co-operative. The person requesting the mohair loan must have owned, for 180 days, in the United States, the goats from which the loan mohair was clipped. Goats younger than 180 days must have been born in the United States. The loan must be requested in the Farm Service Agency local office that serves the county in which the headquarters of the producing farm is located. Speculators who have purchased mohair from producers, or who have imported mohair, and are storing it in central locations are not eligible for these recourse loans.

It is believed that a large proportion of mohair producers are of limited financial means. Concerns have been expressed that, if borrowers received $2.00 per pound from CCC, and if the market price for certain types of mohair were less than $2.00 per pound, borrowers perhaps would not be able to repay the loans. However, the program will provide financing for such producers. A flat loan rate of $2.00 will be offered on all mohair unless the producer provides inadequate security, in which case only $1.25 will be offered. CCC will obtain a lien against all present and future production of mohair by the producer requesting the loan. CCC may require additional security, such as bonds or letters of credit. In this way, even limited-means producers will receive some benefit from the loan program, but the integrity of the program will be assured.

As of the end of FY 1999, a total of approximately 5.6 million pounds of mohair had been pledged as collateral for the recourse loans, for an estimated total loan principal outstanding of about $11.2 million. About 85 percent of this is thought to be adult hair. No loans had been repaid as of the close of the year on September 30, 1999. Since all of the loans under the FY 1999 program were made in FY 1999 and none repaid, the program shows a net outlay of about $11.2 million. These loans will mature after 12 months and must be repaid during FY 2000, for a receipt during that year of the same $11.2 million. For FY 2000, with most of the adult hair inventory already under loan, there will be less ''new-crop'' activity. It is estimated that only about 1 to 2 million pounds of adult hair not already serving as loan collateral will be pledged as collateral for a loan in FY 2000, but that about 4.5 million pounds of hair that is already pledged as collateral must be redeemed during FY 2000 and then be repledged. Loan activity for kid hair should be reduced from last year's level. Total projected loan outlays for FY 2000 are $12.6 million.

Tobacco Loss Assistance Program (TLAP)

The $328 million provided for assistance to tobacco producers will help quota holders and growers defray income lost in crop year 1999 due to quota reductions. TLAP will pay producers approximately $1 for each pound of quota lost in crop year 1999. This amount of payment will easily cover producers' and quota holders' lost profit for crop year 1999, but is insufficient to cover long-term losses in quota, land, equipment, and future profits. (As previously stated, in an indirectly related action cigarette manufacturers have promised $5.15 billion to growers and allotment holders.) Further, several tobacco-growing states have promised a portion of the $246 billion settlement to go to tobacco producers.

To the extent that the $328 million payment to producers and quota holders defrays costs, the TLAP enhances solvency. To the extent that the TLAP exceeds costs, the payment is taxable. With the national savings rate near zero (perhaps even less in economically depressed agricultural areas) the multiplier effect is substantial. The large multipliers assures that a substantial portion of the TLAP will be recycled back to local, state, and federal coffers.

Crop Disaster Program (CDP)

The 2000 Act authorizes the Secretary to provide disaster assistance to producers who suffered crop losses because of adverse weather conditions in the amount of $1.2 billion. Public Law 106–113 authorizes an additional $186 million for crop loss assistance under the same terms and conditions as the crop loss provisions in the 2000 Act. Thus, $1.34 billion is available, after taking into consideration administrative expenses, rice loan deficiency payments, and honey and mohair recourse loans.

Large farms would account for a disproportionate share of crop loss payments if there were no eligibility limitations. The 2000 Act, by reference to the earlier program, provides both gross income and per-person payment limitations. A person is not eligible for benefits if their gross revenue is in excess of $2.5 million for the 1998 tax year. The 1997 Census of Agriculture indicates that less than 2.4 percent of the farms in the U.S. have sales greater than $500,000. Farms with gross incomes of $2.5 million or more only represent a small fraction of one percent. The gross revenue limitation thus limits eligibility to all but the Nation's largest farms and ranches. The impact of the $2.5 million gross income limit will put more payments in the hands of the Nation's smaller farms. The per-person payment limitation of $80,000 also directs money towards small farms.

If total claims for 1999 crop losses approach $2 billion (similar to 1998 crop loss claims), a pro-ration factor of about two-thirds will apply.

For further information, the following individuals may be contacted regarding the different parts of the Cost/Benefit Assessment:

Crop Disaster—Contact: Philip Sronce, 202–720–2711
Dairy and Sugar—Contact: Dan Colacicco, 202–720–6733
Livestock—Contact: Dan Colacicco, 202–720–6733
Honey—Contact: Candy Thompson, 202–720–4584
Mohair—Contact: Candy Thompson, 202–720–4584
Peanuts—Contact: Dan Stevens, 202–720–5291
Cotton—Contact: Wayne Bjorlie, 202–720–7954
Advance Production Flexibility Contracts—Contact: Jerry Norton, 202–720–0967
Payment Limitations—Contact: Terry Hickenbotham, 202–690–0733
Conservation Reserve—Contact: Ed Rall, 202–720–7795
Tobacco—Contact: Tom Burgess, 202–720–4318

List of Subjects

7 CFR Part 718

Acreage, Allotments, Quotas, Reconstitutions, Tobacco

7 CFR Part 723

Acreage Allotment, Auction warehouses, Dealers, Domestic manufacturers, Marketing quota, Penalties, Reconstitutions, Tobacco.

7 CFR Part 1400

Agricultural Commodities, Agriculture, Loan Programs, Oilseeds

7 CFR Part 1412

Contract acreage, Contract payments, Planting flexibility, Price support programs.

7 CFR Part 1421

Wheat, Feed Grains, Rice, Oilseeds, and Farm-stored Peanuts, Loan programs/agriculture, Reporting and record keeping requirements.

7 CFR Part 1427

Cotton, Upland Cotton and Extra Long Staple Cotton, Loan programs/agriculture, Marketing certificate programs, Price support programs, Reporting and record keeping requirements, Warehouses.

7 CFR Part 1430

Milk, Dairy, Dairy products, Price support programs, Reporting and recordkeeping requirements.

7 CFR Part 1434

Honey, Loan programs/agriculture, Reporting and record keeping requirements.

7 CFR Part 1435

Loan programs/agriculture, Reporting and recordkeeping requirements, Sugar.

7 CFR Part 1439

Animal feeds, Disaster assistance, Livestock, Reporting and recordkeeping requirements.

7 CFR Part 1447

Disaster assistance, emergency assistance, peanuts, reporting and recordkeeping requirements.

7 CFR Part 1464

Tobacco Loans, Importer Assessments

7 CFR Part 1469

Loan programs—agriculture, Mohair, Price support programs, Reporting and recordkeeping requirements.

7 CFR Part 1478

Disaster assistance, emergency assistance, reporting and recordkeeping requirements.

For the reasons set out in the preamble, 7 CFR Chapters VII and XIV are amended as set forth below.

PART 718—PROVISIONS APPLICABLE TO MULTIPLE PROGRAMS

1. The authority citation is revised to read as follows:

Authority: 7 U.S.C. 1373, 1374, 7201 *et seq.*; 15 U.S.C. 714b.

2. Revise § 718.201 (a)(4)(ii)(A) to read as follows:

§ 718.201 Farm constitution.

(a) * * *

(4) * * *

(ii) * * *

(A) A burley or flue-cured tobacco quota is established for one or more of the tracts; and

* * * * *

PART 72—TOBACCO

3. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1377–1379, 1421, 1445–1 and 1445–2.

4. Amend § 723.104(h) by removing the definition of ''Tillable cropland.''

5. Amend § 723.216 by revising paragraphs (e)(5)(iv) and (f)(1) and removing and reserving paragraph (f)(7)(ii) to read as follows:

§ 723.216 Transfer of tobacco acreage allotment or marketing quota by sale, lease, or owner.

* * * * *

(e) * * *

(5) * * *

(iv) *Filed on or before July 1.* Unless the receiving farm is administratively located in the same county as the transferring farm. However, for 1991 and subsequent crops, burley tobacco producers in the State of Tennessee shall be permitted to lease and transfer burley tobacco quota to any other farm in the State. In addition, such transfers outside the county but within the same state may be allowed for burley tobacco producers in Virginia, Kentucky, Ohio, or Indiana, if the burley tobacco producers in that state approve such transfers in a referendum conducted by the Secretary.

* * * * *

(f) * * *

(1) Location of buying and selling farms. Marketing quota for flue cured tobacco transferred by sale must be to a farm administratively located within the same county, except that if 25 percent of the active flue-cured tobacco producers within a State petition the Secretary and the Secretary determines that a majority of the active flue-cured tobacco producers voting in the referendum approve, the sale of a flue-cured tobacco allotment or quota from a farm in the State to any other farm in the State shall be permitted if all other conditions for such transfers are met. Further, the Secretary may permit flue-cured farms with the same owner that are located in contiguous counties to be combined for administrative purposes as one farm, notwithstanding provisions in part 718 of this chapter that might not otherwise permit that kind of combination.

* * * * *

6. In § 723.220 remove and reserve paragraphs (c) and (d).

PART 1400—PAYMENT LIMITATION AND PAYMENT ELIGIBILITY

7. The authority citation for Part 1400 is revised to read as follows:

Authority: 7 U.S.C. 1308, 1308–1, 1308–2; 16 U.S.C. 3834; Pub. L. 106–78, 113 Stat. 1135.

8. Amend § 1400.1 by revising Footnote 3 in the table in paragraph (g) to read as follows:

Subpart A—General Provisions

§ 1400.1 Applicability.

* * * * *

(g) * * *

3. The total of marketing loan gains and loan deficiency payments cannot exceed $75,000 per crop year, except for the 1999 crop year for which the limit shall be $150,000 of which all or part may consist of marketing loan gains.

PART 1410—CONSERVATION RESERVE PROGRAM

9. The authority citation for 7 CFR part 1410 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3801–3847.

10. Amend § 1410.20 by removing paragraph (a)(5) and redesignating paragraphs (a)(6) through (11) as paragraphs (a)(5) through (10), respectively.

PART 1412—PRODUCTION FLEXIBILITY CONTRACTS FOR WHEAT, FEED GRAINS, RICE, AND UPLAND COTTON

11. The authority citation for part 1412 is revised to read as follows:

Authority: 7 U.S.C. 7201 *et seq.*; 15 U.S.C. 714b, 714c; Sec. 734, Pub. L. 105–86; Pub. L. 105–228; Sec. 727, Pub. L. 105–277; Secs. 727, 811, Pub. L. 106–78, 113 Stat. 1181.

12. Revise § 1412.201(c) to read as follows:

§ 1412.201 Production flexibility contract.

* * * * *

(c) All producers sharing in the contract payments on a farm whose payment shares have not been designated for a fiscal year must sign the contract designating payment shares and provide supporting documentation as specified in parts 12, 1400, and 1412 of this title no later than August 1 of the fiscal year to be eligible to earn a contract payment for that fiscal year. If all producers have not signed the contract by August 1, no producers on the contract will be eligible for a payment for that farm for that fiscal year. Notwithstanding the August 1 deadline, in the event a farm reconstitution is completed in accordance with part 718 of this title, all producers must sign the contract and provide supporting documentation as specified in parts 12, 1400 and 1412 of this title within 30 days after written notification by the county committee indicating the reconstitution is completed. If all producers have not signed the contract within 30 days, no producers on the contract will be eligible for a payment for that farm for that fiscal year.

13. Revise § 1412.206(a) to read as follows:

§ 1412.206 Planting flexibility.

(a) For the 1996 through 2002 crop years, any crop may be planted on contract acreage on a farm, except as limited elsewhere in this section. For fiscal years 1998 through 2002, for each

contract acre on which a producer plants wild rice, 1 acre will not be used in determining the contract payment. Any crop may be planted on cropland in excess of the contract acreage.

* * * * *

14. Amend § 1412.302 by adding paragraph (e) to read as follows:

§ 1412.302 Contract payment provisions.

* * * * *

(e) Notwithstanding any other provision of this section, 1999 fiscal year production flexibility contract payments may be made at any time as may be determined to be permitted by the Emergency Farm Financial Relief Act, Public Law 105–228.

15. Amend § 1412.501 by revising paragraph (d) to read as set forth below and removing paragraph (e).

§ 1412.501 Timing for enrollment and termination of production flexibility contracts.

* * * * *

(d)(1) Subject to the provisions of paragraphs (d)(2) and (3) of this section, land that could not previously have been enrolled in a production flexibility contract because of participation in the Conservation Reserve Contract but which becomes available for enrollment because of the expiration of a Conservation Reserve Program contract may be enrolled in a production flexibility contract.

(2) Land qualifying for a production flexibility contract under paragraph (d)(1) of this section may be enrolled in a production flexibility contract no later than November 30 of the fiscal year following the final fiscal year of the Conservation Reserve Program contract unless the Conservation Reserve Program contract terminated after August 1, 1998, in which case the land shall be enrolled in a production flexibility contract no later than April 1 of the fiscal year following the final fiscal year of the Conservation Reserve Program contract.

(3) In fiscal years 1997 through 2002, if a conservation reserve contract is terminated, and the land that was subject to the conservation reserve contract is enrolled in a production flexibility contract, the owner or producer may elect to receive either the production flexibility contract payment or a prorated Conservation Reserve Program payment for the fiscal year, but not both.

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

16. The authority citation for part 1421 is revised to read as follows:

Authority: 7 U.S.C. 7213–7235, 7237; 15 U.S.C. 714b, 714c; Sec. 813, Pub. L. 106–78, 113 Stat. 1182.

17. Revise the Subpart title of the subpart containing § 1421.1 to read as follows: ''Subpart—Loan and Loan Deficiency Payment Regulations for the 1996 Through 2002 Crops of Wheat, Feed Grains, Rice, Oilseeds, (Canola, Crambe, Flaxseed, Mustard Seed, Rapeseed, Safflower, Soybeans, and Sunflower Seed), and Farm-Stored Peanuts''

18. Amend § 1421.1 by adding paragraphs (e) and (f) to read as follows:

§ 1421.1 Applicability.

* * * * *

(e) For commodities produced during the 1999 crop year, the total amount of loan deficiency payments and marketing loan gains made under this part or part 1427 of this chapter shall be $150,000 per person, as defined in part 1400 of this chapter.

(f) Loan deficiency payments or marketing loan gains for loan commodities produced in the 1999 crop year for which a loan deficiency payment or marketing loan gain was not requested prior to February 16, 2000 will be calculated:

(1) For marketing loan gains, based on the date the commodity was redeemed; and

(2) For loan deficiency payments, based on the date the commodity was marketed, as determined by CCC.

* * * * *

PART 1427—COTTON

19. The authority citation for 7 CFR part 1427 is revised to read as follows:

Authority: 7 U.S.C. 7231, 7235, 7237; 15 U.S.C. 714b, 714c; Sec. 813, Pub.L. 106–78, 113 Stat. 1182.

20. Amend § 1427.1 by adding paragraphs (d) and (e) to read as follows:

§ 1427.1 Applicability.

* * * * *

(d) For commodities produced during the 1999 crop year, the total amount of loan deficiency payments and marketing loan gains made under this part or part 1427 of this chapter shall be $150,000 per person, as defined in part 1400 of this chapter.

(e) Loan deficiency payments or marketing loan gains for loan commodities produced in the 1999 crop year for which a loan deficiency payment or marketing loan gain was not requested prior to February 16, 2000 will be calculated:

(1) For marketing loan gains, based on the date the commodity was redeemed; and

(2) For loan deficiency payments, based on the date the commodity was marketed, as determined by CCC.

21. Revise § 1427.100(b) to read as follows:

§ 1427.100 Applicability.

(b) During the period beginning August 1, 1991, and ending July 31, 2003, subject to the availability of funds, CCC shall issue marketing certificates or cash payments to domestic users and exporters in accordance with this subpart in a week following a consecutive 4-week period in which—

(1) The Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling one and three thirty-seconds inch (''M 1$^{3}/_{32}$ inch'') cotton, delivered C.I.F. (cost, insurance and freight) northern Europe, (''U.S. Northern Europe (USNE) price'') exceeds the Friday through Thursday average price quotation for the five lowest-priced growths, as quoted for M 1$^{3}/_{32}$ inch cotton, delivered C.I.F. northern Europe, (''Northern Europe (NE) price'') by more than 1.25 cents per pound; and

(2) The adjusted world price (AWP) for upland cotton, determined in accordance with § 1427.25, does not exceed 134 percent of the current crop loan level for the base quality of upland cotton.

22. Amend § 1427.102 by removing the definition of ''optional origin export contract.''

23. Revise § 1427.103(a) to read as follows:

§ 1427.103 Eligible upland cotton.

(a) For purposes of this subpart, eligible upland cotton is domestically produced baled upland cotton which bale is opened by an eligible domestic user on or after August 1, 1991, and on or before July 31, 2003, or exported by an eligible exporter on or after July 18, 1996, and on or before July 31, 2003, during a Friday through Thursday period in which a payment rate, determined in accordance with § 1427.107, is in effect and which meets the requirements of paragraphs (b) and (c) of this section.

24. Revise § 1427.105(b) to read as follows:

§ 1427.105 Upland Cotton Domestic User/Exporter Agreement.

* * * * *

(b) Upland Cotton Domestic User/Exporter Agreements may be obtained from Cotton and Rice Branch, Warehouse Contract Division, Kansas City Commodity Office, P.O. Box 419205, Kansas City, Missouri 64141–

6205. Telephone requests for copies of the agreement will be accepted at (816) 926–6662. In order to participate in the program authorized by this subpart, domestic users and exporters must execute the Upland Cotton Domestic User/Exporter Agreement and forward the original and one copy to KCCO.

25. Revise § 1427.107 to read as follows:

§ 1427.107 Payment rate.

(a) Beginning July 18, 1996, and ending July 31, 2003, the payment rate for purposes of calculating the payments made in accordance with this subpart shall be determined as follows for exporters for cotton shipped on or after July 18, 1996, and for domestic users:

(1) Beginning the Friday following August 1 and ending the week in which the Northern Europe current (NEc) price, the Northern Europe forward (NEf) price, the U.S. Northern Europe current (USNEc) price, and the U.S. Northern Europe forward (USNEf) price first become available, the payment rate shall be the difference between the USNE price, minus 1.25 cents per pound, and the NE price in the fourth week of a consecutive 4-week period in which the USNE price exceeded the NE price each week by more than 1.25 cents per pound, and the AWP did not exceed the current crop-year loan level for the base quality of upland cotton by more than 134 percent in any week of the 4-week period; and

(2) Beginning the Friday through Thursday week after the week in which the NEc, the NEf, the USNEc, and the USNEf prices first become available and ending the Thursday following July 31, the payment rate shall be the difference between the USNEc price, minus 1.25 cents per pound, and the NEc price in the fourth week of a consecutive 4-week period in which the USNEc price exceeded the NEc price each week by more than 1.25 cents per pound, and the AWP did not exceed the current crop-year loan level for the base quality of upland cotton by more than 134 percent in any week of the 4-week period. If either or both the USNEc price and the NEc price are not available, the payment rate may be the difference between the USNEf price, minus 1.25 cents per pound, and the NEf price.

(b) Whenever a 4-week period under paragraph (a) of this section contains a combination of NE prices only for one to three weeks and NEc prices and NEf prices only for one to three weeks, such as occurs in the spring when the NE price is succeeded by the NEc price and the NEf price (''Spring transition'') and at the start of a new marketing year when the NEc price and the NEf price are succeeded by the NE price (''marketing year transition''), under paragraphs (a)(1) and (a)(2) of this section, during both the spring transition and the marketing year transition periods, to the extent practicable, the NEc price and the USNEc price in combination with the NE price and the USNE price shall be taken into consideration during such 4-week periods to determine whether a payment is to be issued. During both the spring transition and the marketing year transition periods, if either or both the USNEc price and the NEc price are not available, the USNEf price and the NEf price in combination with the USNE price and the NE price shall be taken into consideration during such 4-week periods to determine whether a payment is to be issued.

