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

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

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

7 CFR Parts 600 and 601

Organization and Functions

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The Natural Resources Conservation Service revises the information on the organization and functions to reflect changes as a result of the USDA reorganization and the agency's headquarters reorganization.

EFFECTIVE DATE: January 31, 2000.

FOR FURTHER INFORMATION CONTACT: Mary Cressel, 202–690–0547.

SUPPLEMENTARY INFORMATION: *Rulemaking Analyses:* EO 12291: Non-major.

Regulatory Flexibility Act: No significant impact.

Paperwork Reduction Act: No significant impact.

National Environmental Policy ACt: Exempt.

List of Subjects in 7 CFR Parts 600 and 601

Functions and organization (Government agencies).

For the reason stated in the preamble, CFR Chapter 7 is amended by revising Parts 600 and 601 to read as follows.

7 CFR, Chapter VI

SUBCHAPTER A—GENERAL

PART 600—ORGANIZATION

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600.1 General.
600.2 National headquarters.
600.3 Regional offices.
600.4 State offices.
600.5 Area offices.
600.6 Field offices.
600.7 Specialized field offices.
600.8 Plant materials centers.
600.9 Major land resource area soil survey offices.

Authority: 7 U.S.C. 6962.

§ 600.1 General.

(a) The Natural Resources Conservation Service (NRCS) was authorized by the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 7 U.S.C. 6901 note) and established by Secretary's Memorandum 1010–1 (2.b.6), *Reorganization of the Department of Agriculture,* to provide national leadership in the conservation, development, and productive use of the Nation's natural resources. Such leadership encompasses the conservation of soil, water, air, plant, and animal resources with consideration of the many human (economic and sociological) interactions. NRCS is the Federal agency that works with landowners on private lands to help them conserve their natural resources. NRCS employees are highly skilled in many scientific and technical specialties, including soil science, soil conservation, agronomy, biology, agroecology, range conservation, forestry, engineering, geology, hydrology, wetlands science, cultural resources, and economics. NRCS was formerly the Soil Conservation Service (SCS) which was established by the Soil Conservation Act of 1935 (Pub. L. 74–46, 49 Stat. 163 (16 U.S.C. 590 (a–f))). NRCS has responsibility for three major areas:

(1) Soil and water conservation;

(2) Natural resource surveys including soil surveys, resources inventory, snow surveys, and water supply forecasting; and

(3) Community resource protection and management including watershed projects, river basin studies and investigations, resource conservation and development areas, land evaluation and site assessment, and emergency watershed protection. In addition, NRCS has leadership for the Wetlands Reserve Program, Environmental Quality Incentives Program, Grazing Lands Conservation Initiative, Farmland Protection Program, Wildlife Habitat Incentives Program, Forestry Incentives Program, and Conservation Farm Option. NRCS provides technical support for the Conservation Reserve Program.

(b) The NRCS organization consists of a National Headquarters located in Washington, D.C.; six regional offices; 50 state offices and two equivalent offices in the Caribbean Area and the U.S. Trust Territories of the Pacific Basin Area; approximately 2,500 field offices and 300 specialized offices; 26 plant materials centers; 17 major land resource area soil survey offices; nine national centers; and seven national institutes. A Chief who reports to the USDA Under Secretary for Natural Resources and Environment heads NRCS.

§ 600.2 National headquarters.

(a) *Chief.* The Chief, with assistance of the Associate Chief, is responsible for administering a coordinated national program of natural resource conservation; planning, directing, and coordinating all program, technical, and administrative activities of NRCS; developing policies and procedures; correlating NRCS conservation programs with other agencies; accepting departmental leadership for programs for other activities assigned by the Secretary of Agriculture; and serving as Equal Employment Opportunity Officer for NRCS.

(b) *Deputy chiefs.* Five deputy chiefs assist the Chief as follows:

(1) *Deputy Chief for Management.* The Deputy Chief for Management is responsible for policies, guidelines, and standards for management services, human resources management, financial management, information technology, administrative support (providing a coordinated administrative management program for National Headquarters activities), NRCS outreach, training, and correspondence management. This deputy chief also is responsible for the activities of three national centers: business management, information technology, and employee development.

(2) *Deputy Chief for Strategic Planning and Accountability.* The Deputy Chief for Strategic Planning and Accountability is responsible for policies, guidelines, and standards for strategic and performance planning, budget planning and analysis, and operations management and oversight.

(3) *Deputy Chief for Programs.* The Deputy Chief for Programs is responsible for policies, guidelines, and standards for conservation operations,

resource conservation and community development, watersheds and wetlands, international programs, conservation compliance activities, conservation programs funded by the Commodity Credit Corporation, and animal husbandry and clean water programs.

(4) *Deputy Chief for Soil Survey and Resource Assessment.* The Deputy Chief for Soil Survey and Resource Assessment is responsible for policies, guidelines, and standards for NRCS technical activities, and provides leadership for soils, resource inventory, and resource assessment. This deputy chief also is responsible for the activities of two national centers (soil survey and cartography and geospatial) and two national institutes (soil quality and natural resources inventory and analysis).

(5) *Deputy Chief for Science and Technology.* The Deputy Chief for Science and Technology is responsible for policies, guidelines, and standards for the agency, and provides leadership for resource economics and social sciences, conservation engineering, and ecological sciences. This deputy chief also is responsible for the activities of four national centers (water and climate, water management, soil mechanics, and plant data) and five national institutes (grazing lands technology, social sciences, watershed science, wetlands science, and wildlife habitat management). This deputy chief, working closely with the deputy chiefs for Management and Soil Survey and Resource Assessment, provides overall direction for the National Science and Technology Consortium.

(c) *National Science and Technology Consortium.* The consortium consists of three divisions, four centers, five technical institutes, and several cooperating scientists under the Deputy Chief for Science and Technology; two divisions, two centers, and two technical institutes under the Deputy Chief for Soil Survey and Resource Assessment; and one division and three centers under the Deputy Chief for Management.

(1) *Centers.* The nine centers provide specific products and services that maintain and enhance the technical quality of the agency. The centers are: water and climate, water management, soil mechanics, plant data, soil survey, cartography and geospatial, information technology, business management, and employee development.

(2) *Institutes.* The seven institutes are: soil quality, natural resources inventory and analysis, grazing lands technology, social sciences, watershed science, wetlands science, and wildlife habitat management. The institutes provide training; develop technical materials; and acquire, develop, and transfer needed technology in special emphasis areas so field employees can better serve their customers. The institutes often establish partnerships with other Federal agencies, universities, and public and private organizations.

(3) *Cooperating Scientists.* Cooperating scientists work in the areas of soil erosion and sedimentation, air quality, and agroforestry. These scientists are located at various universities and research centers.

(d) *Civil Rights.* The Civil Rights staffs provide coordination, assistance, and recommendations to the Chief on civil rights employment and program compliance issues.

(e) *Legislative Affairs.* The Legislative Affairs Staff provides coordination and assistance to the Chief on legislative affairs issues and activities.

(f) *Conservation Communications.* The Conservation Communications Staff is responsible for communications, volunteer programs, conservation education, and public affairs activities.

(g) *Strategic Natural Resource Issues.* The Strategic Natural Resource Issues Staff is responsible for coordinating priority strategic issues as determined by the Chief.

§ 600.3 Regional offices.

Each regional office is under the direction and supervision of a regional conservationist. Regional offices are responsible for

(1) Providing agency leadership, guidance, coordination, and partnering for solutions to regional resource issues;

(2) Program implementation, consistency, and accountability;

(3) Region-wide strategic planning, performance measurement, and operations management;

(4) Administrative operations and support;

(5) Fund integrity and accountability;

(6) Technical quality of work; and

(7) All NRCS activities in the region.

Regional offices are located in Beltsville, Maryland; Atlanta, Georgia; Fort Worth, Texas; Madison, Wisconsin; Lincoln, Nebraska; and Sacramento, California.

§ 600.4 State offices.

Each office is under the direction and supervision of a State conservationist. Each State conservationist is responsible for NRCS programs in a State. The Pacific Basin Area Office, under the direction and supervision of a director, serves the U.S. Trust Territories in that area. The Caribbean Area Office, under the direction and supervision of a director, serves the Commonwealth of Puerto Rico and the U.S. Virgin Islands. Directors of the Pacific Basin and Caribbean areas have the same responsibility and authority as a State conservationist. All references to State conservationists in this chapter include the directors of the Pacific Basin and Caribbean areas.

§ 600.5 Area offices.

Each area office is under the direction and supervision of an area conservationist or assistant State conservationist for field operations who is responsible for NRCS activities in the geographical area served by the area office. Usually the geographical area includes multiple field offices and counties. Many area offices now consist of teams working on a watershed or other geopolitical basis.

§ 600.6 Field offices.

Each field office is under the direction and supervision of a district conservationist who is responsible for NRCS activities in the geographical area served by the field office. Usually the geographical area of a field office includes one or more conservation districts and one or more counties. Field offices are generally collocated with other USDA agencies in USDA Service Centers.

§ 600.7 Specialized field offices.

Other field offices serve specialized activities, such as watershed protection and flood reduction projects, construction projects, resource conservation and development areas, and soil survey activities. State conservationists designate direction and supervision of these offices.

§ 600.8 Plant materials centers.

Plant materials centers (PMC) assemble and test plant species for conservation uses. Usually a PMC serves two or more States, and is under the jurisdiction of the State conservationist where the center is located. Each PMC is directed and supervised by a manager who is responsible to a State office specialist/manager as designated by the State conservationist.

§ 600.9 Major land resource area soil survey offices.