(c) For purposes of this subpart—

(1) With respect to the determination of the USNE price, the USNEc price, the USNEf price, the NE price, the NEc price, and the NEf price:

(i) If daily quotations are not available for one or more days of the 5-day period, the available quotations during the period will be used;

(ii) CCC will not take into consideration a week in which no daily quotes are available for the entire 5-day period for either or both the USNE price and the NE price during the period when only one daily price quotation is available for each growth quoted for M 1$^{3}/_{32}$ inch cotton, delivered C.I.F. northern Europe, or the USNEc price and the NEc price, or the USNEf price and the NEf price. In that case, CCC may establish a payment rate at a level it determines to be appropriate, taking into consideration the payment rate determined in accordance with paragraph (a) of this section for the most recent available week; and

(iii) Beginning July 18, 1996, if no daily quotes are available for the entire 5-day period for either or both the USNEc and the NEc price, the marketing year transition shall be implemented immediately.

(2) With respect to the determination of the USNE price, the USNEc price, and the USNEf price, if a quotation for either the U.S. Memphis territory or the California/Arizona territory as quoted for M 1$^{3}/_{32}$ inch cotton, delivered C.I.F. northern Europe, is not available for each day or any day of the 5-day period, the available quotation(s) will be used.

(d) Payment rates for loose, reginned motes and semi-processed motes that are of a quality suitable, without further processing, for spinning, papermaking or bleaching shall be based on a percentage of the basic rate for baled lint, as specified in the Upland Cotton Domestic User/Exporter Agreement.

26. Amend § 1427.108 by revising paragraph (c)(2), and removing paragraph (c)(3), to read as follows:

§ 1427.108 Payment.

* * * * *

(c) * * *

(2) Through July 31, 2003, exported by the exporter on the date CCC determines is the date on which the cotton is shipped.

* * * * *

§ 1427.109 [Removed]

27. Remove § 1427.109.

PART 1430—DAIRY PRODUCTS

28. The authority citation for part 1430 continues to read as follows:

Authority: 7 U.S.C. 7251 and 7252; and 15 U.S.C. 714b and 714c.

29. Revise § 1430.2 (a)(1) to read as follows:

§ 1430.2 Price support levels and purchase conditions.

(a)(1) The levels of price support provided to farmers marketing milk containing 3.67 percent milkfat from dairy cows are: $10.35 per hundredweight for calendar year 1996, $10.20 per hundredweight for calendar year 1997, $10.05 per hundredweight for calendar year 1998, and $9.90 per hundredweight for calendar years 1999 and 2000.

* * * * *

30. Revise § 1430.401 (a) to read as follows:

§ 1430.401 Applicability.

(a) The regulations in this subpart are applicable to eligible dairy products produced after December 31, 2000. These regulations set forth the terms and conditions under which CCC will make recourse loans to eligible processors. Additional terms and conditions shall be those set forth in the loan application and the note and security agreement that a processor must execute in order to receive such a loan.

* * * * *

31. Revise § 1430.403 (a) to read as follows:

§ 1430.403 Loan rates.

(a) The Secretary will announce before January 1, 2001, and thereafter, before October 1 of each year, that a recourse loan program is available under this subpart, and loan rates for Cheddar cheese, butter, and nonfat dry milk based on a milk equivalent value

of $9.90 per hundredweight of milk containing 3.67 percent butterfat.

* * * * *

32. Revise § 1430.407 (a)(2) to read as follows:

§ 1430.407 Availability, disbursement, and maturity of loans.

(a) * * *

(2) A request for an initial loan must be filed no later than September 30 of the fiscal year in which the product was produced, but no earlier than January 1, 2001.

* * * * *

33. The authority citation for part 1430 subpart D is revised to read as follows:

Authority: Pub. L. 105–277, 112 Stat. 2681; Pub. L. 106–78, 113 Stat. 1135.

34. In § 1430.500 revise the phrase ''under Pub. L. 105–277, 112 Stat. 2681'' to read ''under Pub. L. 105–277, 112 Stat. 2681 and Sections 805 and 825 of Pub. L. 106–78 only''.

35. Amend § 1430.502 and § 1430.503 by revising the phrase ''May 21, 1999'' wherever it appears to read ''February 28, 2000''.

36. Add § 1430.510 to read as follows:

§ 1430.510 New producers.

Notwithstanding other provisions of this subpart, producers who were new producers in 1999 and not affiliated with other eligible producers may receive payments from sums made available after October 2, 1999, based on their 1999 production levels.

PART 1434—RECOURSE LOAN REGULATIONS FOR HONEY

37. The authority citation for part 1434 is revised to read as follows:

Authority: Sec. 1122, Pub. L. 105–277, 112 Stat. 2681; Sec. 3018, Pub. L. 106–31, 113 Stat. 57; Sec. 801(f), Pub. L. 106–78, 113 Stat. 1175.

38. Amend § 1434.1 by revising the first sentence to read as follows:

§ 1434.1 Applicability .

The regulations of this part provide the terms and conditions under which the Commodity Credit Corporation (CCC) may issue recourse loans for 1998-crop and 1999-crop honey that has remained continuously within the beneficial interest of the producer.

* * *

39. Amend § 1434.6 by revising paragraphs (a) and (d) and adding paragraph (i) to read as follows:

§ 1434.6 Application, availability, disbursement, and maturity.

(a) The deadline for requesting a loan under this part is May 7, 1999, for 1998-crop honey loans and March 31, 2000, for 1999 crop-honey loans.

* * * * *

(d) Subject to paragraph (a) of this section, loans for the 1998 and 1999 crop of honey will be available to producers as soon as announced by CCC.

* * * * *

(i) Subject to adjustments for quality and location as deemed appropriate by the Deputy Administrator, the average loan rate for loans made under this part shall be 85 percent of the average price of honey during the 5-crop years period preceding the crop year for which the loan is made, excluding the crop year in which the average price of honey was the highest and the crop year in which the average price of honey was the lowest in the period.

40. Revise § 1434.9(a) to read as follows:

§ 1434.9 Fees and interest.

(a) A producer shall pay a nonrefundable loan service fee to CCC at a rate determined by CCC. The amount of such fees will be available in State and county offices and will be shown on the note and security agreement.

* * * * *

PART 1435—SUGAR PROGRAM

41. The authority citation for part 1435 continues to read as follows:

Authority: 7 U.S.C. 7272; and 15 U.S.C. 714b and 714c.

42. In § 1435.200, revise the introductory text of paragraph (b) to read as follows:

§ 1435.200 General statement.

(a) * * *

(b) Except as provided in § 1435.205, the marketing assessment applies to:

* * * * *

43. Revise § 1435.202(d)(1) introductory text to read as follows:

§ 1435.202 Remittance.

* * * * *

(d)(1) Except as provided in § 1435.205, first processors shall prepare and submit a fully and accurately completed form CCC–80 each month that shows:

* * * * *

44. Add § 1435.205 to read as follows:

§ 1435.205 Special rules for fiscal years 2000 and 2001.

(a) First processors are not required to pay the marketing assessments provided for in this subpart that would otherwise be due under this part during the period from October 22, 1999 through September 30, 2001;

(b) First processors are not required to prepare and submit form CCC–80 pursuant to § 1435.202(d)(1) during the period from October 22, 1999 through September 30, 2001; and

(c) Sugar in inventory at the end of fiscal year 2001 that is marketed thereafter will be subject to an assessment at the rate that is current at the time of marketing unless that sugar was the subject of a previously paid assessment.

PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

45. The authority citation for 7 CFR part 1439 is revised to read as follows:

Authority: 15 U.S.C. 714b, 714c; Sec. 805, 825, Pub. L. 106–78, 113 Stat. 1135.

46. Revise the heading for the Subpart entitled ''Subpart—1998 Livestock Assistance Program'' to read ''Subpart—1998–99 Livestock Assistance Program.''

47. Revise § 1439.101 to read as follows:

§ 1439.101 Applicability.

(a) This subpart sets forth the terms and conditions applicable to the 1998 Livestock Assistance Program authorized by Public Law 105–277 and the 1999 Livestock Assistance Program authorized by the Public Law 106–78. Benefits will be provided to eligible livestock producers in the United States but only in counties where a natural disaster occurred, and that were subsequently approved by the Deputy Administrator for Farm Programs. For purposes of reference, the program authorized by Public Law 105–277 shall be referred to in this subpart as the ''1998 LAP'' and that administered under Public Law 106–78 shall be referred to in this subpart as the ''1999 LAP''.

(b) The two LAP programs provided for in this part will be treated as separate programs for purposes of payment limitations and for other purposes relating to eligibility.

(c) A county must have suffered a 40 percent or greater grazing loss for 3 consecutive months during the 1998 calendar year for 1998 LAP or for 3 consecutive months during the 1999 calendar year for the 1999 LAP, as a result of damage due to a natural disaster as determined by the Deputy

Administrator for Farm Programs, or a designee. Grazing losses must have occurred on native and improved pasture with permanent vegetative cover and other crops planted specifically for the sole purpose of providing grazing for livestock, but such losses do not include losses on seeded small grain forage crops.

(d) To be eligible for assistance under this subpart, a livestock producer's pastures in an eligible county must have suffered at least a 40-percent loss of normal carrying capacity for a minimum of 3 consecutive months during the relevant calendar year. The percent of loss eligible for compensation shall not exceed the maximum percentage of grazing loss for the county as determined by the county committee. In addition, the producer will not be compensated for that part of any loss that would represent payment of a loss greater than 80 percent.

(e) Unless otherwise specified or determined by the Deputy Administrator, a livestock producer is not eligible to receive payments for the same loss under both this subpart and another Federal program.

48. Amend § 1439.102 by revising the definition of ''LAP'' to read as follows:

§ 1439.102 Definitions.

* * * * *

LAP means, depending on the context, either the 1998 Livestock Assistance Program provided for in this subpart, the 1999 Livestock Assistance Program provided for in this subpart, or the overall 1998–99 Livestock Assistance Program provided for in this subpart.

* * * * *

49. Amend § 1439.103 by revising the first sentence in paragraph (a) to read as follows:

§ 1439.103 Application process.

(a) Livestock producers must submit a completed application prior to the close of business on March 31, 1999 for the 1998 LAP or March 1, 2000 for the 1999 LAP, or such other dates as established by the Deputy Administrator. * * *

* * * * *

50. Amend § 1439.104 by revising the first sentence of paragraph (a) and the second sentence of paragraph (d) to read as follows:

§ 1439.104 County committee determination of general applicability.

(a) County Committees shall determine whether due to natural disasters their county has suffered a 40-percent loss affecting pasture and normal grazing crops for at least three consecutive months during the calendar year 1998 for the 1998 LAP or calendar year 1999 for the 1999 LAP. * * *

* * * * *

(d) * * * The payment period for the county shall be the period of time during the county's LAP crop year where for 3 consecutive months during 1998 for the 1998 LAP or during 1999 for the 1999 LAP, the carrying capacity for grazing land or pasture was reduced by 40 percent or more from the normal carrying capacity.

51. Amend § 1439.107 by revising paragraphs (b)(3) and (c)(3) to read as follows:

§ 1439.107 Calculation of assistance.

* * * * *

(b) * * *

(3) The 5-year national average market price for corn (1998 LAP $2.56 bushel or $.0457 per pound, 1999 LAP $2.46 bushel or $.0441071 per pound); by

* * * * *

(c) * * *

(3) $0.71771 ($0.0457 × 15.7) for 1998 LAP or $0.69248 ($0.0441071 × 15.7) for 1999 LAP; by

* * * * *

52. Revise § 1439.108 to read as follows:

§ 1439.108 Availability of funds.

In the event that the total amount of claims submitted under this subpart shall in the case of the 1998 LAP exceeds $270 million or in the case of the 1999 LAP, except as determined by the Deputy Administrator, exceeds the amount determined appropriate, then such payments under such program shall be reduced by a uniform national percentage. Such payment reductions shall be after the imposition of applicable payment limitation provisions. Total 1999 LAP payments shall be prorated with payments for the Livestock Indemnity Program, Phase II provided for in this part such that total payments under the two programs shall not exceed $200 million minus, as deemed appropriate, other assistance provided to livestock producers.

53. Revise § 1439.301 to read as follows:

§ 1439.301 Applicability.

(a) This subpart sets forth the terms and conditions applicable to the original 1999 Livestock Indemnity Program (hereafter ''1999 Livestock Indemnity Program, Phase I'') and 1999 Livestock Indemnity Program, Phase II. Benefits will be provided under this subpart only for losses (deaths) of livestock occurring as a result of natural disasters in counties included in the geographic area covered by a qualifying natural disaster declaration:

(1) With respect to the 1999 Livestock Indemnity Program (''LIP''), Phase I, issued by the President of the United States or the Secretary of Agriculture of the United States in the period from May 2, 1998, through May 21, 1999, or

(2) With respect to the 1999 Livestock Indemnity Program (''LIP''), Phase II, issued by the President of the United States or the Secretary of Agriculture which declaration was requested between May 22, 1999, through December 31, 1999, inclusive, and subsequently approved.

(b) Losses in contiguous counties, or any other counties not the subject of the declaration, will not be compensable. Producers will be compensated by livestock category as established by CCC. The producer's loss must be the result of the declared disaster and in excess of the normal losses, established by CCC, for the producer's livestock operation. Losses to livestock due to drought conditions are deemed to have been avoidable and are not eligible for benefits under the 1999 LIP, Phase II.

54. Revise § 1439.304 to read as follows:

§ 1439.304 Sign-up period.

A request for benefits under this subpart must be submitted to the Commodity Credit Corporation (CCC) at the Farm Service Agency county office serving the county where the livestock loss occurred. All applications and supporting documentation must be filed in the county office prior to the close of business on:

(a) November 1, 1999, or such other date as established by CCC for 1999 LIP, Phase I, or

(b) January 21, 2000, or such other date as established by CCC for 1999 LIP, Phase II.

55. Revise § 1439.305 (a)(3) to read as follows:

§ 1439.305 Proof of loss.

(a) * * *

(3) The death of the livestock occurred:

(i) Between May 2, 1998, and May 21, 1999 inclusive for 1999 LIP, or

(ii) For 1999 LIP, Phase II, due to a disaster that was the subject of a Presidential or Secretarial disaster declaration, that was requested between May 22, 1999, and December 31, 1999, inclusive, and was subsequently approved.

* * * * *

56. Revise § 1439.307 to read as follows:

§ 1439.307 Availability of funds.

(a) In the event that the total amount of eligible claims submitted under this subpart exceeds the amount available as specified in paragraph (b) of this section, then each payment shall be reduced by a uniform national percentage.

(b) Amounts available for payments under this subpart shall be:

(1) $3,000,000 for 1999 LIP, Phase I, or

(2) The amount determined to be appropriate such that payments for LIP, Phase II and the 1999 Livestock Assistance Program provided for in this part do not exceed $200 million as specified in § 1439.108.

(c) Such payment reductions shall be applied after the imposition of applicable per person payment limitation provisions. Notwithstanding any other provision of law, the payment limits for Phase I and II shall be considered separate limits except to the extent, if any, that a producer's recovery under the two phases are for losses from the same disaster.

57. Revise § 1439.308 to read as follows:

§ 1439.308 Limitations on payments.

(a) No person, as determined in accordance with part 1400 of this chapter, may receive benefits for livestock losses in excess of:

(1) $50,000 for 1999 LIP, or

(2) $40,000 for 1999 LIP, Phase II.

(b) No person may receive payments under this subpart for the same losses that the producer has received or will receive compensation under any other program provided for in this part. Payments under this part for other losses shall not, however, reduce the amount payable under this part. As provided for in § 1439.11, no person shall be eligible to receive any payment under this subpart if such person's annual gross revenue exceeds $2.5 million.

(c) Disaster benefits under this part are not subject to administrative offset under § 1403.8 of this chapter except as otherwise provided by the Deputy Administrator.

(d) No interest will be paid or accrue on disaster benefits under this part that are delayed or are otherwise not timely issued unless otherwise mandated by law.

PART 1447—1999 PEANUT MARKETING ASSISTANCE PROGRAM

58. Add part 1447 to subchapter B of 7 CFR Chapter XIV to read as follows:

PART 1447—1999 PEANUT MARKETING ASSISTANCE PROGRAM

Subpart A—General Provisioins

Sec.

1447.101 Applicability.
1447.102 Administration.
1447.103 Definitions.
1447.104 Producer eligibility.
1447.105 Time for filing application.
1447.106 Payment rate.
1447.107 Calculation of payment.
1447.108 [Reserved]
1447.109 Assignment of payments.
1447.110 Miscellaneous provisions.

Authority: Pub. L. 106–78, 113 Stat. 1135; 15 U.S.C. 714b, 714c.

Subpart A—General Provisions

§ 1447.101 Applicability.

This part sets out provisions related to the 1999 crop of peanuts as authorized and in accordance with the applicable provisions of Public Law 106–78, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (2000 Act). Under section 803 of the 2000 Act, the Secretary of Agriculture is required to make certain payments available to eligible producers of 1999-crop quota and additional peanuts.

§ 1447.102 Administration.

(a) *Responsibility.* The Farm Service Agency (FSA), will administer this part under the general direction and supervision of the Administrator, FSA, or the Executive Vice President, Commodity Credit Corporation (CCC), as applicable. In the field, these regulations shall be carried out by State and county Farm Service Agency committees.

(b) *Limitation of authority.* A State or county committee or its employees or representatives, or any marketing association or its employees or representatives, may not modify or waive any of the provisions of this part or any amendment or supplement to it.

(c) *Supervisory authority.* Delegation of authority contained in this part shall not preclude the Administrator, FSA, the Executive Vice President, CCC, or a designee of such person from determining any questions arising under the regulations or from reversing or modifying any determinations made pursuant to such delegation.

§ 1447.103 Definitions.

For purposes of this part, the definitions and provisions of parts 718, 719, 729, 780, 790, 791, 793, 1402, 1403, 1407, 1421, 1422, 1446 and 1498 of this title are incorporated and shall apply except where the context or subject matter or provisions of the regulations in this part otherwise requires or provides. References contained in this subpart to other parts of this chapter or title include any subsequent amendments to those referenced parts. Unless the context indicates otherwise, any reference to the Executive Vice President of CCC shall also be read to mean any persons designated by the Executive Vice President. The definitions in this section shall be applicable for all purposes of administering the 1999 Peanut Marketing Assistance Program. Unless the context or subject matter otherwise requires, the following words and phrases as used in this part and in all related instructions and documents shall have the following meanings:

CCC means the Commodity Credit Corporation, an agency and instrumentality of the United States within the United States Department of Agriculture.

County committee means the local FSA county committee.

Crop year means the calendar year in which a crop is planted.

Deputy Administrator means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA), or a designee.

FSA means the Farm Service Agency, United States Department of Agriculture.

Planted acres means land in which seed has been placed, appropriate for the crop and planting method, at a correct depth, into a seedbed that has been properly prepared for the planting method and production practice normal to the area as determined by the county committee.

Producer means a producer as defined in part 718 of this title.

Secretary means the Secretary of the United States Department of Agriculture.

Total production means, for purposes of calculating assistance payments under this part, the total production eligible for payment, calculated as the sum of acres planted times the established farm yield or highest actual yield for the current crop year or the previous 3 crop years, whichever is greater.

United States means all 50 States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands and Guam.

USDA means the United States Department of Agriculture.

§ 1447.104 Producer eligibility.

(a) Producers of quota and/or additional peanuts in the United States will be eligible to receive benefits under this part provided their share in the

planted acreage of such peanuts is greater than zero.

(b) Payments may be made to an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer signs the Peanut Marketing Assistance Program Payment Application and Summary (FSA–1043). Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

§ 1447.105 Time for filing application.