The United States is divided into 17 major land resource areas (MLRA) for the purpose of soil survey production. Major land resource area soil survey offices (MO) provide the technical leadership, coordination, and quality assurance for all soil survey project activities within the respective MLRA. Each MO serves two or more States (except for the MO in Alaska), and is under the jurisdiction of the State conservationist where the office is

located. Each MO is directed and supervised by a leader who is designated by the State conservationist.

PART 601—FUNCTIONS

Sec.
601.1 Functions assigned.
601.2 Functions reserved to the Secretary of Agriculture.
601.3 Defense responsibilities.

Authority: 7 U.S.C. 1010–1011; 16 U.S.C. 590a–590f, 1001–1008, 2001–2009, 2203–2205, 3801 *et seq.*; 33 U.S.C. 701b–1.

§ 601.1 Functions assigned.

The Natural Resources Conservation Service (NRCS) is the Federal agency that works with private landowners to conserve their natural resources. NRCS employees help land users and communities approach conservation planning and implementation with an understanding of how natural resources relate to each other and to people—and how human activities affect those resources. The agency emphasizes voluntary, science-based assistance, partnerships, and cooperative problem solving at the community level. The mission of NRCS is to work on the Nation's non-Federal lands to conserve, improve, and sustain natural resources. The following functions support the mission.

(a) NRCS facilitates and provides conservation technical assistance at the local level that helps people assess their natural resource conditions and needs, set goals, identify programs and other resources to address those needs, develop proposals and recommendations, implement solutions, and measure their success. The agency's role is to assist with:

(1) Resource inventories,

(2) Resource assessments,

(3) Planning assistance, and/or

(4) Technical assistance.

(b) NRCS provides technical assistance through local conservation districts to land users, communities, watershed groups, Federal and State agencies, other partners, and customers.

(c) NRCS provides assistance on a voluntary basis.

(d) The agency's work focuses on soil, water, air, plant, and animal conservation including erosion reduction, water quality improvement, wetland restoration and protection, fish and wildlife habitat improvement, range management, stream restoration, water management, and other natural resource issues.

(e) Through the conservation operations program, NRCS maintains a cadre of conservationists and interdisciplinary technical experts who provide landowners with advice and recommendations. Science based procedures and techniques are based on new knowledge and research provided by the Agricultural Research Service and others. NRCS developed and maintains a system of directives—including manuals, handbooks, and technical references—to institutionalize new methods, procedures, and standards used to deliver technical assistance at the field level.

(f) NRCS has general responsibility for administration of the following programs:

(1) Conservation operations, authorized by the Soil Conservation Act of 1935 and the Soil and Water Resources Conservation Act of 1977. Activities include:

(i) Conservation technical assistance to land users, communities, units of State and local government, and other Federal agencies in planning and implementing natural resource solutions to reduce erosion, improve soil and water quantity and quality, improve and conserve wetlands, enhance fish and wildlife habitat, improve air quality, improve pasture and range conditions, reduce upstream flooding, and improve woodlands. Assistance is also provided to implement the highly erodible land (HEL) and wetland conservation (Swampbuster) provisions and—on a reimbursable basis—the Wetlands Reserve Program (WRP) and Conservation Reserve Program (CRP) in the 1985 Food Security Act, as amended by the Food, Agriculture, Conservation and Trade Act of 1990 and Federal Agriculture Improvement and Reform Act of 1996. NRCS technical field staff make HEL and wetland determinations and assist land users to develop and implement conservation plans needed to ensure compliance with the law. NRCS is also the lead Federal agency for delineating wetlands on agricultural lands for purposes of implementing both the provisions of the Food Security Act and Section 404 of the Clean Water Act.

(ii) Soil surveys that provide the public with local information on the uses and capabilities of their soil resource. Soil surveys are based on scientific analysis and classification of the soils and are used to determine land capabilities and conservation treatment needs. Surveys are conducted cooperatively with other Federal agencies, land grant universities, State agencies, and local units of government. NRCS is the world leader in soil classification and soil mapping, and is expanding into soil quality.

(iii) Snow survey and water supply forecasts that provide western States and Alaska with vital information and forecasts of seasonable variable water supplies. NRCS field staff in cooperation with partnering organizations manually collect data from 850 remote high mountain sites. Data is electronically collected from an additional 600 SNOTEL (automated snowpack telemetry network) sites. In cooperation with the National Weather Service, the data is assembled and analyzed. Then, NRCS staff develop seasonal water supply forecasts.

(iv) Plant Material Centers that assemble, test, and encourage increased plant propagation and usefulness of plant species for biomass production, carbon sequestration, erosion reduction, wetland restoration, water quality improvement, streambank and riparian area protection, coastal dune stabilization, and to meet other special conservation treatment needs. The work is carried out cooperatively with State and Federal agencies, private organizations, commercial businesses, and seed and nursery associations. After species are proven, they are released to the private sector for commercial production.

(v) National Resources Inventory (NRI) that is a statistically-based survey designed and implemented using scientific principles to assess conditions and trends of soil, water, and related resources on nonfederal lands in the United States. The NRI captures data on land cover and use, soil erosion, prime farmland, wetlands, habitat diversity, selected conservation practices, and related attributes at thousands of scientifically selected sample sites in all 50 states, Puerto Rico, the U.S. Virgin Islands, and some Pacific Basin locations.

(2) Conservation programs in the Federal Agriculture Improvement and Reform Act of 1996, most of which are funded by the Commodity Credit Corporation (CCC). NRCS provides leadership and technical assistance for the following programs:

(i) *Environmental Quality Incentives Program (EQIP).* EQIP provides a single, voluntary conservation program for farmers and ranchers who face serious threats to soil, water, and related natural resources. Nationally, it provides technical, financial, and educational assistance, half of it targeted to livestock-related natural resource problems and half to more general conservation priorities.

(ii) *Wetlands Reserve Program (WRP).* WRP is a voluntary program to restore and protect wetlands on private property. It provides an opportunity for landowners to receive financial incentives to restore wetlands in

exchange for retiring marginal agricultural land.

(iii) *Wildlife Habitat Incentives Program (WHIP).* WHIP is a voluntary program for people who want to develop and improve wildlife habitat on private lands. It provides both technical assistance and cost sharing to help establish and improve fish and wildlife habitat.

(iv) *Farmland Protection Program (FPP).* This program provides funds to help purchase development rights to keep productive farmland in agricultural use. Working through existing programs, USDA joins with State, tribal, or local governments to acquire voluntary conservation easements or other interests from landowners.

(v) *Forestry Incentives Program (FIP).* FIP supports good forest management practices on privately owned, non-industrial forest lands nationwide. FIP is designed to benefit the environment while meeting future demands for wood products. Although not funded by CCC, Section 373 of the Federal Agriculture Improvement and Reform Act of 1996 extended the program under discretionary appropriations.

(3) Resource Conservation and Development (RC&D) Program, authorized by Section 102 of the Flood and Agriculture Act of 1962 (Pub. L. 87–702) and Sections 1528–1538 of the Agriculture and Food Act of 1981 (Pub. L. 97–98). This program is initiated and directed at the local level by volunteers who involve multiple communities, various units of government, municipalities, and grassroots organizations. RC&D is a catalyst for civic-oriented groups to share knowledge and resources in a collective attempt to solve common problems. The program offers aid in balancing the environmental, economic, and social needs of an area.

(4) Rural Abandoned Mine Program (RAMP) and other responsibilities assigned under the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87). Under RAMP, NRCS provides technical and financial assistance to landowners to reclaim certain abandoned coal-mined lands. This assistance can be used to reclaim these lands for approved uses, which include pasture, range, woodland, cropland, noncommercial recreation, and wildlife habitat. The program's first priority is to protect public health, welfare, safety, and property from hazards caused by past surface coal mining or by surface effects of deep mining.

(5) Watershed surveys and planning, authorized by the Watershed Protection and Flood Prevention Act (Pub. L. 83–566, Section 6 (16 U.S.C. 1001–1008)). The 1996 appropriations act combined the Small Watershed Planning and the River Basin Surveys and Investigations programs into a new program called the Watershed Surveys and Planning Program. The program involves cooperation with other Federal, State, and local agencies to conduct watershed planning, river basin surveys and investigations, flood hazard analysis, and floodplain management assistance, which aid in the development of coordinated water resource programs, including the development of guiding principles and procedures.

(6) Watershed and flood prevention operations include several activities. Watershed operations are authorized by the Flood Control Act of 1944 (Public Law 78–534) and the Watershed Protection and Flood Prevention Act of 1954 (Public Law 87–566) and amendments; both of which are addressed by 7 CFR 622. Since 1998, the appropriations act for the Watershed Protection and Flood Prevention Act (Public Law 83–566) has included funds, not to exceed a specified amount, that may be used for Public Law 78–534 projects.

(i) Publc Law 83–566 and Public Law 78–534, jointly called the Small Watershed Program, authorize the Secretary of Agriculture to cooperate with State and local agencies to plan and carry out works of improvement for flood prevention; for the conservation, development, utilization, and disposal of water; and for the conservation and proper use of land in watershed or sub-watershed areas. Under Public Law 83–566, these areas shall not exceed 250,000 acres. There is no acreage limitation under Public Law 78–534.

(ii) The Small Watershed Program provides for cooperation with State and other public agencies (called project sponsors) in the installation of planned works of improvement and land treatment measures in authorized watershed projects. Eligible measures include flood prevention, water conservation, recreation, agricultural water management, floodplain easements, municipal and industrial water, and rural water supply.