(a) Applications for benefits under this part must be filed on or after December 22, 1999, but not later than the close of business on February 21, 2000, in the county FSA office serving the county where the producer's farm is located for administrative purposes.

(b) The Deputy Administrator may grant general exceptions to these deadlines for filing applications.

§ 1447.106 Payment rate.

(a) *Payment rate for quota peanut production.* The payment rate for quota peanuts under this part is $30.50 per ton (5 percent of $610, the national support level for the 1999 crop year).

(b) *Payment rate for additional peanut production.* The payment rate for additional peanuts under this part is $8.75 per ton (5 percent of $175, the national support level for the 1999 crop year).

§ 1447.107 Calculation of Payment.

(a) *Calculating producer's share of peanuts produced or considered produced on a farm.* The amount of peanuts produced or considered produced by a producer on a farm, for which the producer's share in the acreage planted to peanuts is greater than zero, is the product of:

(1) The number of acres planted to peanuts on the farm, times

(2) The producer's percent share in the acres planted, times

(3) The highest yield from the following choices:

(i) The established farm yield,

(ii) The actual yield for any of the 1996, 1997 or 1998 crop years,

(iii) The actual yield for the 1999 crop year.

(b) *Determination of quota or additional peanut payment rate.* A producer's eligibility for payments at the quota rate and at the additional rate will be computed separately. A producer, within the quantity limit determined under paragraph (a) of this section, may claim payments at the quota payment rate to the extent that it is determined that the producer used a quota to market the peanuts or was prevented from doing so because of conditions beyond the producer's control. The producer's eligibility shall, otherwise, be only at the additional peanut payment rate.

(c) *Calculating producer's total assistance payment.* (1) *Assistance payment for quota peanuts.* A producer's assistance payment for quota peanuts is the product of the assistance rate for quota peanuts set forth in § 1447.106(a) times the sum of the amount of quota pounds eligible for payment for each farm as determined under paragraphs (a) and (b) of this section.

(2) *Assistance payment for additional peanuts.* A producer's assistance payment for additional peanuts is the product of the assistance rate for additional peanuts set forth in § 1447.106(b) times the sum of the amount of additional pounds eligible for payment for each farm as determined in paragraphs (a) and (b) of this section.

§ 1447.108 [Reserved].

§ 1447.109 Assignment of payments.

Payments made under this part may be assigned in accordance with the provisions of part 1404 of this chapter.

§ 1447.110 Miscellaneous provisions.

(a) A person may be denied payments under this part if it is determined by the State or county committee or an official of FSA that such person has:

(1) Adopted any scheme or other device that tends to defeat the purpose of a program operated under this part;

(2) Made any fraudulent representation with respect to such program; or

(3) Misrepresented any fact affecting a program determination.

(b) In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all payments made in regard to such matter shall be refunded to CCC, together with interest as determined in accordance with paragraph (c) of this section and late-payment charges as provided for in part 1403 of this chapter.

(c) Producers shall be required to pay interest on any refund required of the producer receiving assistance or a payment if CCC determines that payments or other assistance were provided to the producer and the producer was not eligible for such assistance. The interest rate shall be 1 percent greater than the rate of interest that the United States Treasury charges CCC for funds, as of the date of payment. Interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date repayment is completed. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any error by, or fault of, the producer.

(d) All persons with a financial interest in the operation receiving benefits under this part shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under this part.

(e) In the event that any request for assistance or payment under this part was established as result of erroneous information or a miscalculation, the assistance or payment shall be re-computed and any excess refunded with applicable interest.

(f) The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

(g) Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the regulations set forth at parts 11 and 780 of this title.

(h) Any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof.

PART 1464—TOBACCO

59. The authority citation for part 1464 is revised to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1; 1445–2; 15 U.S.C. 714b, 714c; Pub. L. 106–78, 113 Stat. 1135.

59a. Amend part 1464 by adding Subpart C to read as follows:

Subpart C—Tobacco Loss Assistance Program

Sec.
1464.201 Applicability and basic terms for payments to states.
1464.202 Administration.
1464.203 Eligibility.
1464.204 Appeals.
1464.205 Alternate distribution.

§ 1464.201 Applicability and basic terms for payments to states.

(a) This subpart sets forth the terms and conditions of the Tobacco Loss Assistance Program (TLAP) authorized by Section 803 of the FY 2000 Agriculture Appropriations Act (Public Law 106–78). That section provides that $328 million of funds of the Commodity Credit Corporation shall be made available to make payments to States for the benefit of certain persons for the reduction in quantity of tobacco quota.

(b) States, in order to be eligible for payment under this part, must be States having farms to which, for ''eligible kinds of tobacco'' only, tobacco quotas or allotments were made available under 7 CFR part 723 for the 1999 crop years. ''Eligible kinds of tobacco'' for purposes of this part will be any kind of tobacco for which the national marketing quota for 1999 was reduced from the 1998 level.

(c) Except as provided in § 1464.205, all payments under this part shall be made to States and only to those states with producers of eligible kinds of tobacco.

(d) Such payments shall be made to the State as soon as practicable after the application for such payment by the State.

(e) Payments from the $328 million allotted to this program for loss of quota shall be made to the qualifying States in proportion, as determined by the Executive Vice President of CCC, to the relative quantity of lost quota apportioned to the qualifying States for eligible kinds of tobacco.

(f) In the case of a State that is a party to the National Tobacco Growers Settlement Trust, the State shall, to the extent practicable, distribute funds made available under this part (that is, under the TLAP) to eligible persons in the State in accordance with the formulas established pursuant to the Trust to the extent provided for in the authorizing statute. In the case of a State that is not party to the National Tobacco Growers Settlement Trust, the State shall distribute funds made available under TLAP to eligible persons in the State in a manner determined by the State and approved by the Executive Vice President, CCC. The National Tobacco Growers Settlement Trust referred to in this section is that private trust created by tobacco companies to make approximately $5 billion in payments available to parties involved in the production of tobacco, and which has distributed the monies through local, state trusts.

§ 1464.202 Administration.

(a) This subpart shall be administered by CCC under the general supervision of the Executive Vice President of the CCC and the Deputy Administrator for Farm Programs of the Farm Service Agency of the Department of Agriculture (who shall be hereafter referred to in this part as the ''Deputy Administrator'').

(b) The Deputy Administrator on behalf of the Executive Vice President will determine the allocation of funds available for apportionment to qualifying States.

(c) Funds allocated to States will be distributed directly to the State or may, at the direction of the State, be transferred to a disbursing or other agent of the State's choice.

§ 1464.203 Eligibility.

(a) Except as provided in paragraph (d) of this section, the State's receipt of funds or control of funds under this part shall be conditioned upon the promise, obligation and understanding that the funds will be distributed to eligible tobacco growers as that term is defined in this section, in accord with the provision of this part.

(b) For a person to be considered an eligible ''tobacco grower'' for purposes of this part, such person must own or operate, or produce tobacco on a farm:

(1) To which was assigned a poundage quota or acreage allotment for the 1999 crop year for an eligible kind of tobacco; and

(2) That was used for the production of tobacco during the 1999 crop year.

(c) All disputes as to eligibility shall be the responsibility of the States and any terms in the authorizing statute that are contrary to the terms of this part shall be controlling.

(d) Any interest earned by the States on sums distributed in this part shall be distributed in turn to eligible tobacco growers.

(e) Of the sums made available to the States under this part, and interest earned on such sums, an amount may be deducted by the State for such reasonable amounts as may be needed to pay the cost of distributing the funds, including the cost of private agents who may be engaged to assist the State in that respect or provide service to the State in that respect.

§ 1464.204 Appeals.

Any person who believes a determination made by the State government is in error should seek relief from the State government. Eligibility decisions and determinations made by the State government are not appealable to the Department of Agriculture under part 780 of this chapter and will not be considered to be determinations of the Department of Agriculture.

§ 1464.205 Alternate Distribution.

Nothing in §§ 1464.201 through 1464.204 shall prohibit the Executive Vice President from providing assistance to the States with respect to the distribution of the monies to eligible tobacco growers or prevent the Executive Vice President from making distributions directly to the eligible growers in lieu of the manner of distribution otherwise provided for in this part.

PART 1469—RECOURSE LOAN PROGRAM FOR MOHAIR

61. The authority citation for part 1469 is revised to read as follows:

Authority: Pub. L. 105–277, 112 Stat.2681; Sec. 801, Pub. L. 106–78, 113 Stat. 1135.

62. In § 1469.1 remove the phrase ''fiscal year 1999'' and add the phrase ''FY 1999 and 2000'' in its place.

63. Revise § 1469.4 (a)(8) and (h)(3)(i) and add and reserve paragraph (h)(3)(ii) to read as follows:

§ 1469.4 Eligibility.

(a) * * *

(8) Not have received a loan or incentive payment under the previous mohair loan or payment program for a quantity of mohair pledged as loan collateral covered by this part, unless the full amount is repaid to CCC.

* * * * *

(h) * * *

(3) * * *

(i) A producer may, before the final date for obtaining a loan for mohair, re-offer as loan mohair any mohair that has been previously pledged and redeemed as loan mohair.

(ii) [Reserved]

64. Revise § 1469.5 (a) to read as follows:

§ 1469.5 Application, availability, disbursement, and maturity.

(a) The deadline for requesting a loan offered under this part is September 30, 1999, for FY 1999 and September 30, 2000, for FY 2000.

* * * * *

65. Amend § 1469.11 as follows:

a. In paragraphs (d) and (e), revising the phrase ''For Liquidated damages'' to read ''When Liquidated damages are''.

b. In paragraph (e), revising the phrase ''The entirety of the loan'' to read ''The loan in its entirety''.

c. Removing paragraph (i)(1)(iv), and redesignating paragraphs (i)(1)(v) and (i)(1)(vi) as paragraphs (i)(1)(iv) and (i)(1)(v).

66. Revise § 1469.13 to read as follows:

§ 1469.13 Liquidation of loans.

(a)(1) For loans made in FY 1999, the producer is require to repay the loan on or before maturity by payment of the amount of loan, plus any charges.

(2) For loans made in FY 2000, the producer is required to repay the loan on or before maturity by payment of the amount of loan plus interest, as applicable, and any charges.

(b) If a producer fails to settle the loan in accordance with paragraph (a) of this section within 30 calendar days from the maturity date of such loan, or other reasonable time period as established by CCC, a claim shall be established for the loan amount plus interest and any charges. CCC shall inform the producer before the maturity date of the loan of the date by which the loan must be settled or a claim will be established in accordance with part 1403 of this title. A failure to pay the loan in a timely manner will start the accrual of late payment interest, and costs.

67. Add § 1469.17 to read as follows:

§ 1469.17 Interest.

For loans made on or after October 1, 1999, through September 30, 2000, interest will accrue as provided in 7 CFR part 1405.

PART 1478—1999 CROP DISASTER PROGRAM

68. Add part 1478 to subchapter B of 7 CFR Chapter XIV to read as follows:

PART 1478—1999 CROP DISASTER PROGRAM

Sec.

1478.1 Applicability.
1478.2 Administration.
1478.3 Definitions.
1478.4 Producer eligibility.
1478.5 Time for filing application.
1478.6 Limitation on payments and other benefits.
1478.7 Requirement to purchase crop insurance.
1478.8 Miscellaneous provisions.
1478.9 Matters of general applicability.
1478.10 [Reserved]
1478.11 Qualifying 1999 crop losses.
1478.12 Calculating rates and yields.
1478.13 Production losses, producer responsibility.
1478.14 Determination of production.
1478.15 Calculation of acreage for crop losses other than prevented planted.
1478.16 Calculation of prevented planted acreage.
1478.17 Quality adjustments to production.
1478.18 Value loss crops.
1478.19 Other specialty crops.

Authority: Sec. 801, Pub. L. 106–78, 113 stat. 1135; Pub. L. 106–113, 113 stat. 1501; 15 U.S.C. 714 et seq.

§ 1478.1 Applicability.

This part sets forth the terms and conditions applicable to the 1999 Crop Disaster Program. Under section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 2000 (''2000 Act'') (Public Law 106–78, 113 Stat. 1135), and the Omnibus Consolidated Appropriations Act, 2000 (Public Law 106–113, 113, Stat. 1501), the Secretary of Agriculture will make disaster payments available to certain producers who have incurred losses in quantity or quality of their crops due to disasters. Producers will be able to receive benefits under this part for losses to eligible 1999 crops as determined by the Secretary. Producers cannot receive compensation under this part and another part for the same loss except as provided for in § 1478.6, and except as allowed by the Deputy Administrator who shall resolve any such conflicts.

§ 1478.2 Administration.

(a) The program will be administered under the general supervision of the Executive Vice President, Commodity Credit Corporation (CCC), and shall be carried out in the field by State and county Farm Service Agency (FSA) committees.

(b) State and county FSA committees and representatives do not have the authority to modify or waive any of the provisions of this part.

(c) The State FSA committee shall take any action required by this part that has not been taken by a county FSA committee. The State FSA committee shall also:

(1) Correct or require a county FSA committee to correct any action taken by such county FSA committee that is not in accordance with this part; and

(2) Require a county FSA committee to withhold taking or reverse any action that is not in accordance with this part.

(d) No delegation in this part to a State or county FSA committee shall prevent the Deputy Administrator from determining any question arising under the program or from reversing or modifying any determination made by a State or county FSA committee.

(e) The Deputy Administrator may authorize the State and county committees to waive or modify deadlines or other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the program or when, in his or her discretion, it is determined that an exception should be allowed to provide for a more equitable distribution of benefits consistent with the goals of the program provided for in this part.

§ 1478.3 Definitions.

The definitions in this section shall be applicable for all purposes of administering the 1999 Crop Disaster Program provided for in this part.

Actual production means the total quantity of the crop appraised, harvested or that could have been harvested as determined by the county or State FSA committee in accordance with instructions issued by the Deputy Administrator.

Additional coverage means with respect to insurance plans of crop insurance providing a level of coverage equal to or greater than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

Administrative fee means an amount the producer must pay for catastrophic risk protection, limited, and additional coverage crop insurance policies for each crop and crop year.

Appraised production means production determined by FSA, RMA, a company reinsured by FCIC, or other appraiser acceptable to CCC, that was unharvested but which was determined to reflect the crop's yield potential at the time of appraisal.

Approved yield means the amount of production per acre, computed in accordance with FCIC's Actual Production History Program (7 CFR part 400, subpart G) or for crops not included under 7 CFR part 400, subpart G, the yield used to determine the guarantee. For crops covered under the Noninsured Crop Disaster Assistance program, the approved yield is established according to part 1437 of this title. Only the approved yields based on production evidence submitted to the Agency prior to the 2000 Act will be used for purposes of the 1999 CDP.

Aquaculture means the reproduction and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

Aquaculture facility means any land or structure including, but not limited to, a laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

Aquacultural species means aquacultural species as defined in part 1437 of this chapter.

Catastrophic risk protection means the minimum level of coverage offered by FCIC.

Catastrophic Risk Protection Endorsement means the relevant part of the Federal crop insurance policy that contains provisions of insurance that are specific to catastrophic risk protection.

CCC means the Commodity Credit Corporation.

Control county means: for a producer with farming interests in only one county, the county FSA office in which the producer's farm(s) is administratively located; for a producer with farming interests that are administratively located in more than one county FSA office, the county FSA office designated by FSA to control the payments received by the producer.

County committee means the local FSA county committee.

Crop insurance means an insurance policy reinsured by the Federal Crop Insurance Corporation under the provisions of the Federal Crop Insurance Act, as amended.

Crop year means: for insured and uninsured crops, the crop year as defined according to the applicable crop insurance policy; and for noninsurable crops, the year harvest normally begins for the crop, except the crop year for all aquacultural species and nursery crops shall mean the period from October 1 through the following September 30, and the crop year for purposes of calculating honey and tree losses shall be the period running from January 1 through the following December 31.

Cropland means cropland as defined in part 718 of this title.

Deputy Administrator means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA), or a designee.

Disaster means damaging weather, including drought, excessive moisture, hail, earthquake, freeze, tornado, hurricane, typhoon, volcano, excessive wind, excessive heat, or any combination thereof; and shall also include a related condition and all eligible loss conditions, excluding price risk for 1999 crop losses, as determined by the crop insurance policy, if RMA has made an eligible loss determination.

Double-cropped means a condition in which a subsequent crop of a different commodity is planted on the same acreage as the first crop within the same crop year if the county committee determines both crops were or could have been carried to harvest.

Eligible crop means a 1999-crop agricultural commodity commercially produced for food or fiber; floriculture, ornamental nursery, Christmas tree, turf grass sod, seed and industrial crops including tobacco; and aquaculture including ornamental fish. Losses of livestock and livestock related losses are not compensable under this part but may, depending on the circumstances be compensable under part 1439 of this chapter.

End use means the purpose for which the harvested crop is used, such as fresh, processed or juice.

Entity means any legal organization of any kind, including, but not limited to, corporations, trusts and partnerships.

Expected market price (price election) means the price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting, packing, etc.

Expected production means, for an agricultural unit, the historic yield multiplied by the number of planted or prevented acres of the crop for the unit.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

Final planting date means the date established by RMA for insured and uninsured crops by which the crop must be initially planted in order to be insured for the full production guarantee or amount of insurance per acre. For noninsurable crops, the final planting date is the end of the planting period for the crop as determined by CCC.

Flood prevention means with respect to aquacultural species, placing the aquacultural facility in an area not prone to flood; in the case of raceways, providing devices or structures designed for the control of water level; and for nursery crops, placing containerized stock in a raised area above expected flood level and providing draining facilities, such as drainage ditches or tile, gravel, cinder or sand base.

FSA means the Farm Service Agency.

Good nursery growing practices means utilizing flood prevention, growing media, fertilization to obtain expected production results, irrigation, insect and disease control, weed, rodent and wildlife control, and over winterization storage facilities.

Growing media means:

(1) For aquacultural species, media that provides nutrients necessary for the production of the aquacultural species and protects the aquacultural species from harmful species or chemicals; and

(2) For nursery crops, media designed to prevent ''root rot'' and other media-related problems through a well-drained media with a minimum 20 percent air pore space and pH adjustment for the type of plant produced.

Harvested means: For insured and uninsured crops, harvested as defined according to the applicable crop insurance policy; for noninsurable single harvest crops, that a crop has been removed from the field, either by hand or mechanically, or by grazing of livestock; for noninsurable crops with potential multiple harvests in one year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least one mature crop from the field; and for mechanically harvested noninsurable crops, that the crop has been removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not. Grazed land will not be considered harvested for the purpose of determining an unharvested or prevented planting payment factor.

Historic yield means, for a unit, the higher of the county average yield or the producer's approved yield.

Individual stand means, with respect to trees, an area of eligible trees that are tended by an eligible producer as a single operation, whether or not the trees are planted in the same field or similar location, as determined by the county committee. Eligible trees not in the same field or similar location may be considered to be separate individual stands if county committee determines that there are significantly differing levels of loss susceptibility.

Insurance is available means when crop information is contained in RMA's county actuarial documents for a particular crop and a policy can be obtained through the RMA system, except if the Group Risk Plan of crop insurance was the only plan of insurance available for the crop in the county in the 1999 crop year, insurance is considered not available for that crop.

Insured crops means those crops covered by crop insurance pursuant to 7 CFR chapter IV and for which the producer purchased either the catastrophic or buy-up level of crop insurance so available.

Limited coverage means plans of crop insurance offering coverage that is equal to or greater than 50 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by

FCIC, but less than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

Maximum loss level means the maximum level of crop loss in the county, expressed in either a percent of loss or yield per acre, based on other losses in the county for the same crop as determined by the county committee in accordance with instructions issued by the Deputy Administrator.

Multi-use crop means a crop intended for more than one end use during the calendar year such as grass harvested for seed, hay, and/or grazing.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

Noninsurable crops means those crops for which crop insurance was not available.

Normal mortality means the percentage of damaged or dead trees in the individual stand or the percentage of dead aquacultural species that would normally occur during the crop year.