(7) Emergency Watershed Protection (EWP) Program, authorized by Section 216 of Public Law 81–516, 33 U.S.C. 701b–1, and Section 403 of the Agriculture Credit Act of 1978 (Public Law 95–334, 16 U.S.C. 2203), as amended by Section 382 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127, 110 Stat. 888, 1016). EWP provides assistance to reduce an imminent threat to life and property caused by a sudden impairment of a watershed from a natural disaster. Emergency work includes such measures as removing debris from streams, stabilizing streambanks, repairing levees, critical area stabilization, and purchasing floodplain easements. Technical and financial assistance is available to sponsoring local organizations (units of government, Indian tribes and tribal organizations, and organizations formed by State law) for this disaster recovery work. Sponsors are required to provide the local share of the costs; obtain real property rights, water rights, and permits; and do any needed operation and maintenance.

§ 601.2 Functions reserved to the Secretary of Agriculture.

(a) Designation of new Resource Conservation and Development (RC&D) areas. Once designated, these areas may receive RC&D Program assistance from NRCS.

(b) Administration of the Soil and Water Resources Conservation Act of 1977 (Public Law 95–192) to conduct an appraisal and develop a national conservation program every five years.

§ 601.3 Defense responsibilities.

In the event of nuclear attack, NRCS is responsible for providing:

(a) Technical guidance, based upon results of radiological monitoring and the extent of radiological contamination to farmers, ranchers, and others relating to:

(1) The selection and use of land for agricultural production.

(2) The harvesting of crops.

(3) The use of crops stored on the farm.

(4) The use, conservation, disposal, and control of water to insure adequate usable water for agricultural purposes and to prevent floods.

(5) The safety of livestock.

(b) Basic soil information, land use guides, and onsite technical assistance in selecting land for production and in applying practices to increase production of food and fiber with maximum efficiency.

Danny D. Sells,

Associate Chief, Natural Resources Conversation.

[FR Doc. 00–6767 Filed 3–17–00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1710

RIN 0572–AB05

Load Forecasts

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is amending its regulations to revise requirements for borrower load forecasts and load forecast work plans (historically referred to as power requirements studies and power requirements study work plans). These changes reduce the level of detail required in load forecasts filed by small power supply borrowers and their members and by distribution borrowers unaffiliated with a large power supply borrower. These changes also give borrowers greater flexibility in preparation of load forecasts required to be submitted to RUS.

EFFECTIVE DATE: April 19, 2000.

FOR FURTHER INFORMATION CONTACT: Georg A. Shultz, Chief, Energy Forecasting Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 1246–SBldg., STOP 1569, Washington, DC 20250–1569, telephone number: (202) 720–1920, fax: (202) 720–7491, E-mail: gshultz@rus.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State, and tribal governments or the private sector. See the final rule related notice entitled ''Department Programs and Activities Excluded from Executive Order 12372,'' (50 FR 47034).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In accordance with the Executive Order and the rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) No retroactive effect will be given to this rule; and, (3) In accordance with § 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeal procedures, if any are required, must be exhausted prior to initiating litigation against the Department or its agencies.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that a rule relating to RUS' electric loan program is not a rule as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and, therefore, the Regulatory Flexibility Act does not apply to this rule. RUS borrowers, as a result of obtaining Federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

The Office of Management and Budget has approved the reporting and recordkeeping requirements contained in this rule under the Paperwork Reduction Act of 1993 (44. U.S.C. chapter 35) and assigned control number 0572–0032.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402–9325. Telephone: (202) 512–1800.

Unfunded Mandates

This final rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Background

The Rural Utilities Service (RUS) makes and guarantees loans to furnish and improve electric service in rural areas pursuant to the Rural Electrification Act of 1936. (7 U.S.C. 901 *et seq.*) (RE Act). Under the RE Act, RUS may make or guarantee a loan only if the Administrator determines that the security for the loan is reasonably adequate and that the loan will be repaid within the time agreed. Most borrowers apply for a new loan to meet system needs every two to three years. The security for these loans is generally a first lien on the borrower's electric system, evidenced through the filing of a mortgage. In order to determine the feasibility of a new loan and whether borrowers will have sufficient revenues to repay existing loans, RUS requires most borrowers to file load forecasts, historically called ''power requirements studies'' by RUS, containing current and detailed information and analyses on existing and expected future loads. Detailed information from the load forecasts are used in RUS' independent analysis and oversight of borrower systems.

RUS regulations on the preparation and approval of power requirements studies and power requirements work plans, contained at 7 CFR part 1710, subpart E, were last revised in 1992, at 57 FR 1053 and 57 FR 4513. Since then, the business and regulatory environment in the electric industry has undergone rapid change. State regulatory agencies, power supply systems, power pools, and other entities are modifying their power planning processes and requirements in the light of competitive changes in the industry. Even greater transformations lie ahead as many states move to adopt retail competition. In the years since the existing regulations were adopted, both RUS and our borrowers have gained greater familiarity with the development and use of load forecasts, and supporting analyses and data and the experience and sophistication of RUS financed systems have increased.

In response to changes in the industry and the Administration's ongoing commitment to improving customer service, RUS has amended a number of its regulations and practices involving its oversight of borrower systems to update and streamline these requirements. This regulation is part of RUS' continuing effort to improve customer service.

This final rule implements recommendations to modify load forecast requirements which arose out of the RUS strategic planning process.

These changes simplify the procedure and minimize the detail of information RUS needs for loan feasibility determinations. The revisions to the existing rule balance RUS' continuing need to maintain current up-to-date load forecast information for electric borrowers with its goal of reducing regulatory requirements and burdens on borrowers.

In the usual course of business, all prudent utilities engage in a continuing planning process incorporating objective load forecasts in order to provide reliable electric service for their existing and future customers. Borrowers submit their load forecasts and load forecast work plans to RUS in order to provide the necessary support for RUS approval of loans and a basis for RUS to monitor future borrower performance for loan security purposes. This rule modifies the existing requirements and reduce the number of borrower systems required to maintain current load forecasts on file with RUS. These changes allow borrowers greater flexibility in preparation of the load forecasts and supporting information submitted to RUS and will reduce burdens on both borrowers and the RUS electric program.

Comments

RUS received comments from two commenters to the proposed regulation published in the **Federal Register** on July 7, 1999, at 64 FR 36609. One commenter maintained that it was inappropriate for RUS to reduce its oversight of rural electric borrowers. In response to this comment RUS notes that most distribution borrowers and all power supply borrowers are required by the regulation to submit a separate and current load forecast when requesting a loan or loan guarantee. In addition, borrowers requesting relatively small loans must submit their load data and supporting material as part of their financial forecast. Because of the small size of the loans relative to the borrower's total utility plant, RUS believes that a detailed load forecast is not needed to evaluate a borrower's request. Power supply borrowers are required to submit a detailed load forecast but are not required to incorporate their member forecasts. Large power supply borrowers must provide a detailed forecast incorporating their member forecasts. RUS believes that this approach provides the agency with adequate decision support for the type and magnitude of the loans and guarantees under consideration. No changes in the proposed regulation are required.

The second commenter was a power supply borrower that had questions regarding what type forecast was necessary for members of a large power supply borrower that are not RUS borrowers. RUS believes that for a load forecast to be valid it must address 100 percent of the borrowers anticipated load. It is incumbent on the borrower to determine what constitutes an appropriate forecast. No changes in the proposed regulation are required.

List of Subjects 7 CFR Part 1710

Electric power, Electric utilities loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set out in the preamble, RUS amends 7 CFR chapter XVII as follows:

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 is revised to read as follows:

Authority: 7 U.S.C. *et seq.*, 1921 *et seq.*, and 6941 *et seq.*

2. Section 1710.2(a) is amended by revising the definition of *Power requirements study (PRS)* and by adding the remaining definitions in alphabetical order:

§ 1710.2 Definitions and rules of construction.

* * * * *

Approved load forecast means a load forecast that RUS has determined is current for RUS purposes and has been approved by RUS pursuant to 7 CFR part 1710, subpart E.

Approved load forecast work plan means a load forecast work plan that RUS has determined is current for RUS' purposes and has been approved pursuant to 7 CFR part 1710, subpart E.

* * * * *

Load forecast means the thorough study of a borrower's electric loads and the factors that affect those loads in order to determine, as accurately as practicable, the borrower's future requirements for energy and capacity.

Load forecast work plan means the plan that contains the resources, methods, schedules, and milestones to be used in the preparation and maintenance of a load forecast.

* * * * *

Power requirements study (PRS) has the same meaning as load forecast.

* * * * *

PRS work plan has the same meaning as load forecast work plan.

* * * * *

3. Revise § 1710.152(a) to read as follows:

§ 1710.152 Primary Support Documents.

* * * * *

(a) *Load forecast.* The load forecast provides the borrower and RUS with an understanding of the borrower's future system loads, the factors influencing those loads, and estimates of future loads. The load forecast provides a basis for projecting annual electricity (kWh) sales and revenues, and for engineering estimates of plant additions required to provide reliable service to meet the forecasted loads. Subpart E of this part contains the information to be included in a load forecast and when an approved load forecast is required.

* * * * *

4. Revise subpart E of part 1710 to read as follows:

Subpart E—Load Forecasts

Sec.

1710.200 Purpose.
1710.201 General.
1710.202 Requirement to prepare a load forecast-power supply borrowers.
1710.203 Requirement to prepare a load forecast-distribution borrowers.
1710.204 Filing requirements for borrowers that must maintain a current RUS approved load forecast on an ongoing basis.
1710.205 Minimum requirements for all borrower load forecasts.
1710.206 Requirements for load forecasts prepared pursuant to RUS approved load forecast work plans.
1710.207 RUS approval criteria for approval of load forecasts by distribution borrowers not required to maintain a current load forecast on an ongoing basis.
1710.208 RUS approval criteria for load forecasts submitted by all power supply borrowers and by distribution borrowers required to maintain a current load forecast on an ongoing basis.
1710.209 Requirements for load forecast work plans.
1710.210 Waiver of requirements or approval criteria.
1710.211–1710.249 [Reserved]

Subpart E—Load Forecasts

§ 1710.200 Purpose.

This subpart contains RUS policies for the preparation, review, approval and use of load forecasts and load forecast work plans. A load forecast is a thorough study of a borrower's electric loads and the factors that affect those loads in order to estimate, as accurately as practicable, the borrower's future requirements for energy and capacity. The load forecast of a power supply borrower includes and integrates the load forecasts of its member systems. An approved load forecast, if required by

this subpart, is one of the primary documents that a borrower is required to submit to support a loan application.

§ 1710.201 General.

(a) The policies, procedures and requirements in this subpart are intended to implement provisions of the loan documents between RUS and the electric borrowers and are also necessary to support approval by RUS of requests for financial assistance.

(b) Notwithstanding any other provisions of this subpart, RUS may require any power supply or distribution borrower to prepare a new or updated load forecast for RUS approval or to maintain an approved load forecast on an ongoing basis, if such documentation is necessary for RUS to determine loan feasibility, or to ensure compliance under the loan documents.

§ 1710.202 Requirement to prepare a load forecast—power supply borrowers.

(a) A power supply borrower with a total utility plant of $500 million or more must maintain an approved load forecast that meets the requirements of this subpart on an ongoing basis and provide an approved load forecast in support of any request for RUS financial assistance. The borrower must also maintain an approved load forecast work plan. The borrower's approved load forecast must be prepared pursuant to the approved load forecast work plan.

(b) A power supply borrower that is a member of another power supply borrower that has a total utility plant of $500 million or more must maintain an approved load forecast that meets the requirements of this subpart on an ongoing basis and provide an approved load forecast in support of any request for RUS financial assistance. The member power supply borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The approved load forecasts must be prepared pursuant to the RUS approved load forecast work plan.

(c) A power supply borrower that has total utility plant of less than $500 million and that is not a member of another power supply borrower with a total utility plant of $500 million or more must provide an approved load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee which exceeds $50 million. The borrower is not required to maintain on an ongoing basis either an approved load forecast or an approved load forecast work plan.

§ 1710.203 Requirement to prepare a load forecast—distribution borrowers.

(a) A distribution borrower that is a member of a power supply borrower with a total utility plant of $500 million or more must maintain an approved load forecast that meets the requirements of this subpart on an ongoing basis and provide an approved load forecast in support of any request for RUS financial assistance. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The distribution borrower's load forecast must be prepared pursuant to the approved load forecast work plan of its power supply borrower.

(b) A distribution borrower that is a member of a power supply borrower which is itself a member of another power supply borrower that has a total utility plant of $500 million or more must maintain an approved load forecast that meets the requirements of this subpart on an ongoing basis and provide an approved load forecast in support of any request for RUS financial assistance. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The distribution borrower's approved load forecast must be prepared pursuant to the approved load forecast work plan of the power supply borrower with total utility plant in excess of $500 million.

(c) A distribution borrower that is a member of a power supply borrower with a total utility plant of less than $500 million must provide an approved load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee that exceeds $3 million or 5 percent of total utility plant, whichever is greater. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The borrower is not required to maintain on an ongoing basis either an approved load forecast or an approved load forecast work plan.

(d) A distribution borrower with a total utility plant of less than $500 million and that is unaffiliated with a power supply borrower must provide an approved load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee which exceeds $3 million or 5 percent of total utility plant, whichever is greater. The borrower is not required to maintain on an ongoing basis either an approved load forecast or an approved load forecast work plan.

(e) A distribution borrower with a total utility plant of $500 million or more must maintain an approved load forecast that meets the requirements of this subpart on an ongoing basis and provide an approved load forecast in support of any request for RUS financing assistance. The borrower must also maintain an approved load forecast work plan. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower.

§ 1710.204 Filing requirements for borrowers that must maintain an approved load forecast on an ongoing basis.

(a) *Filing of load forecasts and updates.* A power supply or distribution borrower required to maintain an approved load forecast on an ongoing basis under § 1710.202 or § 1710.203 may elect either of the following two methods of compliance:

(1) Submitting a new load forecast to RUS for review and approval at least every 36 months, and then submitting updates to the load forecast to RUS for review and approval in each intervening year; or

(2) Submitting a new load forecast to RUS for review and approval not less frequently than every 24 months.

(b) *Extensions.* RUS may extend any time period required under this section for up to 3 months at the written request of the borrower's general manager. A request to extend a time period beyond 3 months must be accompanied by a written request from the borrower's general manager, an amendment to the borrower's approved load forecast work plan incorporating the extension, a board resolution approving the extension request and any amendment to the approved load forecast work plan, and any other relevant supporting information. RUS may extend the time periods contained in this section for up to 24 months.

§ 1710.205 Minimum approval requirements for all load forecasts.

(a) *Documents required for RUS approval of a borrower's load forecast.* The borrower must provide the following documents to obtain RUS approval for a load forecast:

(1) The load forecast and supporting documentation;

(2) A memorandum from the borrower's general manager to the board

of directors recommending that the board approve the load forecast and its uses; and

(3) A board resolution from the borrower's board of directors approving the load forecast and its uses.

(b) *Contents of Load Forecast.* All load forecasts submitted by borrowers for approval must include:

(1) A narrative describing the borrower's system, service territory, and consumers;

(2) A narrative description of the borrower's load forecast including future load projections, forecast assumptions, and the methods and procedures used to develop the forecast;

(3) Projections of usage by consumer class, number of consumers by class, annual system peak demand, and season of peak demand for the number of years agreed upon by RUS and the borrower;

(4) A summary of the year-by-year results of the load forecast in a format that allows efficient transfer of the information to other borrower planning or loan support documents;

(5) The load impacts of a borrower's demand side management activities, if applicable;

(6) Graphic representations of the variables specifically identified by management as influencing a borrower's loads; and

(7) A database that tracks all relevant variables that might influence a borrower's loads.

(c) *Formats.* RUS does not require a specific format for the narrative, documentation, data, and other information in the load forecast, provided that all required information is included and available. All data must be in a tabular form that can be transferred electronically to RUS computer software applications. RUS will evaluate borrower load forecasts for readability, understanding, filing, and electronic access. If a borrower's load forecast is submitted in a format that is not readily usable by RUS or is incomplete, RUS will require the borrower to submit the load forecast in a format acceptable to RUS.

(d) *Document retention.* The borrower must retain its latest approved load forecasts, and supporting documentation until RUS approval of its next load forecast. Any approved load forecast work plan must be retained as part of the approved load forecast.

(e) *Consultation with RUS.* The borrower must designate and make appropriate staff and consultants available for consultation with RUS to facilitate RUS review of the load forecast work plan and the load forecast when requested by RUS.

(f) *Correlation and consistency with other RUS loan support documents.* If a borrower relies on an approved load forecast or an update of an approved load forecast as loan support, the borrower must demonstrate that the approved load forecast and the other primary support documentation for the loan were reconciled. For example, both the load forecast and the financial forecast require input assumptions for wholesale power costs, distribution costs, other systems costs, average revenue per kWh, and inflation. Also, a borrower's engineering planning documents, such as the construction work plan, incorporate consumer and usage per consumer projections from the load forecast to develop system design criteria. The assumptions and data common to all the documents must be consistent.

(g) *Coordination.* Power supply borrowers and their members that are subject to the requirement to maintain an approved load forecast on an ongoing basis are required to coordinate preparation of their respective load forecasts, updates of load forecasts, and approved load forecast work plan. A load forecast of a power supply borrower must consider the load forecasts of all its member systems.

§ 1710.206 Approval requirements for load forecasts prepared pursuant to approved load forecast work plans.

(a) *Contents of load forecasts prepared under an approved load forecast work plan.* In addition to the minimum requirements for load forecasts under § 1710.205, load forecasts developed and submitted by borrowers required to have an approved load forecast work plan shall include the following:

(1) Scope of the load forecast. The narrative shall address the overall approach, time periods, and expected internal and external uses of the forecast. Examples of internal uses include providing information for developing or monitoring demand side management programs, supply resource planning, load flow studies, wholesale power marketing, retail marketing, cost of service studies, rate policy and development, financial planning, and evaluating the potential effects on electric revenues caused by competition from alternative energy sources or other electric suppliers. Examples of external uses include meeting state and Federal regulatory requirements, obtaining financial ratings, and participation in reliability council, power pool, regional transmission group, power supplier or member system forecasting and planning activities.

(2) Resources used to develop the load forecast. The discussion shall identify and discuss the borrower personnel, consultants, data processing, methods and other resources used in the preparation of the load forecast. The borrower shall identify the borrower's member and, as applicable, member personnel that will serve as project leaders or liaisons with the authority to make decisions and commit resources within the scope of the current and future work plans.

(3) A comprehensive description of the database used in the study. The narrative shall describe the procedures used to collect, develop, verify, validate, update, and maintain the data. A data dictionary thoroughly defining the database shall be included. The borrower shall make all or parts of the database available or otherwise accessible to RUS in electronic format, if requested.

(4) A narrative for each new load forecast or update of a load forecast discussing the methods and procedures used in the analysis and modeling of the borrower's electric system loads as provided for in the load forecast work plan.

(5) A narrative discussing the borrower's past, existing, and forecast of future electric system loads. The narrative must identify and explain substantive assumptions and other pertinent information used to support the estimates presented in the load forecast.

(6) A narrative discussing load forecast uncertainty or alternative futures that may determine the borrower's actual loads. Examples of economic scenarios, weather conditions, and other uncertainties that borrowers may decide to address in their analysis include:

(i) Most-probable assumptions, with normal weather;

(ii) Pessimistic assumptions, with normal weather;

(iii) Optimistic assumptions, with normal weather;

(iv) Most-probable assumptions, with severe weather;

(v) Most-probable assumptions, with mild weather;

(vi) Impacts of wholesale or retail competition; or

(vii) new environmental requirements.