Operator means operator as defined in part 718 of this title.

Pass-through funds means revenue that goes through, but does not remain in, a person's account, such as money collected by an auction house for the sale of livestock that is subsequently paid to the sellers of the livestock, less a commission withheld by the auction house.

Person means person as defined in part 1400 of this chapter, and all rules with respect to the determination of a person found in that part shall be applicable to this part. However, the determinations made in this part in accordance with 7 CFR part 1400, subpart B, Person Determinations, shall also take into account any affiliation with any entity in which an individual or entity has an interest, irrespective of whether or not such entities are considered to be engaged in farming.

Planted acreage means land in which seed, plants, or trees have been placed, appropriate for the crop and planting method, at a correct depth, into a seedbed that has been properly prepared for the planting method and production practice normal to the area as determined by the county committee.

Producer means producer as defined in part 718 of this title.

Related condition means with respect to disaster, a condition related to a disaster that causes deterioration of a crop such as insect infestation, plant disease, or aflatoxin that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest as determined in accordance with instructions issued by the Deputy Administrator.

Reliable production records means evidence provided by the producer that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, that are determined acceptable by the county committee.

Repeat crop means with respect to a producer's production, a commodity that is planted or prevented from being planted in more than one planting period on the same acreage in the same crop year.

RMA means the Risk Management Agency.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use, except for crops with intended use of grain, but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped.

Secondary use value means the value determined by multiplying the quantity of secondary use times the CCC-established price for this use.

Secretary means the Secretary of the United States Department of Agriculture.

Trees means maple trees for syrup, or orchard trees grown for commercial production of fruits or nuts.

Uninsured crops means those crops for which Federal crop insurance was available, but the producer did not purchase insurance.

Unit means, unless otherwise determined by the Deputy Administrator, basic unit as described in part 457 of this title which, for ornamental nursery production, shall include all eligible plant species and sizes.

Unit of measure means:

(1) For all insured and uninsured crops, the FCIC-established unit of measure;

(2) For aquacultural species, a standard unit of measure such as gallons, pounds, inches or pieces, established by the State committee for all aquacultural species or varieties;

(3) For Christmas trees, a plant or tree;

(4) For turfgrass sod, a square yard;

(5) For maple sap, a gallon; and

(6) For all other crops, the smallest unit of measure that lends itself to the greatest level of accuracy with minimal use of fractions, as determined by the State committee.

United States means all 50 States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands and Guam.

USDA means United States Department of Agriculture.

Value loss crop will have the meaning assigned in part 1437 of this chapter.

Verifiable production records means evidence that is used to substantiate the amount of production reported and that can be verified by CCC through an independent source.

§ 1478.4 Producer eligibility.

(a) Producers in the United States will be eligible to receive disaster benefits under this part only if they have suffered 1999 crop losses of eligible crops as a result of a disaster as further specified in this part.

(b) Payments may be made for losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(c) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of 7 CFR part 12, for the 1999 crop year and must not otherwise be barred from receiving benefits under part 12 or any other provision of law.

(d) Except as otherwise required by law, the provisions of paragraph (c) of this section shall not apply to producers receiving benefits under this part for value loss crops unless otherwise determined by the Deputy Administrator.

§ 1478.5 Time for filing application.

Applications for benefits under the 1999 Crop Disaster Program must be filed before the close of business on February 25, 2000, or such other date that may be announced by the Deputy Administrator, in the county FSA office serving the county where the producer's farm is located for administrative purposes.

§ 1478.6 Limitations on payments and other benefits.

(a) A producer may receive disaster benefits under this part on 1999 crop year losses only.

(b) Payments will not be made under this part for grazing losses. Further, the Deputy Administrator may divide and classify crops based on loss susceptibility, yield, and other factors.

(c) No person shall receive more than a total of $80,000 in disaster benefits under this part.

(d) No person shall receive disaster benefits under this part in an amount that exceeds the value of the expected production for the relevant period as determined by CCC.

(e) A person who has a gross revenue in excess of $2.5 million for the 1998 tax year shall not be eligible to receive disaster benefits under this part. Gross revenue includes the total income and total gross receipts of the person, before any reductions. Gross revenue shall not be adjusted, amended, discounted, netted or modified for any reason. No deductions for costs, expenses or pass-through funds will be deducted from any calculation of gross revenue. For purposes of making this determination, gross revenue means the total gross receipts received from farming, ranching and forestry operations if the person receives more than 50 percent of such person's gross income from farming or ranching; or the total gross receipts received from all sources if the person receives 50 percent or less of such person's gross receipts from farming, ranching and forestry.

(f) In the event the total amount of applications for disaster benefits under this part exceeds the available funds, payments shall be reduced by a uniform national percentage. Such reductions shall be applied before any determination of limits on compensation due to multiple USDA benefits and after the imposition of applicable payment limitation and gross revenues caps. Available funds will not include funds made available under other parts for honey loans, mohair loans, and payments to livestock producers.

§ 1478.7 Requirement to purchase crop insurance.

(a) Any producer who elected not to purchase crop insurance on a crop in 1999 for which the producer receives crop loss assistance under this part must purchase crop insurance on that crop for the 2000 and 2001 crop years.

(b) If, at the time the producer is advised that he or she is eligible for crop loss assistance under this part, and the sales closing date for the 2000 crop year has passed for any crop for which crop insurance is required as specified in paragraph (a) of this section, the producer must purchase crop insurance for the 2001 crop year for any such crop.

(c) If any producer fails to purchase crop insurance as required in paragraph (a) or (b) of this section, the producer will be required to refund the benefits received or pay a lesser amount as may be specified by the Deputy Administrator.

§ 1478.8 Miscellaneous provisions.

(a) Disaster benefits under this part are not subject to administrative offset under § 1403.8 of this chapter except as determined appropriate by the Deputy Administrator who may, among other offsets, deduct from the benefits accrued any reductions appropriate for a producer's failure to obtain crop insurance as required in connection with benefits for crop losses in prior years.

(b) A person shall be ineligible to receive disaster assistance under this part if it is determined by the State or county committee or an official of FSA that such person has:

(1) Adopted any scheme or other device that tends to defeat the purpose of a program operated under this part;

(2) Made any fraudulent representation with respect to such program; or

(3) Misrepresented any fact affecting a program determination.

(c) In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all payments made in regard to such matter shall be refunded to CCC, together with interest as determined in accordance with paragraph (d) of this section and late-payment charges as provided for in part 1403 of this chapter.

(d) Producers shall be required to pay interest on any refund required of the producer receiving assistance or a payment if CCC determines that payments or other assistance were provided to the producer and the producer was not eligible for such assistance. The interest rate shall be one percent greater than the rate of interest that the United States Treasury charges CCC for funds, as of the date of payment. Interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date repayment is completed. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any error by the producer.

(e) All persons with a financial interest in the operation receiving benefits under this part shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under this part.

(f) In the event that any request for assistance or payment under this part was established as result of erroneous information or a miscalculation, the assistance or payment shall be recalculated and any excess refunded with applicable interest.

(g) The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

(h) Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the regulations set forth at parts 11 and 780 of this title.

(i) Any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof.

(j) Payments that are earned under this part may be assigned in accordance with the provisions of part 1404 of this chapter upon filling out the applicable assignment form.

(k) For the purposes of 28 U.S.C. 3201(e), the restriction on receipt of funds or benefits under this program is waived; however, this waiver shall not preclude withholding or offsetting where it is deemed appropriate by the Deputy Administrator.

§ 1478.9 Matters of general applicability.

(a) For calculations of loss made with respect to insured crops, the producer's existing unit structure will be used as the basis for the calculation and may include optional units established in accordance with part 457 of this title. For uninsured and noninsurable crops, basic units will be established for these purposes.

(b) Loss payment rates and factors shall be established by the state committee based on procedures provided by the Deputy Administrator.

(c) County average yield for loss calculations will be the simple average

of the 1993 through 1997 official county yields established by FSA.

(d) County committees will assign production when the county committee determines:

(1) An acceptable appraisal or record of harvested production does not exist;

(2) The loss is due to an ineligible cause of loss or practices that cause lower yields than those upon which the historic yield is based;

(3) The producer has a contract providing a guaranteed payment for all or a portion of the crop; or

(4) The crop is planted beyond the normal planting period for the crop.

(e) The county committee shall establish a maximum loss level based on other losses in the county for the same crop. The maximum loss level for the county shall be expressed as either a percent of loss or yield per acre. The maximum loss level will apply when:

(1) Unharvested acreage has not been appraised by FSA, RMA, a company reinsured by FCIC, or other appraiser;

(2) The crop's loss is because of an ineligible disaster condition or circumstances other than a natural disaster;

(3) Acceptable production records for harvested acres are not available from any source; or

(4) Any other good reason for such a limit shall present itself.

(f) Assigned production for practices that result in lower yields than those for which the historic yield is based shall be established based on the acres found to have been subjected to those practices.

(g) Assigned production for crops planted beyond the normal planting period for the crop shall be calculated according to the lateness of planting the crop. If the crop is planted after the final planting date by:

(1) 1 through 10 calendar days, the assigned production reduction will be based on one percent of the payment yield for each day involved.

(2) 11 through 24 calendar days, the assigned production reduction will be based on 10 percent of the payment yield plus an additional two percent reduction of the payment yield for each days of days 11 through 24 that are involved.

(3) 25 or more calendar days or a date from which the crop would not reasonably be expected to mature by harvest, the assigned production reduction will be based on 50 percent of the payment yield or such greater amount determined by the county committee to be appropriate.

(h) Assigned production for producers with contracts to receive a guaranteed payment for production of an eligible crop will be established by the county committee by:

(1) Determining the total amount of guaranteed payment for the unit;

(2) Converting the guaranteed payment to guaranteed production by dividing the total amount of guaranteed payment by the approved county price for the crop or variety or such other factor deemed appropriate if otherwise the production would appear to be too high; and

(3) Establishing the production for the unit as the greater of the actual net production for the unit or the guaranteed payment.

§ 1478.10 [Reserved]

§ 1478.11 Qualifying 1999 crop losses.

(a) To receive disaster benefits under this part, which covers single-year 1999 crop losses, the county committee must determine that because of a disaster, the producer with respect to the 1999 crop year:

(1) Was prevented from planting a crop;

(2) Sustained a loss in excess of 35 percent of the expected production of a crop;

(3) Sustained a loss in excess of 35 percent of the value for value loss crops; or

(4) Sustained damage in excess of 20 percent of an individual stand of eligible trees.

(b) Calculation of benefits under this part shall not include losses:

(1) That are the result of poor management decisions or poor farming practices as determined by the county committee on a case-by-case basis;

(2) That are the result of the failure of the producer to reseed or replant to the same crop in the county where it is customary to reseed or replant after a loss;

(3) That are not as a result of a natural disaster;

(4) To crops not intended for harvest in crop year 1999;

(5) To losses of by-products resulting from processing or harvesting a crop, such as cotton seed, peanut shells, wheat or oat straw;

(6) To home gardens;

(7) That are a result of water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected for the containment or release of the water; or

(8) To losses of trees that are a result of normal mortality or would have been lost to normal mortality but for the disaster.

(c) Calculation of benefits under this part for ornamental nursery stock shall not include losses:

(1) Caused by a failure of power supply or brownouts;

(2) Caused by the inability to market nursery stock as a result of quarantine, boycott, or refusal of a buyer to accept production;

(3) Caused by fire;

(4) Affecting crops where weeds and other forms of undergrowth in the vicinity of the nursery stock have not been controlled; or

(5) Caused by the collapse or failure of buildings or structures.

(d) Calculation of benefits under this part for honey where the honey production by colonies or bees was diminished, shall not include losses:

(1) Where the inability to extract was due to the unavailability of equipment; the collapse or failure of equipment or apparatus used in the honey operation;

(2) Resulting from improper storage of honey;

(3) To honey production because of bee feeding;

(4) Caused by the application of chemicals;

(5) Caused by theft, fire, or vandalism;

(6) Caused by the movement of bees by the producer or any other person; or

(7) Due to disease or pest infestation of the colonies.

§ 1478.12 Calculating rates and yields.

(a) Payment rates for 1999 year crop losses shall be:

(1) 65 percent of the maximum established RMA price for insured crops;

(2) 65 percent of the State average price for noninsurable crops;

(3) 60 percent of the maximum established RMA price for uninsured crops; and

(4) 65 percent of the established practice rate for damage to eligible trees.

(b) Disaster benefits under this part for losses to crops other than trees shall be made in an amount determined by multiplying the loss of production in excess of 35 percent of the expected production by the applicable payment rate established according to paragraph (a) of this section.

(c) Disaster benefits under this part for losses of trees shall be made in an amount determined by multiplying the quantity of acres or number of trees in a practice approved by the county committee as authorized by the Deputy Administrator, by the payment rate established according to paragraph (a) of this section.

(d) Separate payment rates and yields for the same crop may be established by the county committee as authorized by the Deputy Administrator, when there is supporting data from NASS or other sources approved by CCC that show

there is a significant difference in yield or value based on a distinct and separate end use of the crop. In spite of differences in yield or values, separate rates or yields shall not be established for crops with different cultural practices, such as organically or hydroponically grown.

(e) Each eligible producer's share of a disaster payment shall be based on the producer's share of the crop or crop proceeds, or, if no crop was produced, the share the producer would have received if the crop had been produced. In cases where crop insurance provides for a landlord/tenant to insure the tenant/landlord's share according to part 457 of this title, disaster payments will be issued on the same basis.

(f) When calculating a payment for a unit loss:

(1) The unharvested payment factor shall be applied to crop acreage planted but not harvested; and

(2) The prevented planting factor shall be applied to any prevented planted acreage eligible for payment.

(g) Production from all end uses of a multi-use crop or all secondary uses for multiple market crops will be calculated separately and summarized together.

§ 1478.13 Production losses, producer responsibility.

(a) Where available, RMA loss records will be used for insured crops.

(b) If RMA loss records are not available, producers are responsible for:

(1) Retaining or providing, when required, the best verifiable or reliable production records available for the crop;

(2) Summarizing all the production evidence;

(3) Accounting for the total amount of unit production for the crop, whether or not records reflect this production; and

(4) Providing the information in a manner that can be easily understood by the county committee.

(c) In determining production under this section the producer must supply acceptable production records to substantiate production to the county committee. If the eligible crop was sold or otherwise disposed of through commercial channels, acceptable production records include: commercial receipts; settlement sheets; warehouse ledger sheets; or load summaries; appraisal information from a loss adjuster acceptable to CCC. If the eligible crop was farm-stored, sold, fed to livestock, or disposed of in means other than commercial channels, acceptable production records include: truck scale tickets; appraisal information from a loss adjuster acceptable to CCC; contemporaneous diaries; or other documentary evidence, such as contemporaneous measurements.

(d) Producers must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment. The failure to report the existence of any guaranteed contract or similar arrangement or agreement shall be considered as providing false information to CCC.

§ 1478.14 Determination of production.

(a) Production under this part shall include all harvested production, unharvested appraised production and assigned production for the total planted acreage of the crop on the unit.

(b) The harvested production of eligible crop acreage harvested more than once in a crop year shall include the total harvested production from all these harvests.

(c) If a crop is appraised and subsequently harvested, the actual harvested production shall be used to determine benefits.

(d) For all crops eligible for loan deficiency payments or marketing assistance loans with an intended use of grain but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped, production will be adjusted based on a whole grain equivalent as established by CCC.

(e) For crops with an established yield and market price for multiple intended uses, a value will be calculated for each use; with

(1) The intended use or uses for disaster purposes based on historical production and acreage evidence provided by the producer; and

(2) The eligible acres for each use and the calculation of the disaster payment will be determined by the county committee according to instruction issued by the Deputy Administrator.

(f) For crops sold in a market that is not a recognized market for the crop with no established county average yield and market price, 60 percent of the salvage value received will be deducted from the disaster payment.

(g) If a producer has an arrangement, agreement, or contract for guaranteed payment for production (as opposed to production based on delivery), the production to count shall be the greater of the actual production or the guaranteed payment converted to production as determined by CCC.

(h) Production that is commingled between units before it was a matter of record and cannot be separated by using records or other means acceptable to CCC shall be prorated to each respective by CCC. Commingled production may be attributed to the applicable unit, if the producer made the unit production of a commodity a matter of record before commingling and does any of the following, as applicable:

(1) Provides copies of verifiable documents showing that production of the commodity was purchased, acquired, or otherwise obtained from beyond the unit;

(2) Had the production measured in a manner acceptable to the county committee; or

(3) Had the current year's production appraised in a manner acceptable to the county committee.

(i) The county committee shall assign production for the unit when the county committee determines that:

(1) The producer has failed to provide adequate and acceptable production records;

(2) The loss to the crop is because of a disaster condition not covered by this part, or circumstances other than natural disaster, and there has not otherwise been an accounting of this ineligible cause of loss;

(3) The producer carries out a practice, such as double cropping, that generally results in lower yields than the established historic yields;

(4) The producer has a contract to receive a guaranteed payment for all or a portion of the crop; or

(5) A crop is late-planted.

(j) For sugarcane, the quantity of sugar produced from such crop shall exclude acreage harvested for seed.

(k) For peanuts, the actual production shall be all peanuts harvested for nuts regardless of their disposition or use as adjusted for low quality.

(l) For tobacco, except flue-cured and burley, the actual production shall be the sum of the tobacco: marketed or available to be marketed; destroyed after harvest; and produced but unharvested, as determined by an appraisal. For flue-cured and burley tobacco, the actual production shall be the sum of the tobacco: marketed, regardless of whether the tobacco was produced in the current crop year or a prior crop year; on hand; destroyed after harvest; and produced but unharvested, as determined by an appraisal.

§ 1478.15 Calculation of acreage for crop losses other than prevented planted.

(a) Subject to paragraph (b) of this section, the acreage of a crop planted in each planting period shall be considered a different crop for the purpose of determining disaster benefits under this part.

(b) In cases where there is a repeat crop, double crop or a multiple planting, each of these crops may be

considered different crops if the county committee determines that:

(1) Both the initial and subsequent planted crops were planted with an intent to harvest;

(2) The subsequent crop was planted after the time when the initial crop would normally have been harvested;

(3) Both the initial and subsequent planted crops were planted within the normal planting period for that crop; and

(4) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices.

(c) In cases where an initial crop is planted and fails due to an eligible disaster condition and it is generally considered too late to replant and a subsequent crop is planted on the same acreage within its normal planting period in the same crop year and also failed because of an eligible disaster condition, both crops are eligible for disaster assistance if they meet all other eligibility provisions of this part.

§ 1478.16 Calculation of prevented planted acreage.

(a) When determining losses under this part, prevented-planted acreage will be considered separately from planted acreage of the same crop.

(b) Except as provided in paragraph (c) of this section, for insured crops, disaster payments under this part for prevented-planted acreage shall not be made unless RMA documentation indicates that the eligible producer received a prevented planting payment under the RMA-administered program.

(c) For insured crops, disaster payments under this part for prevented-planted acreage will be made available for the following crops for which prevented planting coverage was not available and for which the county committee will make an eligibility determination according to paragraph (d) of this section: peppers; sweet corn (fresh market); tomatoes (fresh market); tomatoes (processing).

(d) For uninsured or noninsurable crops, or the insured crops listed in paragraph (c) of this section, the producer must prove, to the satisfaction of the county committee, an intent to plant the crop and that such crop could not be planted because of an eligible disaster. The county committee must be able to determine the producer was prevented from planting the crop by an eligible disaster that both:

(1) Prevented most producers from planting on acreage with similar characteristics in the surrounding area; and

(2) Unless otherwise approved by the Deputy Administrator, began no earlier than the planting season for the 1999 crop.

(e) Prevented planted disaster benefits under this part shall not apply to:

(1) Aquaculture, including ornamental fish; perennial forage crops grown for hay, seed, or grazing; ginseng root and ginseng seed; honey; maple sap; millet; nursery crops; sweet potatoes; tobacco; trees; turfgrass sod; and tree and vine crops;

(2) Any acreage that is double-cropped, even if the producer has a history of double-cropping acreage;

(3) Uninsured crop acreage that is unclassified for insurance purposes;

(4) Acreage that is used for conservation purposes or intended to be left unplanted under any USDA program;

(5) The same acreage from which any benefit is derived under any program administered by the USDA on which a crop is planted and fails during the crop year except as provided in § 1478.6(f);

(6) Any acreage on which a crop other than a cover crop was harvested, hayed, or grazed during the crop year;

(7) Any acreage for which a cash lease payment is received for the use of the acreage the same crop year unless the county committee determines the lease was for haying and grazing rights only and was not a lease for use of the land;

(8) Acreage for which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(9) Acreage for which the producer or any other person received a prevented planted payment for any crop for the same acreage, excluding share arrangements; and

(10) Acreage for which the producer cannot provide proof to the county committee that inputs such as seed, chemicals, and fertilizer were available to plant and produce a crop with the expectation of at least producing a normal yield.

(f) Disaster benefits under this part shall not apply to uninsured and noninsurable crops where the prevented-planted acreage was affected by a disaster that was caused by drought or the failure of the irrigation water supply unless the acreage is in an area classified by the Palmer Drought Severity Index as in a severe or extreme drought during the planting period time specified by the producer and prior to the final planting date for the crop.

(g) For uninsured or noninsurable crops and the insured crops listed in paragraph (c) of this section, for prevented planting purposes:

(1) The maximum prevented-planted acreage for all crops:

(i) Cannot exceed the number of acres of cropland in the unit for the crop year; and

(ii) Will be reduced by the number of acres planted in the unit;

(2) The maximum prevented planted acreage for a crop cannot exceed the number of acres planted by the producer, or that was prevented from being planted, to the crop in any 1 of the 1995 through 1998 crop years as determined by the county committee;

(3) For crops grown under a contract specifying the number of acres contracted, the prevented-planted acreage is limited to the result of the number of acres specified in the contract minus planted acreage;

(4) For each crop type or variety for which separate prices or yields are sought for prevented-planted acreage, the producer must provide evidence that the claimed prevented-planted acres were successfully planted in at least 1 of the most recent 4 crop years; and

(5) The prevented planted acreage must be one contiguous block consisting of at least 20 acres or 20 percent of the intended planted acreage in the unit, whichever is less.

§ 1478.17 Quality adjustments to production.

(a) For the crops identified in paragraph (b) of this section, subject to the provisions of this section and part, the quantity of production of crops of the producer shall be adjusted to reflect diminished quality resulting from the disaster.

(b) Crops eligible for quality adjustments to production are limited to:

(1) Barley; canola; corn; cotton; crambe , flaxseed; grain sorghum; mustard seed; oats; peanuts; rapeseed; rice; safflower; soybeans; sugar beets; sunflower-oil; sunflower-seed; tobacco; wheat; and

(2) Crops with multiple market uses such as fresh, processed or juice, as supported by NASS data or other data determined acceptable.

(c) The producer must submit documentation for determining the grade and other discount factors that were applied to the crop.

(d) Quality adjustments will be applied after production has been adjusted to standard moisture, when applicable.

(e) Except for cotton, if a quality adjustment has been made for multi-peril crop insurance purposes, an additional adjustment will not be made.

(f) Quality adjustments for crops, other than cotton, peanuts, sugar beets

and tobacco, listed in paragraph (b)(1) of this section may be made by applying an adjustment factor based on dividing the Federal marketing assistance loan rate applicable to the crop and producer determined according to part 1421 of this chapter by the unadjusted county marketing assistance loan rate for the crop. For crops that grade ''sample'' and are marketed through normal channels, production will be adjusted as determined by CCC. County committees may, with state committee concurrence, establish county average quality adjustment factors.

(g) Quality adjustments for cotton shall be based on the difference between:

(1) The loan rate applicable to the crop and producer determined according to part 1427 of this chapter; and

(2) The adjusted county loan rate. The adjusted county rate is the county loan rate adjusted for the 5-year county average historical quality premium or discount, as determined by CCC.

(h) Quality adjustments for quota peanuts shall for unused quota be based on the difference between the adjusted sales price and the quota price. The adjusted sales price is the quota price minus discounts for quality, regardless of the actual sales price received. Adjustments for non-quota peanuts may also be made to reflect diminished quality as determined by CCC.

(i) Quality adjustments for sugar beets shall be based on sugar content. The 1999 actual production for the producer shall be adjusted upward or downward to account for sugar content as determined by CCC.

(j) Quality adjustments for tobacco shall be based on the difference between the sales price and the support price except that the market price may be used instead of the support price where market prices for the tobacco are normally in excess of the support price.

(k) Quality adjustments for crops with multiple market uses such as fresh, processed and juice, shall be applied based on the difference between the producer's historical marketing percentage of each market use compared to the actual percentage for 1999.

(l) Quality adjustments for aflatoxin shall be based on the aflatoxin level. The producer must provide the county committee with proof a price reduction because of aflatoxin. The aflatoxin level must be 20 parts per billion or more before a quality adjustment will be made. The quality adjustment factor applied to affected production is .50 if the production is marketable. If the production is unmarketable due to aflatoxin levels of at least 20 parts per billion, production will be adjusted to zero. Any value received will be considered salvage.

(m) Any quantity of the crop determined to be salvage will not be considered production. Salvage values shall be factored by 0.60.

(n) Quality adjustments do not apply to value loss crops.

(o) Quality adjustments shall not apply to: hay, honey, maple sap, turfgrass sod, crops marketed for a use other than an intended use for which there is not an established county price or yield.

§ 1478.18 Value loss crops.

(a) Special provisions to assess losses and calculate disaster assistance under this part apply to the following crops and such other crops as determined by CCC: ornamental nursery; Christmas trees; vegetable and root stock including ginseng root; and aquaculture, including ornamental fish.

(b) Disaster benefits under this part are calculated based on the loss of value at the time of disaster, as determined by CCC.

(c) For aquaculture, disaster benefits under this part for aquacultural species are limited to those aquacultural species that were placed in the aquacultural facility by the producer. Disaster benefits under this part shall not be made available for aquacultural species that are growing naturally in the aquaculture facility. Disaster benefits under this part are limited to aquacultural species that were planted or seeded on property owned or leased by the producer where that land has readily identifiable boundaries, and over which the producer has total control of the waterbed and the ground under the waterbed. Producers who only have control over a column of water will not be eligible for disaster benefits under this part.

(d) For ornamental nursery crops, disaster benefits under this part are limited to ornamental nursery crops that were grown in a container or controlled environment for commercial sale on property owned or leased by the producer, and cared for and managed using good nursery growing practices. Indigenous crops are not eligible for benefits under this part.

(e) For Christmas trees, disaster benefits under this part are limited to losses that exceed 35 percent of the value of the Christmas trees present at the time of the disaster. Christmas tree producers seeking disaster assistance under this part must provide acreage data, dates of plantings and the quantity of trees planted on each date.

(f) For vegetable and root stock, disaster benefits under this part are limited to plants grown in a container or controlled environment for use as transplants or root stock by the producer for commercial sale or property owned or leased by the producer and managed using good rootstock or fruit and vegetable plant growing practices.

§ 1478.19 Other specialty crops.

(a) For turfgrass sod, disaster benefits under this subpart are limited to turfgrass sod that would have matured and been harvested during 1999, when a disaster caused in excess of 35 percent of the expected production to die.

(b) For honey, disaster benefits under this part are limited to table and non-table honey produced commercially for human consumption. For calculating benefits, all honey is considered a single crop, regardless of type or variety of floral source or intended use.

(c) For maple sap, disaster benefits under this part are limited to maple sap produced on private property in a controlled environment by a commercial operator for sale as sap or syrup. The maple sap must be produced from trees that are: located on land the producer controls by ownership or lease; managed for production of maple sap; and are at least 30 years old and 12 inches in diameter.

Signed at Washington, DC, on February 9, 2000.

Parks Shackelford,

Acting Administrator, Farm Service Agency, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 00–3406 Filed 2–11–00; 3:18 pm]

BILLING CODE 3410–05–P

Federal Register

Wednesday,
February 16, 2000

Part IV

Department of Housing and Urban Development

Notice of Funding Availability for the HUD Rural Housing and Economic Development Program for Fiscal Year 2000; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4547–N–01]

Notice of Funding Availability for the HUD Rural Housing and Economic Development Program for Fiscal Year 2000

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: *Purpose of Program:* The purpose of the Rural Housing and Economic Development program is to build capacity at the State and local level for rural housing and economic development and to support innovative housing and economic development activities in rural areas. The funds made available under this program will be awarded competitively, through a selection process conducted by HUD in consultation with the United States Department of Agriculture (USDA).

Available Funds: Approximately $24.75 million in Fiscal Year (FY) 2000 funding.

Eligible Applicants: Local rural non-profit organizations, community development corporations, Indian tribes, State housing finance agencies, and State economic development or community development agencies.

Application Deadline: April 7, 2000.

Match: None.

SUPPLEMENTARY INFORMATION: If you are interested in applying for funding under this program, please review carefully the following information:

I. Application Due Date and Technical Assistance

Application Due Date: Completed applications (one original and two copies) must be submitted on or before 12:00 midnight, Eastern time, on April 7, 2000 to the address shown below.

Address for Submitting Applications: Completed applications (one original and two copies) must be submitted to: Processing and Control Unit, Room 7255, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; ATTN: Rural Housing and Economic Development program. When submitting your application, please include your name, mailing address (including zip code) and telephone number (including area code).

(1) *Mailed Applications.* Your applications will be considered timely filed if postmarked on or before 12:00 midnight (Eastern time) on the application due date and received at the address above on or within five (5) calendar days of the application due date.

(2) *Applications Sent by Overnight/Express Mail Delivery.* Applications sent by overnight delivery or express mail will be considered timely filed if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

(3) *Hand Carried Applications.* Hand carried applications delivered before and on the application due date must be brought to the specified location at HUD Headquarters and room number between the hours of 8:45 am to 5:15 pm, Eastern time. Applications hand carried on the application due date will be accepted in the South Lobby of the HUD Headquarters Building at the above address from 5:15 pm until 12:00 midnight, Eastern time of the due date. This deadline date is firm. Please make appropriate arrangements to arrive at the HUD Headquarters Building before 12:00 midnight on the application due date.

For Further Information and Technical Assistance. All information and materials required to submit an application for funding under the HUD Rural Housing and Economic Development program are included in the Appendix to this NOFA.

For information concerning the HUD Rural Housing and Economic Development program, contact Jackie Mitchell, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW, Room 7134, Washington, DC 20410; telephone (202) 708–2290 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

Prior to the application deadline, HUD at the numbers above will be available to provide general guidance, but not guidance in actually preparing the application. Following selection, but prior to award, HUD staff will be available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD.

II. Amount Allocated

(A) Available Funds

Approximately $24.75 million in Fiscal Year (FY) 2000 funding is being made available through this NOFA for the Rural Housing and Economic Development program. The breakdown for this funding is discussed below.

(B) The FY 2000 HUD Appropriations Act

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub.L. 106–74, approved October 20, 1999) (the ''FY 2000 HUD Appropriations Act'') made $25 million in FY 2000 funds available under the Rural Housing and Economic Development program.

(C) Funding Categories/Expected Average Award Amounts

HUD will award up to $24.75 million on a competitive basis in the following funding categories. HUD reserves the right to modify the size of a grant award to meet the objectives of the Rural Housing and Economic Development program.

(1) *Capacity Building.* HUD will award up to $2.75 million to build capacity at the State, tribal, and local level for rural housing and economic development. This amount will go directly to local rural nonprofits, community development corporations (CDCs) and Indian tribes to support capacity building and technical assistance. HUD expects the average award amount under this funding category to be $150,000.

(2) *Support for Innovative Activities.* HUD will award up to $19 million to Indian tribes, State Housing Finance Agencies (HFA)s, state community and/or economic development agencies, local rural non-profits and CDCs to support innovative housing and economic development activities in rural areas. HUD expects the average award amount under this funding category to be $500,000.

(3) *Seed Support.* HUD will award up to $3 million in seed support for Indian tribes, local rural non-profits and CDCs that are located in areas that have limited development capacity to create or support innovative rural housing and economic development activities. HUD expects the average award amount under this funding category to be $200,000.

(4) *Innovative Strategies Clearinghouse.* In addition to the three funding categories described above, $0.25 million will be used to maintain a clearinghouse of ideas for innovative strategies for rural housing and economic development and revitalization.

III. Program Description; Eligible Applicants; Eligible Activities

(A) Program Description

(1) *Background.* There is a great need for expanding the supply of housing in rural America, particularly affordable housing for low income families and individuals. There are a number of rural areas which have experienced rapid in-migration as a result of a growth in employment opportunities, but which have a shortage of affordable housing. In addition, because of out-migration from rural areas, and other factors causing economic dislocation, many rural areas suffer from severe economic distress. There has been a growing national recognition of the need to enhance the capacity of local and State governments, Indian tribes, local rural nonprofits, and CDCs to expand the supply of affordable housing and to engage in economic development activities in rural areas.

A number of resources are available from the Federal government to address these problems, including programs of the United States Department of Agriculture (USDA), the Economic Development Administration (EDA), the Appalachian Regional Commission (ARC), the Department of Interior (for Indian Tribes) and HUD. The Rural Housing and Economic Development program has been developed to supplement these resources and to focus specifically on capacity building and innovative approaches to both housing and economic development in rural areas. In administering these funds, HUD will encourage coordination between all Federal agencies in support of the program objectives.

(2) Definitions

Areas that have limited capacity for the development of rural housing and economic development means areas in which very few or no institutions or organizations exist which have the capacity to develop housing or economic development activities of the sort proposed in the application.

Appalachia's Distressed Counties means those counties in Appalachia that the Appalachian Regional Commission (ARC) has determined to have unemployment and poverty rates that are 150 percent of the respective U.S. rates and per capita income that is less than 67 percent of the U.S. per capita income and counties with 200 percent of the U.S. poverty rate and one other indicator. Appendix A to this notice identifies the ARC's list of distressed counties.

Colonia means any identifiable community that:

(i) Is located in the State of Arizona, California, New Mexico, or Texas;

(ii) Is located in the U.S.-Mexico border region (that is, within 150 miles of the border between the U.S. and Mexico);

(iii) Meets objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, sanitary, and accessible housing.

Although section 916(e)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306(e)(4)) included the notation that a colonia must have been in existence and generally recognized as such prior to its enactment, HUD recognizes that additional identifiable colonias have come into existence, in the near-decade since the enactment, and are in need of assistance to the same extent as older colonias.

Farmworker means a farm employee of an owner, tenant, labor contractor, or other operator raising or harvesting agricultural or aquacultural commodities; or a worker in the employ of a farm operator, handling planting, drying, packing, grading, storing, delivering to storage or market, or carrying to market agricultural or aquacultural commodities produced by the operator. Seasonal farmworkers are those farm employees who typically do not have a constant year round salary. Migrant farmworkers are those farm employees whose work requires travel that prevents the employee from returning to his or her permanent place of residence within the same day.

Firm commitment means the agreement by which an applicant's partner agrees to perform an activity specified in the application and demonstrates the financial capacity to deliver the resources necessary to carry out the activity, and commits the resources to the activity. Although a firm commitment need not be legally binding, or enforceable, at the time the grant is awarded, it must be legally binding before grant funds may be expended. In documenting a firm commitment, the applicant's partner must:

(i) Specify the authority by which the commitment is made, the amount of the commitment and the use of funds. If the committed activity is to be self-financed, the applicant's partner must evidence its financial capability through a corporate or personal financial statement or other appropriate means. If any portion of it is to be financed through a lending institution, the participant must evidence the institution's commitment to fund the loan;

(ii) State the amount and use of the grant, and the relationship of the grant to the proposed investment; and

(iii) Affirm that its investment is contingent upon receipt of the total grant or other public money (or a specified portion thereof), and state a willingness on the part of the signatory to sign a legally binding commitment (conditioned on HUD environmental review and approval of a property, where applicable) upon award of the grant.

Indian tribe means any entity eligible to apply for funding under the Indian Community Development Block Grant (ICDBG) program (see 24 CFR 1003.5(a)).

Innovative housing and economic development activities means projects, techniques, methods, combinations of assistance, construction materials, and financing institutions or sources new to the eligible area, or its population. The innovative activities can also build upon and enhance a model that already exists.

Local rural non-profit or community development corporation means either:

(i) Any private entity with tax exempt status recognized by the Internal Revenue Service (IRS) which serves the eligible rural area involved in the application (including local affiliates of national organizations that provide technical and capacity building assistance in rural areas); or

(ii) Any public non-profit such as a Council of Governments that will serve local non-profit organizations in the eligible area.

Lower Mississippi Delta Region means the seven state, 219 county/parish region defined by Congress in the Lower Mississippi Delta Development Act, P.L. 100–460. Appendix B to this notice identifies the list of the counties referenced in the Act.

Rural area may be defined in one of five ways:

(i) A place having fewer than 2,500 inhabitants (within or outside of metropolitan areas).

(ii) A county with no urban population (*i.e.,* city) of 20,000 inhabitants or more.

(iii) Territory, persons, and housing units in the rural portions of ''extended cities.'' The U.S. Census Bureau identifies the rural portions of extended cities in the United States.

(iv) Open country which is not part of or associated with an urban area. The United States Department of Agriculture (USDA) determines what constitutes ''open country.''

(v) Any place with a population not in excess of 20,000 and is not located in a Metropolitan Statistical Area.

State economic development or community development agency means any state agency which has promotion of statewide or local community/economic development as its primary purpose.

State Housing Finance Agency means any state agency created to assist local communities and housing providers with financing assistance for development of housing in rural areas, particularly for low and moderate income people.

(3) *Eligible applicants.* Eligible applicants for each of the funding categories are as follows:

(a) *For capacity building funding.* If you are a local rural non-profit, CDC, or Indian tribe, you are eligible for capacity building assistance. If you are a local rural nonprofit/CDC applying for capacity building funds (and are not a local affiliate of a national organization), you must either:

(i) Have any experience in providing technical assistance and capacity building assistance in rural areas; or

(ii) Partner with another organization that has any such experience.

(b) *For support for innovative activities funding.* If you are a local rural non-profit, CDC, Indian tribe, State HFA, or State economic development or community development agency, you may apply for funding to support innovative housing or economic development activities in rural areas.

(c) *For seed support funding.* If you are a local rural non-profit, CDC, or Indian tribe, you may apply for seed support funding.

(4) *Eligible activities.* The following are examples of eligible activities under the Rural Housing and Economic Development program. The examples are illustrative and are not meant to limit the activities that you may propose in your application. Any activity that meets the objective of the Rural Housing and Economic Development program will be considered eligible.

(a) *For capacity building funding.* Capacity building for rural housing and economic development involves the enhancement of existing organizations to carry out new functions and/or perform more effectively existing functions.

Activities in connection with strengthening existing organizations include hiring qualified staff, supporting and training existing staff, providing software and other tools to provide networking and research capability, and obtaining expertise from outside sources. They also include hiring staff and training to improve management capability, including development of accounting systems, MIS support and related activities. Eligible activities also include arranging for technical assistance to conduct need assessments, conduct asset inventories, develop strategic plans. These activities also include the promotion of fair housing by training local organizations and residents in fair housing issues, and by helping them to file fair housing complaints with HUD, when warranted.

(b) *For support of innovative rural housing and economic development funding.* (i) This category is intended to support, but not be limited to, ''hard costs'' for both housing and economic development. Eligible activities include preparation of plans, architectural and engineering drawings and reports, financial assistance for acquisition of land and buildings, demolition, provision of infrastructure, purchase of materials, construction costs, the use of local labor markets, and construction training.