(7) A summary of the forecast's results on an annual basis. Include alternative futures, as applicable. This summary shall be designed to accommodate the transfer of load forecast information to a borrower's other planning or loan support documents. Computer-generated forms or electronic

submissions of data are acceptable. Graphs, tables, spreadsheets or other exhibits shall be included throughout the forecast as appropriate.

(8) A narrative discussing the coordination activities conducted between a power supply borrower and its members, as applicable, and between the borrower and RUS.

(b) *Compliance with an approved load forecast work plan.* A borrower required to maintain an approved load forecast work plan must also be able to demonstrate that both it and its RUS borrower members are in compliance with its approved load forecast work plan for the next load forecast or update of a load forecast.

§ 1710.207 RUS criteria for approval of load forecasts by distribution borrowers not required to maintain an approved load forecast on an ongoing basis.

Load forecasts submitted by distribution borrowers that are unaffiliated with a power supply borrower, or by distribution borrowers that are members of a power supply borrower that has a total utility plant less than $500 million and that is not itself a member of another power supply borrower with a total utility plant of $500 million or more must satisfy the following minimum criteria:

(a) The borrower considered all known relevant factors that influence the consumption of electricity and the known number of consumers served at the time the study was developed;

(b) The borrower considered and identified all loads on its system of RE Act beneficiaries and non-RE Act beneficiaries;

(c) The borrower developed an adequate supporting data base and considered a range of relevant assumptions; and

(d) The borrower provided RUS with adequate documentation and assistance to allow for a thorough and independent review.

§ 1710.208 RUS criteria for approval of all load forecasts by power supply borrowers and by distribution borrowers required to maintain an approved load forecast on an ongoing basis.

All load forecasts submitted by power supply borrowers and by distribution borrowers required to maintain an approved load forecast must satisfy the following criteria:

(a) The borrower objectively analyzed all known relevant factors that influence the consumption of electricity and the known number of customers served at the time the study was developed;

(b) The borrower considered and identified all loads on its system of RE Act beneficiaries and non-RE Act beneficiaries;

(c) The borrower developed an adequate supporting database and analyzed a reasonable range of relevant assumptions and alternative futures;

(d) The borrower adopted methods and procedures in general use by the electric utility industry to develop its load forecast;

(e) The borrower used valid and verifiable analytical techniques and models;

(f) The borrower provided RUS with adequate documentation and assistance to allow for a thorough and independent review; and

(g) In the case of a power supply borrower required to maintain an approved load forecast on an ongoing basis, the borrower adequately coordinated the preparation of the load forecast work plan and load forecast with its member systems.

§ 1710.209 Approval requirements for load forecast work plans.

(a) In addition to the approved load forecast required under §§ 1710.202 and 1710.203, any power supply borrower with a total utility plant of $500 million or more and any distribution borrower with a total utility plant of $500 million or more must maintain an approved load forecast work plan. RUS borrowers that are members of a power supply borrower with a total utility plant of $500 million or more must cooperate in the preparation of and submittal of the load forecast work plan of their power supply borrower.

(b) An approved load forecast work plan establishes the process for the preparation and maintenance of a comprehensive database for the development of the borrower's load forecast, and load forecast updates. The approved load forecast work plan is intended to develop and maintain a process that will result in load forecasts that will meet the borrowers' own needs and the requirements of this subpart. An approved work plan represents a commitment by a power supply borrower and its members, or by a large unaffiliated distribution borrower, that all parties concerned will prepare their load forecasts in a timely manner pursuant to the approved load forecast work plan and they will modify the approved load forecast work plan as needed with RUS approval to address changing circumstances or enhance the usefulness of the approved load forecast work plan.

(c) An approved load forecast work plan for a power supply borrower and its members must cover all member systems, including those that are not borrowers. However, only members that are borrowers, including the power supply borrower, are required to follow the approved load forecast work plan in preparing their respective load forecasts. Each borrower is individually responsible for forecasting all its RE Act beneficiary and non-RE Act beneficiary loads.

(d) An approved load forecast work plan must outline the coordination and preparation requirements for both the power supply borrower and its members.

(e) An approved load forecast work plan must cover a period of 2 or 3 years depending on the applicable compliance filing schedule elected under § 1710.204.

(f) An approved load forecast work plan must describe the borrower's process and methods to be used in producing the load forecast and maintaining current load forecasts on an ongoing basis.

(g) Approved load forecast work plans for borrowers with residential demand of 50 percent or more of total kWh must provide for a residential consumer survey at least every 5 years to obtain data on appliance and equipment saturation and electricity demand. Any such borrower that is experiencing or anticipates changes in usage patterns shall consider surveys on a more frequent schedule. Power supply borrowers shall coordinate such surveys with their members. Residential consumer surveys may be based on the aggregation of member-based samples or on a system-wide sample, provided that the latter provides for relevant regional breakdowns as appropriate.

(h) Approved load forecast work plans must provide for RUS review of the load forecasts as the load forecast is being developed.

(i) A power supply borrower's work plan must have the concurrence of the majority of the members that are borrowers.

(j) The borrower's board of directors must approve the load forecast work plan.

(k) A borrower may amend its approved load forecast work plan subject to RUS approval. If RUS concludes that the existing approved load forecast work plan will not result in a satisfactory load forecast, RUS may require a new or revised load forecast work plan.

§ 1710.210 Waiver of requirements or approval criteria.

For good cause shown by the borrower, the Administrator may waive any of the requirements applicable to borrowers in this subpart if the

Administrator determines that waiving the requirement will not significantly affect accomplishment of RUS' objectives and if the requirement imposes a substantial burden on the borrower. The borrower's general manager must request the waiver in writing.

§§ 1710.211–1710.249 [Reserved]

Dated: March 10, 2000.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 00–6761 Filed 3–17–00; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG 18

List of Approved Spent Fuel Storage Casks: TN–32 Addition

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to add the Transnuclear TN–32 cask system to the list of approved spent fuel storage casks. This amendment allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

EFFECTIVE DATE: This final rule is effective on April 19, 2000.

FOR FURTHER INFORMATION CONTACT: Merri Horn, telephone (301) 415–8126, e-mail mlh1@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

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

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

Discussion

This rule will add the Transnuclear TN–32 cask system to the list of NRC approved casks for spent fuel storage in 10 CFR 72.214. Following the procedures specified in 10 CFR 72.230 of Subpart L, Transnuclear submitted an application for NRC approval with the Safety Analysis Report (SAR) entitled, ''TN–32 Dry Storage Cask Topical Safety Analysis Report (TSAR).'' The NRC evaluated the Transnuclear submittal and issued a preliminary Safety Evaluation Report (SER) and a proposed Certificate of Compliance (CoC) for the Transnuclear TN–32 cask system. The NRC published a proposed rule in the **Federal Register** (64 FR 45923; August 23, 1999) to add the TN–32 cask system to the listing in 10 CFR 72.214. The comment period ended on November 8, 1999. Four comment letters were received on the proposed rule.

Based on NRC review and analysis of public comments, the NRC staff has modified, as appropriate, its proposed CoC and the Technical Specifications (TSs) for the TN–32 cask system. The NRC staff has also removed the bases section from the TSs. The NRC staff has modified its preliminary SER. The NRC staff has also modified the rule language by changing the word ''Certification'' to ''Certificate'' to clarify that it is the Certificate that expires.

The proposed CoC has been revised to clarify the requirements for making changes to the CoC by specifying that the CoC holder must submit an application for an amendment to the certificate if a change to the CoC, including its appendices, is desired. The CoC has also been revised to delete the proposed exemption from the requirements of 10 CFR 72.124(b) because a recent amendment of this regulation makes the exemption unnecessary (64 FR 33178; June 22, 1999). The staff has also updated the CoC, including the addition of explicit conditions governing acceptance tests and maintenance program, approved contents, design features, and authorization, and has removed the bases section from the TSs attached to the CoC to ensure consistency with NRC's format and content. In addition, other minor, nontechnical changes have been made to CoC 1021 to ensure consistency with NRC's new standard format and content for CoCs.

The NRC finds that the TN–32 cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of 10 CFR Part 72. Thus, use of the TN–32 cask system, as approved by the NRC, will provide adequate protection of public health and safety and the environment. With this final rule, the NRC is approving the use of the TN–32 cask system under the general license in 10 CFR Part 72, Subpart K, by holders of power reactor operating licenses under 10 CFR Part 50. Simultaneously, the NRC is issuing a final SER and CoC that will be effective on April 19, 2000. Single copies of the CoC and SER are available for public inspection and/or copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Summary of Public Comments on the Proposed Rule

The NRC received four comment letters on the proposed rule. The commenters included the applicant, a user's group, and two letters from members of the public. Copies of the public comments are available for review in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20003–1527.

Comments on the TN–32 Cask System

The comments and responses have been grouped into nine subject areas: general, radiation protection, accident analysis, criticality analysis, thermal, materials, design, technical specifications, and miscellaneous issues. Several of the commenters provided specific comments on the draft CoC, the NRC staff's preliminary SER, and the TSs. To the extent possible, all of the comments on a particular subject are grouped together. The listing of the TN–32 cask system within 10 CFR 72.214, ''List of approved spent fuel storage casks'' has not been changed as a result of the public comments. A review of the comments and the NRC staff's responses follow:

A. General

Comment A.1: One commenter stated that the NRC is certifying more casks

generically rather than on a site-specific basis. This is not consistent with the Nuclear Waste Policy Act (NWPA) guidance and results in more site specific changes or amendments, confuses workers in the industry, complicates the approval process, requires significant NRC resources to address problems as casks get loaded, and requires special NRC inspection teams to address new cask problems. The commenter further suggested that a standard design should be developed by having DOE, NRC, Congress, and other organizations work together to choose the best design proposed by vendors. The commenter asked how many designs the NRC would ultimately certify, their compatibility with the total transport and disposal system and the time and money that will be spent approving so many designs.

Response: The NRC disagrees with the comment. The NWPA directs the NRC to establish one or more technologies and does not include specific guidance on the number and types of cask designs that should be considered, approved, or used. The NRC does not require that a cask be universal or be useable at every reactor site. This comment is beyond the scope of this rule that is focused solely on whether to place a particular cask design, the TN–32 cask system, on the list of approved casks.

Comment A.2: One commenter stated that having different designs at one site confuses workers because of the need for different procedures and the need to be aware of all changes made to the CoC, the SAR and amendment changes. Further, the commenter stated that multiple designs will add the potential for human error and could have an adverse affect on public health and safety and that the NRC should evaluate how multiple cask systems used at one plant can affect safe operations at the plant.

Response: This comment is beyond the scope of this rule that is focused solely on whether to place the TN–32 cask system on the list of approved casks.

Comment A.3: One commenter stated that regulations should be written more simply to enhance successful implementation.

Response: The NRC agrees with the commenter that the regulations should be easy to understand; however, the commenter did not offer any specifics as to what in the regulation was confusing. The actual rule change is the addition of the TN–32 cask system to the listing of approved casks. The NRC staff is committed to issuing its regulations in plain English including this rule.

Comment A.4: One commenter stated that the NRC should form a committee to consider the nuclear waste ''picture'' based on current NRC practices and how it will change in the future.

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

Comment A.5: One commenter stated that NRC approving a large number of casks generically results in more site specific changes and amendments being needed, confuses workers in the industry, complicates the approval process, requires significant NRC resources to address problems as casks get loaded, and requires special NRC inspection teams to address new cask problems.

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

Comment A.6: One commenter stated that allowing TN–32 casks to be fabricated by exemption adds risk to the public because they will be used with as little change as possible. The commenter further stated that no TN–32 casks should have been built until a generic certification is issued and the documents are finalized and accurate.

Response: The NRC exemption that allows the casks to be fabricated before the design being approved included a technical evaluation of the impacts of this action. This evaluation reflected that fabrication of the casks with no fuel loading does not add any measurable risk to the public. Casks are not used (loaded) until they conform to the final NRC approval in the form of an issued CoC or site-specific license.

Comment A.7: One commenter discussed the Wisconsin Public Service Commission (WPSC) lack of concern about TN not having to use positive means to verify continued efficacy of the neutron absorbing material in the casks.

Response: Issues related to WPSC are beyond the scope of this rule.

Comment A.8: One commenter asked if a generic TN–32 had ever been built and tested, if there are similar designs being used at the Surry nuclear plant and if the Surry casks are site-specific designs, if Wisconsin Electric Power Company (WEPCO) has built similar cask designs, if any similar designs have been loaded, what the track record has been for similar designs, how long the casks have been used at other sites, whether closure seals have been replaced and where, whether exemptions were required elsewhere, and whether these other casks will need changes to meet the current proposed design.

Response: As noted in the SAR in Chapter 1, the standard TN–32 cask was approved by the NRC as a Topical Report in 1996 for reference in site-specific applications. Currently there are nine TN–32 casks located at the Surry site that were first loaded in 1996 and five at the North Anna site first loaded in 1998. A successful dry run was performed before the first loading at each site. WEPCO has the VSC–24 design casks at its Point Beach site that is a different design than the TN–32. O-rings have been replaced on casks on the Surry site. Exemptions have been granted to other cask designs and are publically available. There will be no requirements to change already approved cask designs to meet the specifications of the design being approved by this rule, because there has been no NRC finding as part of the current review that calls into question any NRC safety findings on previous TN–32 designs.

Comment A.9: One commenter stated that the environmental assessment (EA) using the tiered approach on past environmental analysis is not valid and an environmental impact analysis should be performed for the TN–32 and every other new cask design.

Response: The NRC disagrees with the comment. The EA and finding of no significant impact (FONSI) for this rule are limited in scope to the TN–32 in a generic setting. The NRC has given specific consideration of environmental impacts of dry storage and has not found any new information affecting the conclusion that these impacts are expected to be extremely small and not environmentally significant. Therefore, the NRC believes that meaningful new environmental insights would not be gained by performing an environmental impact analysis for each new cask that is certified. The EA covering the proposed rule, as well as the FONSI prepared and published for this rulemaking, fully comply with NRC's environmental regulations in 10 CFR Part 51. The Commission's environmental regulations in Part 51 implement the National Environmental Policy Act (NEPA) and give proper consideration to the guidelines of the Council of Environmental Quality (CEQ). The EA and FONSI prepared for the TN–32, as required by 10 CFR Part 51, conform to NEPA procedural requirements. Tiering on past environmental Impact Statements (EISs) and EAs is a standard process under NEPA. As stated in CEQ's ''Forty Frequently Asked Questions,'' the tiering process makes each EIS/EA of greater use and meaning to the public as the plan or program develops, without duplication of the analysis prepared for the previous impact statement.

Comment A.10: One commenter provided a number of comments and questions on the use of TN–32 casks by WEPCO. The commenter asked about why casks may be made in Japan and who would regulate this process. This commenter also expressed concern about the increased costs for the TN–32 over that of the VSC–24.

Response: These comments are beyond the scope of this rule that is focused solely on whether to place the TN–32 cask system on the list of approved casks. Decisions made by specific utilities on why a specific cask is chosen over another design are beyond the scope of this rule. If WEPCO chooses to use the TN–32 cask design at the Point Beach site, the licensee will be required to perform an evaluation in accordance with 10 CFR 72.212 to determine whether activities related to storage of spent fuel under the general license would involve any unreviewed safety question as provided under 10 CFR 50.59. In accordance with this regulation, the licensee would make changes to existing lifting systems and any physical changes to the facility as necessary to accommodate new cask designs. Each of these changes would need to be evaluated per 10 CFR 50.59 to determine their impact on other systems and on existing safety analyses. The NRC does not have a role in selecting particular manufacturers for a cask. Each CoC holder and licensee is responsible for ensuring that the quality assurance requirements for a cask are met by the fabricator. The cost of cask fabrication is beyond the scope of this rule.

Comment A.11: One commenter stated an opinion that burnable poison rod assemblies (BPRAs) and thimble plug assemblies (TPAs) should not be placed in casks but should be shipped in low level waste containers to low level waste storage facilities. This would make the shipping process less costly and would result in simpler procedures and analyses.

Response: The NRC disagrees with this comment. The inclusion of BPRAs and TPAs in the spent fuel casks provides better protection by limiting potential radiation exposure for the plant workers and the public than handling these items separately. Even though the radiation source term in the casks due to BPRAs and TPAs is higher, the user at each site must take steps and measurements to ensure that the regulatory limits on dose rates are met. The cask users will have procedures to address the differences in handling casks with and without BPRAs and TPAs. Storage of spent fuel assemblies and their associated hardware that includes BPRAs and TPAs in a cask is not prohibited by NRC regulations. The comment about storage of BPRAs and TPAs at a low level waste facility is beyond the scope of this rule.

Comment A12: One commenter asked who verifies that fabricators are qualified to build casks and suggested that the NRC set up evaluation criteria and enforcement programs to bar unqualified companies. The commenter also voiced a concern that vendors and subcontractors are new to the nuclear industry and require strong and effective quality assurance.

Response: The CoC holder and licensee are responsible for verifying that fabricators are qualified. The choice of who fabricates a container is a business decision made by the licensee or certificate holder seeking to build containers. The CoC holder and licensee must have an NRC-approved Quality Assurance (QA) Program that is approved as part of the licensing or CoC issue process. This QA program must meet the requirements of 10 CFR 72.148 and 10 CFR 72.154 for the selection of fabricators. Also, the procurement documents issued to the fabricator must comply with 10 CFR 21.31. These requirements are passed onto fabricators as part of a contract or through other procurement documents. The licensee/CoC holder is required to verify that all regulations applicable to the container are met. The NRC inspects the licensee/CoC holders and fabricators to verify compliance as well. The NRC has a defined process for taking enforcement actions against those that do not comply with NRC regulations.

Comment A.13: One commenter recommended that the NRC certify only dual purpose casks in the future.

Response: This comment is beyond the scope of this rule. The current regulatory framework does not preclude an applicant from requesting certification of either a transport, storage, or dual purpose cask. The NRC may approve any one of these designs.

Comment A.14: One commenter disagreed with the NRC position that the independent spent fuel storage installation (ISFSI) must be designed to withstand the same safe shut down earthquake as for the adjacent nuclear power plant. Instead, this commenter recommended that an ISFSI pad should be required to have its own specific seismic analysis because the reactor and the ISFSI may be located on different types of soil or land forms.

Response: The NRC disagrees with the recommendation that each ISFSI pad be required to have a specific seismic analysis. Before using the TN–32 cask, the general licensee must evaluate the site to determine whether or not the chosen site parameters are enveloped by the design bases of the approved cask as required by 10 CFR 72.212.

Comment A.15: One commenter addressed the references included in the NRC SER. This commenter suggested that all references should be dated and that more current versions of references should be listed.

Response: The NRC agrees with this comment. Reference dates have been added and more current versions of references have been added to the SER where appropriate.