(ii) With regards to housing, eligible activities include homeownership counseling, application of innovative construction methods encouraging building design which reflects terrain, weather, and availability of indigenous materials. Building design is subject to the requirements of the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973. HUD strongly recommends that all housing designs be made ''visitable.''

(iii) For both housing and economic development, eligible activities include establishing CDFIs, lines of credit, revolving loan funds, microenterprises, small business incubators, provision of direct financial assistance to homeowners/businesses/developers, etc. This can be in the form of establishing default reserves, pooling/securitization mechanisms, loans, grants, etc.

(c) *For seed support funding.* This category is intended to provide funds for start up costs for creating or supporting innovative housing and economic development to be undertaken by new organizations/institutions, or for specific innovative housing or economic development projects new to the eligible area or new to the organization, that will support innovative housing and economic development activities. For organizations, this could include ''up front'' money for acquiring space and support facilities, as well as hiring and training staff, purchasing software and other networking tools, developing an accounting system, and seeking technical assistance. For both housing and economic development projects, eligible activities include purchase of land, options, purchase of inventory and other business ''start up'' costs as well as all other types of administrative expenses cited in 24 CFR 570.206(g) of the Community Development Block Grant entitlement regulations.

IV. Program Requirements

(A) Statutory Requirements

To be eligible for funding under this NOFA, you, the applicant, must meet all applicable statutory and regulatory requirements. If you need copies of the HUD regulations referenced in this NOFA, they are available at the HUD web site located at http://www.HUD.gov. HUD may reject an application from further funding consideration if the activities or projects proposed in the application are not eligible, or HUD may eliminate the ineligible activities from funding consideration and reduce the grant amount accordingly.

(B) Threshold Requirements—Compliance With Fair Housing and Civil Rights Laws

With the exception of Federally recognized Indian tribes, all applicants and their subrecipients must comply with all Fair Housing and civil rights laws, statutes, regulations and executive orders as enumerated in 24 CFR 5.105(a). If you are a Federally recognized Indian tribe, you must comply with the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, and the Indian Civil Rights Act.

If you, the applicant, or any of your partners or affiliates—

(1) Have been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination;

(2) Are a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or

(3) Have received a letter of noncompliance findings under Title VI, Section 504 of the Rehabilitation Act of 1973, or Section 109 of the Housing and Community Development Act of 1974—

HUD will not rank and rate your application under this NOFA if the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department before the application deadline stated in this NOFA. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(C) Additional Nondiscrimination Requirements

You, the applicant, must comply with the Americans with Disabilities Act, and Title IX of the Education Amendments Act of 1972.

(D) Affirmatively Furthering Fair Housing

With the exception of Indian tribes, if you are a successful applicant, you will have a duty to affirmatively further fair housing. You, the applicant, should include in your work plan the specific steps that you will take to promote and ensure fair housing rights and fair housing choice.

(E) Economic Opportunities for Low and Very Low-Income Persons (Section 3)

You must comply with section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons) and the HUD regulations at 24 CFR part 135, including the reporting requirements in subpart E, if:

(1) The amount of your grant exceeds $200,000; and

(2) Your funded project involves the construction, reconstruction, conversion or rehabilitation of housing (including the reduction and abatement of lead-based paint hazards), or other public construction which involves buildings and improvements (regardless of ownership).

Section 3 requires recipients to ensure that, to the greatest extent feasible, training, employment and other economic opportunities will be directed to low and very low income persons, particularly those who are recipients of government assistance for housing; and business concerns which provide economic opportunities to low and very low income persons.

(F) Relocation

Any person (including individuals, partnerships, farms, corporations or associations) who moves from real property or moves personal property from real property directly (1) because of a written notice to acquire real property in whole or in part, or (2) because of the acquisition of the real property, in whole or in part, for a HUD-assisted activity is covered by the Federal relocation statute and regulations. Specifically, this type of move is covered by the acquisition policies and procedures and the relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and the implementing government-wide regulation at 49 CFR part 24. The relocation requirements of the URA and the government-wide regulations also cover any person who moves permanently from real property or moves personal property from real property directly because of rehabilitation or demolition for an activity undertaken with HUD assistance.

(G) Forms, Certifications and Assurances

You, the applicant, are required to submit signed copies of the standard forms, certifications, and assurances included in the Appendix to this NOFA signed by the managing officer of your organization.

(H) OMB Circulars

The policies, guidance, and requirements of OMB Circular No. A–87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments), OMB Circular No. A–122 (Cost Principles for Nonprofit Organizations), OMB Circular No. A–133 (Audits of States, Local Governments, and Non-Profit Organizations), 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally recognized Indian tribal governments) apply to the award, acceptance and use of assistance under the Rural Housing and Economic Development program NOFA, and to the remedies for noncompliance, except when inconsistent with the provisions of the FY 2000 HUD Appropriations Act, other Federal statutes or the provisions of this NOFA. Copies of the OMB Circulars may be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington, DC 10503, telephone (202) 395–7332 (this is not a toll free number).

(I) Environmental Review

Selection for award does not constitute approval of any proposed sites. Following selection for award, HUD will perform an environmental review of activities proposed for assistance under this part, in accordance with 24 CFR part 50. The results of the environmental review may require that proposed activities be modified or that proposed sites be rejected. Applicants are particularly cautioned not to undertake or commit funds for acquisition or development of proposed properties (including establishing lines of credit that permit financing of such activities or making commitments for loans that would finance such activities from a revolving loan fund capitalized from funds under this NOFA) prior to HUD approval of specific properties or areas. Each application shall contain an assurance that you, the applicant, will assist HUD to comply with part 50; will supply HUD with all available, relevant information to perform an environmental review for each proposed property; will carry out mitigating measures required by HUD or select alternate property; and will not acquire, rehabilitate, convert, lease, repair or construct property, not commit or expend HUD or local funds for these program activities with respect to any eligible property, until HUD approval of the property is received. In supplying HUD with environmental information, grantees are to use the same guidance as provided in the HUD Handbook entitled ''Field Environmental Review Processing for HUD Colonias Initiative (HCI) grants'' issued January 27, 1998.

(J) Grant Amounts

In the event you, the applicant, are awarded a grant that has been reduced (e.g. the application contained some activities that were ineligible or budget information did not support the request), you will be required to modify your project plans and application to conform to the terms of HUD's approval before execution of a grant agreement. HUD reserves the right to reduce or de-obligate the award if approvable modifications to the proposed project are not submitted by the awardee in the required amounts in a timely manner. Any modifications must be within the scope of the original application. HUD reserves the right not to make awards under this NOFA.

(K) Grant Period

Recipients will have 36 months from the date of funding to complete all project activities except the final evaluation and reporting, fulfillment and audit requirements and final project close-out.

(L) Negotiations

After all applications have been rated and ranked and a selection has been made, HUD may require that grantees participate in negotiations to determine the specific tasks and grant budget. Where a specific area or one or more specific sites for project activities are identified in an application or during negotiations, HUD may undertake and complete its environmental review during negotiations. In cases where HUD cannot successfully conclude negotiations or a selected applicant fails to provide HUD with requested information, or if the reduced amount of

funding makes the project infeasible, awards will not be made. In such instances, HUD will offer an award to the next highest ranking applicant and proceed with negotiations with that next highest ranking applicant.

(M) Adjustments to Funding

(1) HUD reserves the right to fund less than the full amount requested in your application to ensure the purpose of the program is met. HUD may not fund portions of the applications that are ineligible for funding under applicable program statutory or regulatory requirements, or which do not meet the requirements of this NOFA, but may fund eligible portions of the applications.

(2) If funds remain after funding the highest ranking applications in each funding category, HUD may fund part of the next highest ranking application in the same category (i.e., capacity-building). If the applicant turns down the award offer, or if the project is not feasible at the proposed funding level, HUD will make the same determination for the next highest ranking applications in each category.

(3) HUD reserves the right to reallocate funds between categories to achieve the maximum allocation of funds in all categories.

(N) All Property Assisted Under the Rural Housing and Economic Development Program is Covered by the Lead-Based paint Poisoning Prevention Act (42 U.S.C. 4821–4846) and HUD's Implementing Regulations at 24 CFR Part 35.

V. Application Selection Process

(A) Rating and Ranking

(1) *General.* To review and rate applications, HUD may establish panels including outside experts or consultants to obtain certain expertise and outside points of view, including views from other Federal agencies. A total of 100 points is possible.

(2) *Rating.* All applicants for funding will be evaluated against the criteria below.

(3) *Ranking.* Applicants will be ranked separately within each of the three funding categories. Applicants will be selected for funding in accordance with their rank order in each category. If two or more applications are rated fundable and have the same score, but there are insufficient funds to fund all of them, the application(s) with the highest score for Rating Factor 3 (Soundness of Approach) shall be selected. If applications still have the same score, the highest score in the following factors will be selected sequentially until one highest score can be determined: Rating Factor 4 (leveraging of resources), Rating Factor 1 (capacity and experience) Rating Factor 2 (Need).

(B) Initial Screening

During the period immediately following the application deadline, HUD will screen each application to determine eligibility. Applications will be rejected if they:

(1) Are submitted by ineligible applicants (including applicants that do not meet the fair housing and civil rights threshold requirement described in section IV(B) of this NOFA);

(2) Do not serve an eligible rural area; or

(3) Propose a program for which significant activities are ineligible.

HUD will notify you if your application failed to pass the initial screening review.

(C) Rating Factors for Award

Rating Factor 1—Capacity of the Applicant and Relevant Organizational Experience (up to 25 Points)

This rating factor addresses the qualifications and experience of the applicant and participating parties to carry out the objectives of the proposed activities within a reasonable time period. HUD will review and evaluate the information provided documenting capacity.

(a) *Rating standard applicable to all funding categories.* For all three funding categories, you must submit evidence of the experience of you and your partners (if any) in leveraging other Federal, local, State and private sector funds.

(b) *Rating standards applicable to individual funding categories.* The three funding categories have different objectives. Accordingly, in addition to the generally applicable rating standard discussed above, different standards will be used to judge the experience and qualifications of the applicants and any partners for each of the three funding categories.

(i) *Capacity Building.* (*1*) HUD will consider the experience of you and your partners (if any) in housing or economic development programs and the competencies of your core staff to effectively utilize the funds which are being proposed for capacity building. You must demonstrate experience, including number of units built or economic development activities accomplished. You must describe your basic organization, management structure, and include evidence of internal and external coordination and an adequate accounting system.

(ii) *Support for Innovative Rural Housing and Economic Development Activities.* HUD will consider the demonstrated experience of you and your partners (if any) in carrying out the type of housing or economic development project or activity for which funding is being sought and the competencies of your staff who will be responsible for carrying it out. Since these funds are for implementation, not capacity building, you must describe the experience, including past achievements, that you and your partners (if any) have in conducting the specific type of activities for which funding is requested. You must also describe the competencies of your core staff to carry out the proposed activities for which you are requesting funding. You must also submit evidence of the experience of you and your partners (if any) in leveraging other Federal, local, State and private sector funds.

(iii) *Seed support.* HUD will consider the demonstrated experience of you and your partners (if any) in carrying out the specific type of innovative program or activity for which the seed support is being requested. You must describe the experience that you and your partners (if any) have in conducting the types of activities for which you are seeking funding, including the competencies of core staff. You must also submit evidence of the experience of you and your partners (if any) in leveraging other Federal, local, State and private sector funds.

Rating Factor 2—Need and Extent of the Problem (up to 25 Points)

The Rural Housing and Economic Development program has been designed to address the problems of rural poverty, inadequate housing and lack of economic opportunity. Need will be addressed in two ways—documentation of the demographics of economic distress (including the special factors discussed below); and demonstrated need for the specific activity or project, including needs identifies in the State's Consolidated Plan and/or an Analysis of Impediments to Fair Housing Choice (AI).

(a) *Demographics of Economic Distress* (up to 10 Points) You must provide data documenting economic distress. These data may include poverty rates, unemployment data, out-migration information and other statistics including health problem, crime rates, drug use, wage levels, high school dropout rates, literacy rates, incidence of homelessness, and rates/number of people on public assistance. Because of distances between population centers and low population

densities in rural areas, considerable latitude will be allowed in establishing the most appropriate area to which the data apply. If housing shortages in an area are being caused by rapid in-migration, provide information regarding number of new residents and their housing needs. In addition to the data for the area itself, comparative statistics must be provided for the region or State which will document the high level of distress in the area to be served. Data must be from an official—government or non-government source—such as the most current census, labor statistics, the State's most recent Consolidated Plan for the area submitted to HUD, or state or county agency, university or national non-or for-profit organization reports or studies.

(b) *Demographics of Economic Distress—Special Factors (5 Points).* Because of the concern of the Department with meeting the needs of certain underserved areas, you will be awarded a total of five points if you are located in or propose to serve one or more of the following populations and specifically identify how they will be served, provided that the proposed service area meets the definition of ''eligible rural area'' as described in Section III (A)(2) of this NOFA:

(i) Areas with very small populations in non-urban areas (2,500 population or less);

(ii) Migrant and seasonal farmworkers;

(iii) Indian Tribes;

(iv) Colonias;

(v) Appalachia's Distressed Counties; or (vi) the Lower Mississippi Delta Region.

(c) *Demonstrated Need* (up to 10 points).

(i) *For capacity building.* You must document the need for improvement of existing organizations.

(ii) *For support for Innovative Rural Housing and Economic Development Activities.* (*1*) *General.* HUD will evaluate the importance of the project to the community and the projected outcomes. For both housing and economic development projects, you must describe the importance of the activities to be funded by the grant to the total project. HUD will also consider the degree to which the need for the project or activity has been reflected in the planning processes of the community.

(*2*) *For economic development proposals,* you must describe the number of jobs or new businesses to be created, provisions for job or business training or financing and linkage to jobs for area residents and the potential for attracting or creating new industry niches, and the extent to which it will build wealth in the community.

(*3*) *For housing projects,* HUD will evaluate the extent to which the proposed housing satisfies an unmet need. You must provide data which documents the need for increasing the supply of affordable housing in the areas in which housing is to be provided. You must address the issues of the affordability of housing and the cost of housing, as well as the availability of financing. You must use census tracts, political boundaries, neighborhood designations or other delineations to define the area to be served. You must state the source of the information provided. You must provide information on:

(*A*) Vacancy rates;

(*B*) Substandard housing;

(*C*) Shortage of affordable housing (if the shortage of housing has been caused by recent in-migration, provide statistics regarding the number of new residents and describe the problem which this has caused); and

(*D*) Rent burden.

(iii) *For Seed Support.* HUD will evaluate the relative importance of the seed support which is being sought to the viability of the innovative project or activity. You must describe the importance of the seed money to be provided to the total project, showing that the area is lacking the type of innovative project or activity being proposed, or that the need your proposal will fill that is not presently being filled.

Rating Factor 3—Soundness of Approach (up to 30 Points)

This factor addresses the quality, comprehensiveness, and anticipated effectiveness of the proposed program in meeting the needs you have identified in Rating Factor 2, including those that had been previously identified in a statewide Analysis of Impediments to Fair Housing (AI) or Consolidated Plan. The populations which were described in demographics that documented need should be the same populations which will receive the primary benefit of the activities. HUD will be evaluating your Statement of Work based on your description of, and estimated schedule for, proposed activities, your management plan and method for assuring effective and timely completion of all work, your projected outcomes, evidence of coordination and cost efficiency, your budget and cost estimates, and your self-monitoring and program evaluation process. HUD is interested in quickly creating housing and economic development opportunities in rural areas. HUD will consider:

(a) Description of and Rationale for Proposed Activities

The extent to which your proposed program meets the purposes of this NOFA and the needs outlined under Rating Factor 2 of your application. You must describe the proposed activities in detail and indicate why you believe the proposed activities will be most effective in addressing the identified need. If you are proposing new methods for which there is limited knowledge of the effectiveness, you must provide the basis for modifying past practices, and your rationale for why the modified approach will yield more effective results.

(b) Management Plan and Method

The extent to which your management plan identifies the specific actions that you and your partners will take to complete your proposed activities on time and within budget. Your management plan must include a description of the management structure for the program and a schedule outlining the estimated completion of all tasks associated with the proposed program. If your proposed activities will quickly produce demonstrable results and advance the purposes of the Rural Housing and Economic Development program, you will receive a higher score.

(c) Expected Outcomes

The extent to which your proposed program is likely to achieve desirable outcomes. You must provide a qualitative and/or quantitative description of estimated outcomes as appropriate. The type and level of estimated outcomes will be highly dependent on the nature of your proposed program. Outcomes may be described using statistics such as the estimated number of new units constructed, new businesses created, jobs created/retained, loans financed, staff members hired, or individuals assisted through counseling or training programs. Outcomes that do not lend themselves to numerical interpretation, such as the extent to which you anticipate your organization to be strengthened as a result of capacity building funding, should be described in narrative terms. The level of project funding, availability of outside resources, complexity of proposed activities, and size of your organization will be taken into account when evaluating the projected outcomes.

(d) Coordination and Cost-Efficiency

The extent to which the proposed program uses available local resources to increase coordination and cost-effectiveness. You must describe your

use of, and coordination with other resources, programs, services, and facilities. HUD recognizes that the opportunity for increased cost-effectiveness through coordination varies greatly between communities. An applicant will not be penalized for lack of coordination when the application clearly indicates a lack of available resources and services.

(e) Budget and Cost Estimates

The quality, thoroughness, and reasonableness of the proposed project budget. Cost estimates must be broken down by line item for each proposed activity and documented by outside sources when appropriate.

(f) Program Evaluation

The description of a comprehensive plan for monitoring the program and evaluating programmatic success. Your program evaluation plan must include a method for measuring the actual project outcomes and the attainment of program goals.

(g) The extent to which any housing constructed as a result of this funding benefits all segments of the population, including but not limited to accessibility and visibility for persons with disabilities, large families, and senior citizens.

(h) Because HUD fully supports the expansion of lending opportunities to disadvantaged areas of rural America, HUD will award up to 5 points to those applicants that—either individually or through coalitions of organizations—propose, as an innovative housing and/or economic development activity, to structure and carry out diversified financial leveraging linkages that secure a pool of much larger funds from other funding sources, *e.g.,* private institutions and foundations. The linkages should be designed to mitigate and reduce the risk to traditional lending institutions of lending in rural communities. Funds requested from HUD can be used to: Establish a loan loss reserve; provide gap financing, loan servicing, homeownership assistance, or business loans for firms; serve as a financial intermediary, etc. In awarding these points, HUD will consider the level of existing leveraging relations with private institutions, foundations, and other entities; and the proposed use of the leveraging funds. This criterion is applicable only to funding for support of innovative rural housing and economic development activities.

Rating Factor 4—Leveraging Resources (up to 10 Points)

HUD will evaluate the extent to which applicants for any of the three funding categories have obtained firm commitments of financial or in kind resources from other Federal, State, local, and private sources. In assigning points for this criterion, HUD will consider the level of outside resources obtained for cash or in kind services that support activities proposed in your application. This criterion is applicable to all three funding categories under this NOFA. The level of outside resources for which commitments are obtained will be evaluated based on their importance to the total program.

Rating Factor 5—Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which your proposed program is coordinated with other ongoing and related activities in the area you propose to serve. The purpose of this factor is to ensure that whenever possible, activities are not operated in isolation, but rather are linked with related activities and organizations to improve the overall effectiveness of all efforts being undertaken as part of your total effort. In evaluating this factor, HUD will consider the extent to which you have coordinated your activities with other known organizations, participate or promote participation in the state's Consolidated Planning process and/or a statewide Analysis of Impediments to Fair Housing Choice, and have addressed your described need in a holistic and comprehensive manner through linkages with other activities in the area or approved plans and programs funded by state or local governments.