Comment A.16: One commenter stated that the utility should not decide the amount of dose to the public that will be generated by the casks and that there should be a public hearing for each design that is proposed for use by a utility. The commenter further stated that the public knows nothing about how utilities choose cask designs at most locations, does not read the **Federal Register**, and feels incapable of reading NRC documents. The commenter added that the public should be given a choice as to what they want to be placed on a pad in the vicinity of their homes.

Response: This comment is beyond the scope of this rule. The NRC is not involved in the decision process used by utilities to select a cask design. A utility may choose any certified cask design for spent fuel storage. However, the potential dose to the public from the cask use may not exceed NRC regulatory dose limits. The rulemaking process used by the NRC for generic approval of casks is the regulatory vehicle used to obtain public input and ensure protection of public health and safety and the environment. This final rule adds the TN–32 cask design to the list of approved casks available for use by a power plant licensee under the conditions of the general license in 10 CFR Part 72. Those conditions require each licensee to determine if the reactor site parameters are encompassed by the cask design bases considered in the cask SAR and SER.

Comment A.17: One commenter stated that the computer based safety analysis that is discussed in SER Chapter 6 is not a realistic way of dealing with the design and accidents and requested that actual conditions be evaluated.

Response: The NRC disagrees with this comment. As stated in SER Section 6.3.1, the most limiting conditions are combined and bound all credible conditions. The NRC staff accepts analytic conclusions based on sound engineering methods and practices. NRC accepts the use of computer modeling

codes to analyze cask performance. The NRC found the computer codes and models used by TN to be appropriate as discussed in the SER.

Comment A.18: One commenter asked who would be responsible for conducting a heat load test following a cask design change. The commenter suggested that a cask user would probably evaluate the design change under 10 CFR 72.48 rather than conducting a heat load test. The commenter also stated that the use of 10 CFR 72.48 results in ''goofing up'' design documents.

Response: The comment on the 10 CFR 72.48 process affecting design document quality is beyond the scope of this rule. As required by the TN–32 Certificate of Compliance (CoC), prior to loading a cask with a heat load equal to or greater than 23.7 kilowatts, the heat transfer performance of a cask shall be verified by a thermal test. The CoC also requires that any changes to the fabrication process be evaluated for thermal impact. If the change is found to be significant, the heat transfer performance of a modified cask shall be verified by an additional thermal test prior to loading a modified cask with a heat load equal or greater than 23.7 kilowatts. If the heat load exceeds the CoC specified value, there is no option to use 10 CFR 72.48 to avoid performing a repeat test.

Comment A.19: One commenter asked how the NRC will ensure that TN will independently verify the adequacy of the cask design and that changes to design documents will be reviewed and approved by the same organizations who performed the original design.

Response: Independent design verification reviews and reviewing design changes are governed by an NRC-approved QA program. The NRC performs inspections to verify that a CoC holder meets its approved QA program requirements. 10 CFR 72.232, ''Inspection and Tests'' provides the NRC permission to perform inspections and tests at any time. The NRC will be able to determine the adequacy of the independence of TN's cask design verification through the inspection program.

Comment A.20: One commenter stated that design records should be legible because their use is important during emergency situations, that the requirement for independent inspections should be emphasized in documentation and enforced, that calibration records are of grave importance and need constant verification that each action was completed, and that verifications should be done in a timely manner.

Response: The NRC agrees that design records must be legible and should be complete and accurate. Several regulations address the quality of records that are maintained by applicants and licensees. Each CoC holder must have an NRC-approved QA program. An NRC-approved program includes specific requirements for quality assurance records, independent inspection and testing, and control of measuring and test equipment. Ultimately, according to their approved QA program, the licensee/CoC holder must maintain necessary and sufficient records as evidence of activities affecting quality under routine and emergency conditions.

Comment A.21: One commenter asked what the standard industry decommissioning practices are for decommissioning (referred to on Page 14–1 of the SER), asked if implementation of decommissioning will be a big problem for the TN–32 design, how wet transfer will be dealt with for casks in the future, and when a dry transfer method will be used along with dual purpose casks. Also, the commenter asked if there is a proposal for a dry storage method with an associated dry transfer process and what the results were from the Transnucleaire of France report to DOE and EPRI on dry transfer.

Response: The phrase ''standard industry decommissioning practices'' in the SER refers to general practices of decontamination, cask disassembly with adequate radiological and occupational safety controls, fuel handling procedures, and safe component transportation and disposal. Decommissioning implementation will be addressed as a site-specific issue. The remaining portions of this comment are beyond the scope of this rule.

Comment A.22: One commenter stated that the review should consider the ultimate disposal of the spent fuel.

Response: This comment is beyond the scope of this rule. The CoC for the TN–32 is intended for the interim storage of spent fuel. Use of the TN–32 cask design for disposal at a high-level waste repository is beyond the scope of this rule. DOE has not yet made final decisions regarding cask design or deployment for the cask design to be used in the high-level waste repository.

Comment A.23: One commenter asked if the TN–24 design had ever been used and why it is not in production currently. Also, the commenter asked why casks holding 24 and 32 assemblies are being approved and used while the Yucca Mountain facility description discusses casks with a 21 assembly capacity.

Response: The comments on the TN–24 design are beyond the scope of this rule. A final decision on the design of storage casks for disposal at Yucca Mountain has not been made.

Comment A.24: One commenter stated that unloading procedures should be placed in the NRC public document room.

Response: The NRC disagrees with the comment. Detailed loading and unloading procedures are developed and evaluated on a site-specific basis by the licensee using the cask. There is no requirement to have detailed procedures placed in the public document room.

Comment A.25: One commenter stated that the NRC should always remember that the priority is public and worker safety, not keeping the plants operating; and that the NRC should do the certifications of new cask designs very carefully and not as fast as the utility schedule demands.

Response: The NRC's highest priority is to protect health and safety of the public including those working at a nuclear plant. Each cask certification requires a thorough and careful review of the design details and how each design complies with existing regulations. The NRC is aware of utility schedules but the NRC completion of certifications is based on available resources, the adequacy and completeness of applicant submittals, and the complexity of identified technical issues.

B. Radiation Protection

Comment B.1: One commenter stated that the assumptions of ranges of cobalt impurities included in the SAR are too great and that more current and accurate information should be used. The commenter also asked why the value for grid spacers is 4700 ppm and if anyone really knows what an accurate measurement is for all of the cobalt in the cask. The commenter stated that if the NRC confirmatory calculations resulted in 15% lower values for cobalt source terms, then there was a mistake.

Response: The NRC disagrees with the comment. The measurement data cited in the SER on cobalt impurity levels in fuel assembly hardware was collected before the effects of cobalt impurity were fully appreciated. More recently, cobalt impurity levels have been controlled during the fabrication process and typically do not exceed 1200 ppm. The assumed impurity value of 4700 ppm is accepted as a bounding value that will cover past, present, and anticipated future fabrication practices for Inconel hardware, and is conservative.

The difference between the applicant's and NRC staff's calculations for the cobalt source term is not a mistake. The methods available for estimating the Co-60 source term are not exact and the results depend on the assumed reactor operating conditions that change over time and vary from plant to plant. Some variation in results is expected. The fact that the NRC staff's values were lower for the Co-60 source term show that the applicant's calculations for this term were bounding.

Comment B.2: One commenter noted that in the SER the NRC stated that the integration of the neutron source as a function of axial position resulted in a 28% larger total neutron source than that given in Table 5.2–3 of the SAR . The commenter asked if the applicant's calculations were wrong. Further the commenter suggested that a cask design should not just meet requirements but should be ''ALARA-not up to the limit.''

Response: The NRC disagrees with the comment. The calculations of the neutron source term made by the applicant are correct. The methods available for calculating neutron source terms as well as gamma-ray source terms are not exact and some variation between code results is expected. The neutron dose rate on the surface of the neutron shield is only 10 percent to 15 percent of the total dose from the cask. The difference in neutron source term was offset by the higher gamma-ray source term estimate by the applicant. Overall, the applicant provided a bounding shielding analysis.

Provided the applicant's design meets the regulatory limits for off-site dose, the NRC finds this acceptable. Doses to individuals will be determined when the cask is used at an actual site. Each general license user of the cask will have a radiation protection program that seeks to identify operational alternatives to keep the dose to workers as low as reasonably achievable (ALARA).

Comment B.3: One commenter noted that the NRC concludes in the SER that because the aluminum tubes containing the neutron shield material have a wall thickness of only 1/8 inch and actual measurements have not detected streaming, that streaming through the aluminum wall is not significant. The commenter asked who did the measurements and if the streaming evaluation was carefully performed. Also, the commenter asked who developed the information in Appendix 5A, whether this was the source of the measurements, and if the measurements were accurate.

Response: Appendix 5A does not address the streaming issue and was initially provided to support an analysis in a second appendix that was later deleted. However, the applicant left Appendix 5A in the SAR for informational purposes only. In response to a request for additional information on the potential for streaming, the applicant cited other measured dose rates around the TN–24P (EPRI NP–5128), the TN–40 and TN–32 casks, that, ''have shown no streaming effects in moving circumferentially around the neutron shield.'' This information was considered during the NRC staff's review. Measurements by licensees are subject to NRC inspection and no further investigation of their accuracy was deemed necessary.

Comment B.4: One commenter asked why the radial neutron shield is not the full length of the cask because dose rates can be higher above and below the shield and BPRAs and TPAs have higher doses. The commenter also asked what the real dose a person inspecting the cask can be expected to receive near the trunnion area above and below the neutron shield especially to the head and feet (not just the average dose to a person working near the side of the cask).