In evaluating this factor, HUD will consider the extent to which you demonstrate that you have:

(a) Coordinated your proposed plan of activities with those of other groups or organizations in order to best complement and mutually support others' ongoing efforts or programs;

(b) Identified specific actions that have been taken or will be taken to coordinate comprehensive solutions through meetings, information networks, planning processes and other mechanisms with:

(i) Other HUD funded projects/activities; and

(ii) Other Federal, State or locally funded activities, including those proposed or ongoing in the area.

EZ/EC Bonus Points (2 points).

HUD will award two bonus points to all applications that include documentation stating that the proposed eligible activities/projects will be located in and serve Federally designated Rural Empowerment Zones or Enterprise Communities (Rural EZs/ECs). A listing of Federally designated Rural EZs and ECs are available on the Internet at http://www.ezec.gov.

VI. Application Submission Requirements

You must submit a separate application for each funding category you are applying for under this NOFA. The portion of your application consisting of your Statement of Work (see below) must be no more than 25 pages, and must be submitted on 8.5″ by 11″ paper, with lines double spaced and printed only one side. All pages of the application shall be numbered sequentially. Your application must include the following:

(A) *Statement of Work.* You must submit a Statement of Work which addresses the rating factors discussed in Section V(C) of this NOFA. The Statement of Work must start with a summary of the proposed program, including your objective, partners (if any), activities, and costs. All of the issues covered in the respective rating factors must be covered in the summary in order to receive full credit in the evaluation of the proposal. Following the summary, the Statement of Work must be organized as follows:

(1) You must describe your organization and the assignment of responsibilities for the work to be carried out under the grant (Rating Factor 1).

(2) You must describe the need and extent of the problem (Rating Factor 2).

(a) If you propose to create a new organization or institution under the capacity building funding category, you must provide evidence documenting that no existing organization or institution exists which serves the need identified in the area.

(b) If you are applying for seed support funding, you must provide evidence documenting that the area has limited capacity for the development of rural housing and economic development.

(3) You must describe the objective of your proposed program (Rating Factor 3). In addressing this submission requirement, you must:

(a) Describe the activities you propose to undertake to address the needs which have been identified, and describe the specific outcomes you expect to achieve.

(b) Include a budget in the format provided which explains the uses of both Federal and non-Federal funds and the period of performance under the grant.

(c) Include a discussion of the process by which the work accomplished with the grant will be evaluated to determine if the objectives of the grant were met.

Be specific regarding the qualifications of the evaluator and the process to be used.

(4) You must identify the resources which will be leveraged by the amount of this grant's funding that you are requesting and explain their importance to the program (Rating Factor 4). To receive the maximum number of points under Rating Factor 4(a), you must provide evidence of firm commitments. The commitment can be contingent upon HUD site approval following environmental review.

(5) You must describe the extent to which your program reflects a coordinated, community based process of identifying needs and building a system to address these needs (Rating Factor 5).

(B) In addition to the Statement of Work, your application must also include an original and three copies of the items listed below:

(1) A transmittal letter;

(2) A table of contents;

(3) A signed SF–424 (application form);

(4) A budget for all funds (Federal and Non-Federal) and a breakdown of all Federal funds requested, in the format provided in the Appendix to this NOFA;

(5) Documentation of funds pledged in support of Rating Factor 4—''Leveraging Resources'';

(6) The required certifications (signed, as appropriate, and attached as an Appendix);

(7) Acknowledgment of Application Receipt form (submitted with application and returned to you as verification of timely receipt).

(8) If you are a private nonprofit organization, a copy of your organization's IRS ruling providing tax-exempt status under section 501 of the IRS Code of 1986, as amended.

(9) The attached forms specifying:

(a) Which category of funds, as described in section II(C), you are applying for (you must submit a separate application for each category applied for);

(b) Which of the five definitions of the term ''rural area'' set forth in section III(A)(2) of this NOFA applies to the proposed service area and accompanying documentation as indicated on the form; and

(c) Which special populations, as set forth in Rating Factor 2(b), you intend to serve.

(10) The Environmental Review Assurance.

VII. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information you, the applicant, may want to provide. HUD may contact you, however, to clarify an item in your application or to correct technical deficiencies. You should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of your response to any eligibility or selection factors. *Examples* of curable (correctable) technical deficiencies include your failure to submit the proper certifications or your failure to submit an application that contains an original signature by an authorized official. In each case, HUD will notify you in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested. Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 5 calendar days of the date of receipt of the HUD notification. If your deficiency is not corrected within this time period, HUD will reject your application as incomplete, and it will not be considered for funding.

VIII. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements related to this program have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB approval number, once approved, will be published in the **Federal Register.** An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the national Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Federalism, Executive Order 13132

This notice does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132 (entitled ''Federalism''). Specifically, the NOFA solicits applicants to build capacity at the State and local level for rural housing and economic development and to support innovative housing and economic development activities in rural areas, and does not impinge upon the relationships between the Federal government and State and local governments. As a result, the NOFA is not subject to review under the Order.

Prohibition Against Lobbying Activities

You, the applicant, are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), which prohibits recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. You are required to certify, using the certification found at Appendix A to 24 CFR part 87, that you will not, and have not, used appropriated funds for any prohibited lobbying activities. In addition, you must disclose, using Standard Form LLL, ''Disclosure of Lobbying Activities,'' any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and congressional staff regarding specific grants or contracts. Tribes and tribally designated housing entities (TDHEs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but tribes and TDHEs established under State law are not excluded from the statute's coverage.

Section 102 of the HUD Reform Act; Documentation and Public Access Requirements

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 5.

(3) *Publication of Recipients of HUD Funding.* HUD's regulations at 24 CFR 4.7 provide that HUD will publish a notice in the **Federal Register** on at least a quarterly basis to notify the public of all decisions made by the Department to provide:

(i) Assistance subject to section 102(a) of the HUD Reform Act; or

(ii) Assistance that is provided through grants or cooperative agreements on a discretionary (non-formula, non-demand) basis, but that is not provided on the basis of a competition.

Section 103 HUD Reform Act

HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition must confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, the employee should contact the appropriate field office counsel, or Headquarters counsel for the program to which the question pertains.

IX. Authority

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub. L. 106–74, approved October 20, 1999).

Dated: February 11, 2000.

Joseph D'Agosta,

General Deputy Assistant Secretary for Community Planning and Development.

BILLING CODE 8320–01–P

APPENDIX A

Housing Affordability and Quality Indicators for Appalachian Regional Commission -Designated Distressed Counties

State/County	Estimated % of Renters Unable to Afford 2BR FMR[1]	Estimated % of Substandard Housing Units[2]
Alabama		
Hale	63%	14.3%
Macon	49%	8.8%
Pickens	58%	10.0%
Georgia		
Elbert	50%	6.5%
Kentucky		
Adair	43%	6.9%
Bath	51%	10.5%
Bell	52%	8.8%
Breathitt	58%	19.8%
Carter	45%	9.0%
Casey	44%	13.2%
Clay	65%	15.6%
Clinton	55%	11.2%
Cumberland	49%	8.6%
Elliott	66%	15.5%
Estill	45%	12.3%
Floyd	44%	6.1%
Green	49%	5.0%
Harlan	66%	9.0%
Jackson	65%	14.8%
Johnson	41%	7.0%
Knott	59%	10.8%
Knox	66%	10.2%
Lawrence	52%	11.0%
Lee	63%	15.3%
Leslie	50%	14.0%
Letcher	58%	8.9%
Lewis	45%	13.7%
Lincoln	45%	9.9%
McCreary	59%	13.4%
Magoffin	69%	11.0%
Martin	63%	7.1%
Menifee	51%	8.4%
Monroe	45%	8.3%
Morgan	51%	9.8%
Owsley	80%	17.7%
Perry	52%	10.7%
Pike	41%	4.6%
Powell	50%	10.9%
Rockcastle	49%	11.5%

Housing Affordability and Quality Indicators for Appalachian Regional Commission -Designated Distressed Counties

State/County	Estimated % of Renters Unable to Afford 2BR FMR[1]	Estimated % of Substandard Housing Units[2]
Rowan	44%	6.2%
Russell	45%	5.0%
Wayne	50%	12.8%
Whitley	49%	9.7%
Wolfe	79%	15.6%
Mississippi		
Alcorn	45%	3.2%
Benton	40%	10.8%
Chickasaw	43%	7.4%
Choctaw	43%	7.3%
Clay	44%	10.1%
Kemper	51%	13.0%
Marshall	43%	11.8%
Monroe	41%	5.3%
Noxubee	59%	18.6%
Oktibbeha	45%	7.2%
Tishomingo	39%	2.8%
Winston	45%	8.1%
Yalobusha	51%	8.5%
North Carolina		
Graham	53%	4.5%
Swain	45%	5.1%
Ohio		
Adams	62%	8.3%
Athens	48%	4.4%
Gallia	49%	4.5%
Meigs	69%	5.4%
Monroe	52%	6.5%
Morgan	58%	6.5%
Pike	55%	7.7%
Scioto	53%	4.1%
Vinton	53%	9.7%
Pennsylvania		
Fayette	49%	2.7%
Greene	59%	3.8%
Tennessee		
Campbell	43%	6.8%
Clay	43%	8.9%
Cocke	48%	8.6%
Fentress	41%	7.9%
Grundy	55%	7.1%
Hancock	73%	19.3%

Housing Affordability and Quality Indicators for Appalachian Regional Commission -Designated Distressed Counties

State/County	Estimated % of Renters Unable to Afford 2BR FMR[1]	Estimated % of Substandard Housing Units[2]
Johnson	48%	7.3%
Meigs	48%	8.0%
Pickett	55%	7.4%
Scott	47%	8.7%
Virginia		
Buchanan	49%	6.7%
Dickenson	62%	8.0%
Lee	53%	10.4%
Russell	50%	6.3%
Wise	53%	5.7%
West Virginia		
Barbour	55%	6.1%
Boone	53%	4.1%
Braxton	48%	8.1%
Calhoun	66%	12.0%
Clay	52%	10.2%
Fayette	44%	5.1%
Gilmer	55%	9.8%
Lewis	49%	4.8%
Lincoln	63%	9.8%
Logan	45%	5.0%
McDowell	68%	8.5%
Mason	43%	5.8%
Mingo	58%	6.6%
Nicholas	55%	5.3%
Pocahontas	45%	7.5%
Raleigh	49%	3.3%
Randolph	45%	5.0%
Ritchie	48%	6.3%
Roane	48%	8.6%
Summers	55%	7.9%
Taylor	49%	4.0%
Upshur	49%	5.6%
Webster	59%	10.2%
Wetzel	43%	5.5%
Wirt	64%	13.5%
Wyoming	58%	5.8%
Mean County-level Indicators	52%	8.7%

APPENDIX B

LOWER MISSISSIPPI DELTA COUNTIES AND PARISHES

ARKANSAS
Arkansas
Ashley
Baxter
Bradley
Calhoun
Chicot
Clay
Cleveland
Craighead
Crittenden
Cross
Dallas
Desha
Drew
Fulton
Grant
Greene
Independence
Izard
Jackson
Jefferson
Lawrence
Lee
Lincoln
Lonoke
Marion
Mississippi
Monroe
Ouachita
Phillips
Poinsett
Prairie
Pulaski
Randolph
St. Francis
Searcy
Sharp
Stone
Union
Van Buren
White
Woodruff

TOTAL COUNTIES
42

ILLINOIS
Alexander
Franklin
Gallatin
Hamilton
Hardin
Jackson
Johnson
Massac
Perry
Pope
Pulaski
Randolph
Saline
Union
White
Williamson

TOTAL COUNTIES
16

KENTUCKY
Ballard
Caldwell
Calloway
Carlisle
Christian
Crittenden
Fulton
Graves
Henderson
Hickman
Hopkins
Livingston
Lyon
Marshall
McCracken
McLean
Muhlenberg
Todd
Trigg
Union
Webster

TOTAL COUNTIES
21

LOUISIANA
Acadia
Allen
Ascension
Assumption
Avoyelles
Caldwell
Catahoula
Concordia
East Baton Rouge
East Carroll
East Felicia
Evangeline
Franklin
Grant
Iberville
Jackson
Jefferson
La Salle
Lincoln
Madison
Morehouse
Orleans
Ouachita
Pointe Coupee
Rapides
Richland
St. Bernard
St. Charles
St. Helena
St. James
St. John the Baptist
St. Landry
Tangipahoa
Tensas
Union
Washington
West Baton Rouge
West Carroll
West Felicia
Winn

TOTAL PARISHES
40

MISSISSIPPI
Adams
Amite
Attala
Benton
Bolivar
Carroll
Claiborne
Coahoma
Copiah
Covington
DeSoto
Franklin
Grenada
Hinds
Holmes
Humphreys
Issaquena
Jefferson
Jefferson Davis
Lafayette
Lawrence
Leflore
Lincoln
Madison
Marion
Marshall
Montgomery
Panola
Pike
Quitman
Rankin
Sharkey
Simpson
Sunflower
Tallahatchie
Tate
Tippah
Tunica
Union
Walthall
Warren
Washington
Wilkinson
Yalobusha
Yazoo

TOTAL COUNTIES
45

MISSOURI
Bollinger
Butler
Cape Girardeau
Carter
Crawford
Dent
Douglas
Dunklin
Howell
Iron
Madison
Mississippi
New Madrid
Oregon
Ozark
Pemiscot
Perry
Phelps
Reynolds
Ripley
St. Genevieve
St. Francois
Scott
Shannon
Stoddard
Texas
Washington
Wayne
Wright

TOTAL COUNTIES
29

GRAND TOTAL
214

TENNESSEE
Benton
Carroll
Chester
Crockett
Decatur
Dyer
Fayette
Gibson
Hardeman
Hardin
Haywood
Henderson
Henry
Lake
Lauderdale
McNairy
Greene
Obion
Shelby
Tipton
Weakley

TOTAL COUNTIES
21

Appendix

Checklist of Forms and Certifications

Page Number

- ☐ Transmittal Letter
- ☐ Checklist and Submission Table of Contents
- ☐ Standard Form for Application for Federal Assistance (SF-424)
- ☐ Statement of Work, including summary and responses to factors for award
- ☐ Budget in support of Rating Factor 3
- ☐ Documentation of Funds/In-Kind Services pledged in support of Rating Factor 4
- ☐ Required Certifications (signed)
  - ☐ Certification for a Drug-Free Workplace (HUD-50070)
  - ☐ Certification of Payments to Influence Federal Transactions (HUD-50071)(see 24 CFR part 87, Appendix A)
  - ☐ Disclosure of Lobbying Activities (SF-LLL) (If required, see 24 CFR part 87, Appendix B)
  - ☐ Applicant/Recipient Disclosure/Update Report (HUD-2880)
  - ☐ Applicant Nondiscrimination Certifications
  - ☐ Certification Regarding Debarment and Suspension (HUD-2992)
- ☐ Acknowledgment of Application Receipt (HUD-2993) (to be returned to applicant)
- ☐ For nonprofit organizations, a copy of the IRS ruling providing tax-exempt status under section 501 of the IRS Code of 1996, as amended

☐ Documentation that area served is rural area, as defined in this NOFA

☐ The Environmental Review Assurance

Application for Federal Assistance

OMB Approval No. 0348-0043

	2. Date Submitted	Applicant Identifier
1. Type of Submission: **Application** ☐ Construction ☐ Non-Construction **Pre-application** ☐ Construction ☐ Non-Construction	3. Date Received by State	State Application Identifier
	4. Date Received by Federal Agency	Federal Identifier

5. Applicant Information

Legal Name	Organizational Unit
Address (give city, county, State, and zip code): matters	Name, telephone number, and facsimile number of the person to be contacted on involving this application (give area codes)

6. Employer Identification Number (EIN): ☐☐—☐☐☐☐☐☐☐

8. Type of Application:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

7. Type of Applicant: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Inter-municipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N Nonprofit
O Public Housing Agency
P. Other (Specify):

9. Name of Federal Agency:

10. Catalog of Federal Domestic Assistance Number: ☐☐—☐☐☐

Title:

11. Descriptive Title of Applicant's Project:

12. Areas Affected by Project (cities, counties, States, etc.):

13. Proposed Project:		**14. Congressional Districts of:**	
Start Date	Ending Date	a. Applicant	b. Project

15. Estimated Funding:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. **Total**	$	.00

16. Is Application Subject to Review by State Executive Order 12372 Process?
a. **Yes** This pre-application/application was made available to the State Executive Order 12372 Process for review on:
Date: _____
b. **No** ☐ Program is not covered by E.O. 12372
or ☐ Program has not been selected by State for review.

17. Is the Applicant Delinquent on Any Federal Debt?
☐ Yes If "Yes," explain below or attach an explanation ☐ No

18. To the best of my knowledge and belief, all data in this application/pre-application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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form **SF-424** (4/92)
Prescribed by OMB Circular A-102

Instructions for the SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required face sheet for pre-applications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For pre-applications, use a separate sheet to provide a summary description of this project.

Item Entry

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Rural Housing and Economic Development Program (RHED)

Grant Budget

Rural Housing and Economic Development Grant Activities (List)	Sources of Funds					
	RHED Program	Other Federal Share	State Share	Local Share	Private Share	Total
	$	$	$	$	$	$
Grand Totals	$	$	$	$	$	$

Line Item Budget for Federal Funds for the Rural Housing and Economic Development Program

Cost Category	Activity 1 _____	Activity 2 _____	Activity 3 _____	Activity 4 _____	Activity 5 _____	Total Dollars
Personnel	$	$	$	$	$	$
Fringe Benefits						$
Travel						$
Equipment						$
Supplies						$
Contracts						$
Consultants						$
Other Direct Costs						$
Indirect Costs						$
Total Costs	$	$	$	$	$	$

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here ☐ if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title

Signature	Date
X	

form HUD-50070 (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

Certification of Payments to Influence Federal Transactions

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title

Signature	Date
X	

Previous edition is obsolete

form HUD 50071 (3/98)
ref. Handboooks 7417.1, 7475.13, 7485.1, & 7485.3

Disclosure of Lobbying Activities

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse side for Instructions.)

Public Reporting Burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency .

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award	☐ a. initial filing ☐ b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, if known: **Congressional District,** if known:	 **Congressional District,** if known:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** **CFDA Number,** if applicable: _____
8. Federal Action Number, if known:	**9. Award Amount,** if known: $
10a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):	**b. Individuals Performing Services** (including address if different from No. 10a.) (last name, first name, MI):

11. Information requested through this form is authorized by Sec.319, Pub. L. 101-121, 103 Stat. 750, as amended by sec. 10; Pub. L. 104-65, Stat. 700 (31 U.S.C. 1352). This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____

Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form-LLL (1/96)

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient, Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development

OMB Approval No. 2510-0011 (exp. 1/31/99)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report ☐ or an Update Report ☐

1. Applicant/Recipient Name, Address, and Phone (include area code):

( ) -

2. Social Security Number or Employer ID Number:

- -

3. HUD Program Name

4. Amount of HUD Assistance Requested/Received

5. State the name and location (street address, City and State) of the project or activity:

Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3).

☐ Yes ☐ No

2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD), involving the project or activity in this application, in excess of $200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9

☐ Yes ☐ No.

If you answered "No" to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form. ***However***, you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(Note: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)

(Note: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

I certify that this information is true and complete.

Signature:	Date: (mm/dd/yyyy)
X	

Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions

Overview.

A. Coverage. You must complete this report if:

(1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of $200,000 during the during the fiscal year;

(2) You are updating a prior report as discussed below; or

(3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

B. Update reports (filed by "Recipients" of HUD Assistance): General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

Line-by-Line Instructions.

Applicant/Recipient Information.

All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

Part I. Threshold Determinations - Applicants Only

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to ***either*** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

Part II. Other Government Assistance and Expected Sources and Uses of Funds.

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD ***and any other source*** - that have been or are to be, made available for the project or activity. Non-government sources of funds typically include (but are not limited to) foundations and private contributors.

Part III. Interested Parties.

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

   Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

Notes:

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, "person" means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Applicant Nondiscrimination Certifications

As the duly authorized representative of the applicant, I certify that the applicant:

1. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:

   a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and regulations pursuant thereto (24 CFR Part 1), which prohibit discrimination on the basis of race, color, or national origin;

   b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and implementing regulations at 24 CFR Part 8, which prohibit discrimination on the basis of handicap;

   c) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-07) and implementing regulations at 24 CFR 146, which prohibit discrimination on the basis of age; and,

   d) the requirements of any other nondiscrimination statute(s) which may apply to the application.

2. Will comply with the requirements of the Fair Housing Act (42 U.S.C. 3601-19), as amended, and implementing regulations at 24 CFR Part 100, et seq., which prohibit discrimination in housing on the basis of race, color, religion, sex, handicap, familial status, or national origin, and administer its programs and activities relating to housing in a manner to affirmatively further fair housing.

3. Will comply with Section 109 of the Housing and Community Development Act of 1974, as amended, (42U.S.C. 5301-5322), which states that no person shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Signature of Authorized Certifying Official X	Applicant
Title	Date

form HUD-40076-RHED (3/99)

Certification Regarding Debarment and Suspension

U.S. Department of Housing and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was place when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant	Date
Signature of Authorized Certifying Official	Title

Acknowledgment of Application Receipt

U.S. Department of Housing and Urban Development

Type or clearly print the Applicant's name and full address in the space below.

(fold line)

Type or clearly print the following information:

Name of the Federal Program to which the applicant is applying: _____

To Be Completed by HUD

☐ HUD received your application by the deadline and will consider it for funding. In accordance with Section 103 of the Department of Housing and Urban Development Reform Act of 1989, no information will be released by HUD regarding the relative standing of any applicant until funding announcements are made. However, you may be contacted by HUD after initial screening to permit you to correct certain application deficiencies.

☐ HUD did not receive your application by the deadline; therefore, your application will not receive further consideration. Your application is:

- ☐ Enclosed
- ☐ Being sent under separate cover

Processor's Name _____

Date of Receipt _____

form HUD-2993 (2/99)

Rural Housing and Economic Development Funding Category

Each Rural Housing and Economic Development application must be intended for consideration under one the following funding categories. Please indicate the category under which you wish this application to be considered.

☐ **Innovative Activities**

☐ **Capacity Building**

☐ **Seed Support**

Descriptions of each category, including eligible activities and applicants, are provided in Section III of the Rural Housing and Economic Development NOFA. If you choose to compete in more than one funding category, you must submit a separate application tailored to meet the specific requirements of each category.

Rural Housing and Economic Development Definition of Rural Area

As stipulated in Section III (A) (2) of the Rural Housing and Economic Development NOFA, an "eligible rural area" can be defined in one of five ways. Each proposed service area must meet at least one of these five definitions. Please indicate which of the following definitions applies to the service area proposed in this application.

☐ A place having fewer than 2,500 inhabitants (within or outside of metropolitan areas).

☐ A county with no urban population (i.e., city) of 20,000 inhabitants or more.

☐ Territory, persons, and housing units in the rural portions of "extended cities." The U.S. Census Bureau identifies the rural portions of extended cities in the United States.

☐ Open country which is not part of or associated with an urban area. The United States Department of Agriculture (USDA) determines what constitutes "open country."

☐ Any place with a population not in excess of 20,000 and not located in a Metropolitan Statistical Area.

*Your application must include documentation from a credible source (e.g. USDA, Census Bureau, State agency, university, widely recognized research institution, etc.) confirming that the proposed service area meets the definition indicated above.

Rural Housing and Economic Development
Special Needs Factors

Please indicate which, if any, of the following under served populations you are proposing to serve in this application:

☐ A place with a very small population (2,500 or less)

☐ Migrant or seasonal farmworkers

☐ Native American tribe

☐ Colonia

☐ Lower Mississippi Delta Region

☐ Appalachia's Distressed Counties

Environmental Review Assurances

The award of funds under this program is subject to the environmental review requirements of 24 CFR part 50. These requirements only apply to grant-funded projects fully or partially funded by HUD, undertaken by grantees and all tiers of subgrantees and subcontractors.

When a project is limited to activities described in 24 CFR 50.19, it does not require an environmental review. All other activities (for example, acquisition of real property, construction and alteration) are subject to an environmental review. Since the approval of the initial grants in this program must occur prior to the identification of properties to be treated, as is provided for in 24 CFR 50.3(h), the applicant hereby agrees that it will assist HUD to comply with 24 CFR part 50, and that the applicant shall:

1. Advise HUD of all projects requiring a review under 24 CFR part 50 prior to their approval and supply HUD with all available and relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR part 50;

2. Carry out mitigating measures required by HUD or select an alternate property or project;

3. Not acquire, rehabilitate, convert, lease, repair or construct property, nor commit or expend HUD or local funds for these program activities on a HUD-assisted project until HUD has completed an environmental review to the extent required under 24 CFR 50 and has given notification of its approval in accordance with 24 CFR 50.3(h)(3); and

4. Include the above requirements in all subgrants and subcontracts.

Signature of Authorized Certifying Official X	Applicant
Title	Date

form HUD-40076-RHED (3/99)

[FR Doc. 00–3755 Filed 2–15–00; 8:45 am]
BILLING CODE 4210–29–C

Federal Register

Wednesday,
February 16, 2000

Part V

Department of Transportation

14 CFR Parts 21, 25, et al.
Transport Airplane Fuel Tank System Design Review, Flammability Reduction, and Maintenance and Inspection Requirements; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 25, 91, 121, 125, and 129

[Docket No. FAA–1999–6411; Notice No. 99–18]

RIN 2120–AG62

Transport Airplane Fuel Tank System Design Review, Flammability Reduction, and Maintenance and Inspection Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On October 29, 1999, the FAA published a Notice of Proposed Rulemaking (NPRM) that would require design approval holders of certain turbine-powered transport category airplanes to submit substantiation to the FAA that the design of the fuel tank system of previously certificated airplanes precludes the existence of ignition sources within the airplane fuel tanks. The comment period for the notice closed January 27, 2000; however, the FAA is reopening the comment period in response to a request from the public to allow additional time to develop comments in response to the notice.

DATES: Comments must be received on or before March 27, 2000.

ADDRESSES: Comments on this proposed rulemaking should be mailed, or delivered in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–1999–6411, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may be filed and examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays. Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address: http//dms.dot.gov at any time Commenters who wish to file comments electronically should follow the instructions on the DMS web site.

FOR FURTHER INFORMATION CONTACT: Michael E. Dostert, FAA, Propulsion/Mechanical Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056, telephone (425) 227–2132; facsimile (425) 227–1320; e-mail: *mike.dostert@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–1999–6411.'' The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339) or the Government Printing Office (GPO)'s electronic bulletin board service (telephone: (202) 512–1661.

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gop.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No. 11–2A. Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On October 29, 1999, the FAA published in the **Federal Register** (64 FR 58644) Notice No. 99–18, ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction, and Maintenance and Inspection Requirements.'' The proposed rule would require design approval holders of certain turbine-powered transport category airplanes to submit substantiation to the FAA that the design of the fuel tank system of previously certificated airplanes precludes the existence of ignition sources within the airplane fuel tanks. It would also require the affected design approval holders to develop specific fuel tank system maintenance and inspection instructions for any items in the fuel tank system that are determined to require repetitive inspections or maintenance, to assure the safety of the fuel tank system. In addition, the proposed rule would require certain operators of those airplanes to incorporate FAA-approved fuel tank system maintenance and inspection instructions into their current maintenance or inspection program.

By letter dated December 8, 1999, the Air Transport Association (ATA) requested that the comment period for Notice 99–18 be extended to allow additional time to study and understand the implications of what they consider to be a very complex proposal, and to provide a constructive response. The commenter states that the advisory materials referenced in the notice, which are to provide guidance on performing the proposed safety review, have not been available for comment, leaving the airlines and industry having to respond to the notice without the full details of its implication available to them.

Reopening of Comment Period

The FAA has reviewed the request for reconsideration of an extended comment period for Notice No. 99–18 and has determined that an extension would be in the public interest, and that good cause exists for taking this action. We apologize for the delay in publishing the advisory material. Work on the draft advisory circulars (AC 25.981–1X, Fuel Tank Ignition Source Prevention Guidelines, and AC 25.981–2X. Fuel Tank Flammability Minimizations) was recently completed. A notice requesting

public comments has been published in an earlier issue of the **Federal Register.**

The comment period on Notice 99–18 closed on January 27, 2000. To provide all interested persons with additional time to review the NPRM and the corresponding advisory material, the FAA finds that it is in the public interest to reopen the comment period for an additional 60 days beyond the original period closing date.

Issued in Washington, DC, on February 11, 2000.

Nancy C. Lane,

Acting Director, Aircraft Certification Service.

[FR Doc. 00–3703 Filed 2–15–00; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Wednesday,
February 16, 2000

Part VI

Oklahoma City National Memorial Trust

36 CFR Chapter XV
Rules and Regulations for Oklahoma City National Memorial; Proposed Rule

OKLAHOMA CITY NATIONAL MEMORIAL TRUST

36 CFR Chapter XV

Rules and Regulations for Oklahoma City National Memorial

AGENCY: Oklahoma City National Memorial Trust

ACTION: Proposed rule.

SUMMARY: The Oklahoma City National Memorial Trust proposes to adopt and enforce those rules and regulations that are applicable to the operation of the National Park System and that may be necessary and appropriate to carry out its duties and responsibilities under the Oklahoma City National Memorial Act of 1997. The proposed rule will enable the Trust to safely and efficiently operate the Memorial by establishing general provisions, regulations for resource protection and public use, vehicles and traffic safety, and commercial and private operations. Public comment is invited on this proposed rule and will be considered by the Trust in creating a final rule.

DATES: The Trust must receive comments on or before March 14, 2000.

ADDRESSES: Address all comments concerning this proposed rule to Kari Watkins, Executive Director, Oklahoma City National Memorial Trust, P.O. Box 323, Oklahoma City, OK 73101–0323.

FOR FURTHER INFORMATION CONTACT: Kari Watkins, 405–235–3313

SUPPLEMENTARY INFORMATION:

Background

The Oklahoma City National Memorial Act of 1997 (Public Law 105–58, October 9, 1997) establishes (1) the Oklahoma City National Memorial in Oklahoma City as a unit of the National Park System and (2) the Oklahoma City National Memorial Trust as a whollyowned government corporation to administer the memorial in cooperation with the Secretary of the Interior in accordance with laws governing units of the National Park System. At the request of the Trust, the Secretary of the Interior is required to provide, for a period not to exceed two years, personnel and technical expertise. A superintendent is assigned to coordinate National Park Service (NPS) assistance to the Trust. Also at the Trust's request, NPS is required to provide uniformed personnel to carry out day-to-day visitor service programs on a reimbursable basis.

Statutory Authority

The Oklahoma City National Memorial Trust is a whollyowned government corporation created by the Oklahoma City National Memorial Act, Public Law 105–58 (Act). Pursuant to section 4 of the Act, the Trust administers the Memorial, which is comprised of the lands, facilities, and structures within the boundaries depicted on the map referenced in the statute.

Section 6(g) of the Act enables the Trust to

> Adopt, amend, repeal, and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary [of the Interior], to adopt and to enforce those rules and regulations that are applicable to the operation of the National Park System and that may be necessary and appropriate to carry out its duties and responsibilities under this Act.

Consistent with that authority, and in order to protect, preserve, and operate the Memorial, the Trust is creating this rule concerning resource protection and public use; vehicles and traffic safety; and commercial and private operations.

Title 36 of the Code of Federal Regulations (CFR) Chapter I, parts 1, 2, 4, and 5 already govern the management and activities within the units of the National Park System throughout the United States. The Trust recognizes the national scope and inherent continuity of 36 CFR, its necessity within the National Park System, and therefore, intends to adopt those regulations that are relevant and applicable to the Memorial. In an attempt to keep the regulations clear and concise, the Trust has excluded those portions of the existing regulations that are not applicable and would have no bearing on the management or protection of the Memorial.

Consultation

Prior to proposing these regulations, the Trust consulted with the Secretary of the Interior's designee, the National Park Service Director, Intermountain Region, who serves on the Trust's Board of Directors pursuant to section 6(g) of the Act. The Director, Intermountain Region facilitated the advisory process by providing direct access to officials in the National Park Service and the National Park Service Solicitor's Office. Consultation with the Oklahoma State Historic Preservation Office as it relates to historic and cultural effects on the Memorial's environment is ongoing. The Trust anticipates that all such consultation will continue during the comment period on these proposed regulations.

Request For Comments

The Trust is providing for a public comment period of 30 days on these regulations. All comments, including names and addresses, when provided, will be placed in the public record and made available for public inspection and copying. The Trust will consider each comment received within this period and then publish final regulations on these topics in the **Federal Register**. That promulgation will include a discussion of any comments received and any amendments made to these proposed regulations as a result of the comments.

Related Documents

The entire proposed regulations and their respective environmental assessment may be found at the Trust's internet website (www.oklahoman.net/connections/memorial). A written copy of the regulations and 36 CFR is available for review at the Trust's office at One Leadership Square, Suite 150, Oklahoma City, OK 73102.

Regulatory Impact

This rulemaking will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, prices, the environment, public health or safety, or State or local governments. These rules will not interfere with an action taken or planned by another agency or raise new legal or policy issues. In short, little or no effect on the national economy will result from adoption of this rule. Because this rule is not economically significant, it is not subject to review by the Office of Management and Budget under Executive Order 12866.

The Trust has determined and certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this rule will not have a significant economic effect on a substantial number of small entities. This rule is not a major rule within the meaning of the Congressional Review Act, 5 U.S.C. 801 *et seq.*

Environmental Impact

The Trust prepared an Environmental Assessment (EA) in connection with the proposed version of this rule. The EA determined that the proposed rule would not have a significant effect on the quality of the human environment because it is neither intended nor expected to change the physical status quo of the Memorial in any significant manner. The EA was prepared in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* The EA is available

for public inspection at the office of the Trust, One Leadership Square, Suite 150, Oklahoma City, OK 73102 or on the Trust's internet website (www.oklahoman.net/connections/memorial).

Environmental consequences would include the enhanced protection of the Memorial through the ability of the Trust's required rulemaking authority to regulate and maintain the Memorial as a unit of the National Park System. Proposed regulations will enable the Trust to adequately manage and protect the natural, cultural, and historic resources of the Memorial as well as the safe and efficient management of the Memorial's public use. No long term adverse effects are expected on the natural or cultural environment, and constructive manage of the use of the historic Journal Record building will ensure its long-term preservation.

The memorial site is in an urban business district, and nearby buildings include two churches, business offices, the post office, federal courthouse, and a high-rise apartment complex. Adoption of the regulations would have no effect on these properties or other elements of the socioeconomic environment. There will be no disproportionately high or adverse human health or environmental effects on minority populations, low-income populations, or Indian tribes from the proposal. An alternative to adopting these regulations is the no-action alternative. This would require the Trust to adopt no regulations for the Memorial. This would result in the inefficient management of the Memorial, which would hinder the ability of the Trust to protect the visitors, their experience at the Memorial, and the natural and cultural environment. The no-action alternative is in opposition to the purpose and guidance of the Memorial's enabling legislation.

List of Subjects in 36 CFR Part 1501

Monuments and memorials.

For the reasons set forth in the preamble, it is proposed to establish a new chapter XV in title 36 of the Code of Federal Regulations consisting of part 1501 to read as follows:

CHAPTER XV—OKLAHOMA CITY NATIONAL MEMORIAL TRUST

PART 1501—GENERAL PROVISIONS

§ 1501.1 Cross reference to National Park Service regulations.

As permitted by the Oklahoma City National Memorial Act, the Oklahoma City National Memorial Trust (the Trust) adopts by cross reference the provisions of the National Park Service in 36 CFR chapter I as shown in the following table. The table also indicates those parts, sections, and paragraphs that the Trust has chosen to exclude from adoption.

National Park Service

36 CFR, Chapter I
Excluding parts 3 and 6–199

PART 1 GENERAL PROVISIONS

§ 1.1 Purpose
§ 1.2 Applicability and Scope
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PART 2 RESOURCE PROTECTION, PUBLIC USE AND RECREATION

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§ 2.2 Wildlife Protection
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§ 2.5 Research specimens
§ 2.10 Camping and food storage
Excluding paragraphs (b)(1), (b)(2), (b)(3), (b)(4), (b)(6), (b)(8), and (d)
§ 2.11 Picnicking
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§ 2.13 Fires
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§ 2.31 Trespassing, tampering and vandalism
§ 2.32 Interfering with agency functions
§ 2.33 Report of injury or damage
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§ 2.36 Gambling
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§ 2.38 Explosives
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§ 2.61 Residing on Federal lands
§ 2.62 Memorialization

PART 4 VEHICLES AND TRAFFIC SAFETY

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§ 4.4 Report of motor vehicle accident
§ 4.10 Travel on park roads and designated routes
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§ 4.13 Obstructing traffic
§ 4.14 Open container of alcoholic beverage
§ 4.15 Safety belts
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§ 4.21 Speed limits
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PART 5 COMMERCIAL AND PRIVATE OPERATIONS

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§ 5.6 Commercial vehicles
§ 5.7 Construction of buildings or other facilities
§ 5.8 Discrimination in employment practices
§ 5.13 Nuisances
§ 5.14 Prospecting, mining, and mineral leasing

Authority: 16 U.S.C. 450ss; Pub. L. 105–58.

Dated: February 9, 2000.

Robert M. Johnson,

Chairman.

[FR Doc. 00–3444 Filed 2–15–00; 8:45 am]

BILLING CODE 8710–01–P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Radio stations; table of assignments:

Montana; published 2-16-00

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Immigration and Naturalization Service

Immigration:

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California; published 2-16-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

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British Aerospace; published 1-12-00

Rolls-Royce plc; published 2-1-00

Saab; published 1-12-00

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Animal and Plant Health Inspection Service

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Solid wood packing materials exported to China; heat treatment; comments due by 2-25-00; published 12-27-99

Noxious weeds:

Weed and seed lists; update; comments due by 2-25-00; published 12-27-99

Plant-related quarantine, domestic:

Pine shoot beetle; comments due by 2-22-00; published 12-21-99

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Food stamp program:

Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation—

Work provisions; comments due by 2-22-00; published 12-23-99

AGRICULTURE DEPARTMENT

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Land uses:

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AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Sodium diacetate, sodium acetate, sodium lactate and potassium lactate; use as food additives; comments due by 2-22-00; published 1-20-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Marine and anadromous species—

West Coast Steelhead; Snake River, Central California Coast; Evolutionary significant units; comments due by 2-22-00; published 12-30-99

Fishery conservation and management:

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Northeastern United States fisheries—

Deep-sea red crab fishery; comments due by 2-21-00; published 2-2-00

West Coast States and Western Pacific fisheries—

Coastal pelagic species; comments due by 2-24-00; published 1-25-00

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Patent and Trademark Office

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Invention promoters; complaints; comments due by 2-22-00; published 1-20-00

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Maternity care; nonavailability statement requirement; comments due by 2-22-00; published 12-23-99

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EMERGENCY STEEL GUARANTEE LOAN BOARD

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Synthetic organic chemical manufacturing industry and other processes subject to equipment leaks negotiated regulation; comments due by 2-22-00; published 1-20-00

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Indiana; comments due by 2-25-00; published 1-26-00

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Azinphos-methyl; comments due by 2-22-00; published 12-22-99

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Dioxin and dioxin-like compounds; numeric concentration limits; comments due by 2-22-00; published 12-23-99

Dioxin and dioxin-like compounds; numeric concentration limits; correction; comments due by 2-22-00; published 1-11-00

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LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S. 1733/P.L. 106–171

Electronic Benefit Transfer Interoperability and Portability Act of 2000 (Feb. 11, 2000)

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