Response: The radial neutron shield runs the full length of the active fuel region of the fuel assemblies that is the location of the neutron source term. The peak surface dose rates at the top and bottom edges of the neutron shield are very localized and drop off rapidly as one moves away from the shield edge. The applicant's estimate of worker exposure did account for the higher doses at the edges of the neutron shield coupled with the number and duration of tasks necessary in those regions. The estimated dose for loading operations around the upper corner of the cask is 2.9 person-rem. The user's ALARA program is established to identify local hot spots such as the trunnion area and take measures to avoid worker proximity to those areas as much as possible. The ALARA program will control the actual doses when the casks are loaded at the plant.

Comment B.5: One commenter stated that the accident dose would be much less if BPRAs were not loaded in the casks. The commenter asked how the BPRAs affect the total dose to the public in a full cask array, how close the calculated doses are to regulatory limits, and how the doses compare to those of other approved casks.

Response: The data provided in the SAR show a less than 20 percent increase in the normal and accident doses due to the presence of BPRAs. For normal conditions, each general licensee who uses the TN–32 cask must perform an evaluation to show that the regulatory off-site dose limits will be met at the licensee's site. Thus, a direct comparison to the regulatory limits will depend on site-specific conditions and usage. The analysis of a typical cask array shows that the dose limit to a public resident is met at a distance of approximately 450 meters from the storage pad. The accident dose at 100 meters from a cask is estimated to be approximately 15 percent of the regulatory limit. Because the NRC evaluates the cask design versus the regulatory limits, comparison of the TN–32 design to other approved cask designs is beyond the scope of this rule.

Comment B.6: One commenter stated that the casks are really site-specific from a dose perspective because the dose from everything at a site needs to be considered including effluents, low level waste, old steam generators, etc. The commenter suggested that a berm would be needed, especially to minimize the dose to the public. The commenter also asked who evaluates this (the licensee or the utility) and if NRC checks the dose calculations.

Response: The NRC agrees that the actual doses are a site-specific issue that will be addressed by the cask users ALARA program. Under 10 CFR 72.212(b)(2), each general licensee who uses the TN–32 cask must perform an evaluation to show that the regulatory off-site dose limits are met at the licensee's site. The evaluations are made available for NRC inspection and review.

Comment B.7: One commenter asked if the total dose of 4.25 person-rem per cask is acceptable to the NRC, if other cask designs have much lower total doses, and if the total dose may exceed this value in the future. The commenter suggested that an acceptable dose is one that is closest to the minimum.

Response: Although acceptable, the operational dose estimates in the application are considered to be bounding values (conservative overestimates) and actual doses are expected to be lower. Occupational dose limits are set in 10 CFR Part 20. The total dose received during cask loading will be shared by a number of workers and is monitored by the user's radiation protection program. That program must ensure that occupational doses do not exceed regulatory limits. One component of an approved radiation protection program is an ALARA program and is subject to NRC inspection. Because the NRC evaluates the cask design versus the regulatory limits, comparison of the TN–32 design to other approved cask designs is beyond the scope of this rule.

Comment B.8: One commenter asked if Regulatory Guide 8.8, ''Information Relevant to Ensuring that Occupational Radiation Exposures at Nuclear Power Stations will be As Low as Reasonably Achievable'' applies to doses to the public.

Response: The Regulatory Guide does not directly address dose to the general public. It specifically addresses occupational doses to reactor station personnel.

Comment B.9: One commenter asked for the dose rate under the bottom plates and how radioactive the pad would become by the time the pad is decommissioned.

Response: The applicant estimated a dose rate of 498 mrem/hour on the bottom surface of the cask for a full load of design basis fuel assemblies. The amount of activation in the pad is expected to be small and will depend on the actual fuel loaded and time of storage. At the time of final decommissioning, the cask user will be required to measure any induced radiation in the pad and activated material will be handled according to the regulatory requirements.

Comment B.10: One commenter asked why the shielding analysis is based on nominal uranium content that is slightly less than the specified values.

Response: For a given fuel design, there will be slight variations in the uranium content due to occasional minor modifications made to meet the special needs of the buyer for a particular batch of fuel. The range of variations is much less than the accuracy of the methods currently available for the analysis and will not change the finding of reasonable assurance for approval of the design. The maximum limits on uranium content specified in TS 2.1.c are set to bound all potential variations for the particular design. The values used in the analysis are more representative of the fuel most likely to be stored in the cask.

Comment B.11: One commenter asked how hard it is to decontaminate the outside of the TN–32 after being in the pool. The commenter further inquired as to the extra dose received by the worker in decontaminating the cask.

Response: Decontamination is not a particularly difficult task but does take some time and care. Steps are performed to aid the process of decontamination as the cask is placed in the pool. Tests are performed to determine that effective decontamination is achieved and additional decontamination will be performed when needed. Decontamination is estimated in the SAR to take 1.5 hours with a maximum worker dose of 0.27 person-rem.

Comment B12: This commenter asked if the expected dose rates for the TN–32 would be three times that of the VSC–24.

Response: The projected annual dose from one TN–32 loaded cask is described in Table 10.2–1 in the SER and shows what the dose would be at different distances. This dose for this design is within regulatory limits. The NRC does not conduct its dose review on a comparative basis considering other cask designs. The expected doses from other approved designs are reflected in SARs from those designs and are publically available.

C. Accident Analysis

Comment C.1: One commenter stated that the 15 minute transporter fuel fire should not be the bounding fire accident and recommended that the NRC evaluate a large airplane crashing into a full array of casks, a lightening strike induced fire, a fuel fire fed by aircraft fuel, or a missile that causes a fire at the pad breaking up casks, and burning the plastic, seals, and resins. The commenter also asked what the total amount of material that could be off-gassed, melted, and burned up if several casks were hit by an airplane; what an emergency crew would be expected to do given a catastrophic crash into a cask array; what a fire crew should spray or dump on a fire to mitigate its severity; how one would move and unload a cask with a destroyed neutron shield and burned out seals; and whether local emergency crews have action plans for such severe fires at a storage pad.

Response: The NRC disagrees with this comment. The basis for the 15-minute fire is associated with the time it would take to burn approximately 200 gallons of fuel, presumably carried by the transporter. The analyzed fire is assumed to burn at 1550 °F and is assumed to produce the worse case scenario of fire/heated air for the TN–32. The fire is assumed to fully engulf the cask, thus maximizing the heat input into the cask. Fire of this duration exposed to the outside of the cask would have little effect on the contents due to the thermal inertia of the cask. The weather cover o-ring and neutron shield may burn or char if exposed to the design basis fire. Complete combustion of the weather cover o-ring would contribute an insignificant amount of heat to the TN–32 and would not affect any components that are important to safety. The radial neutron shield is a polyester material which includes about 50 percent fire retardant fill, which makes it self-extinguishing when exposed to fire. The top neutron shield is polypropylene which is slow burning or may not burn at all in a fire environment. The applicant has added information to the SAR to address the combustibility of the neutron shield.

Other external sources of heat associated with the TN–32 are solar insolation and ambient temperatures. These sources are included in the thermal analysis in section 4 of the TN–32 SAR. External pressure sources include normal atmospheric conditions, flood submersion, and explosions. These sources are included in the safety analysis in Sections 2, 3, and 11 of the TN–32 SAR.

The applicant's evaluation of a lightning strike is provided in section 2.2.5.2.8 of the TN–32 SAR. No significant thermal effect was identified since the electricity would be conducted through the metal components to ground. Other vehicles causing the fire (such as airplanes, trains, delivery trucks or missiles) are not plausible and are beyond the scope of this rule. However, the applicant did evaluate the design capability to withstand an explosion with a force up to 25 psi of external pressure. (See also discussion for Comment C.7.)

Before using the TN–32 casks, the general licensee must evaluate the site to determine whether or not the chosen site parameters are enveloped by the design bases of the approved cask as required by 10 CFR 72.212(b)(3). Included in this evaluation is the verification that no credible source of an external explosion that would produce an external pressure above 25 psi and that any cask handling equipment used to move the TN–32 cask to the pad is limited to 200 gallons of fuel (refer to Technical Specification 4.3.5—Site Specific Parameters and Analyses). Also, when a general licensee uses the cask design, it will review its emergency plan for effectiveness in accordance with 10 CFR 72.212. This review will consider interdiction and remedial actions to address accidents of all types and coordination with local emergency response teams.

Comment C.2: One commenter questioned what tornados, lightning, fire, and puncture damage would do to the effectiveness of the neutron shield. The commenter also questioned whether the plastic seals burn easily.

Response: The top neutron shield and the radial neutron shield have not been designed to withstand all of the hypothetical accident loads. There may be local damage due to accidents such as tornado missiles, fire, etc. Therefore, cask structural analyses have been performed assuming that the neutron

shield is completely removed during the accident conditions. The results indicate that the cask without the neutron shield is adequately designed to withstand various load combinations of the accident condition as presented in Sections 2, 3, 4, and 11 of the SAR. The lid seals are metal. The design has been found capable of maintaining the confinement of radioactive material under the identified credible accident conditions even with the loss of the neutron shield. Thus, any dose to the public is controlled and would be within regulatory limits.

Comment C.3: One commenter stated that casks should not be permitted to slide at all or much less than the 7.88 in. discussed in the SER. Further, the commenter suggested that the analysis should assume that the casks could slide in more than one direction. The commenter also asked if sliding affects other casks already certified.

Response: The NRC disagrees. The TN–32 cask will not tipover or slide due to tornado and wind loading as analyzed in Section 2 of the SAR. The SAR indicates that the cask may slide 7.88 in. due to a 4,000 lb. missile (in this case, an automobile) impacting below the center of gravity of the cask at 126 mph. This is much smaller than the approximately 94 inch distance between casks. In the unlikely event that two 4,000 lb missiles were to impact below the center of gravity of two adjacent casks from opposite directions, the two casks still would not collide with each other. Furthermore, the automobile is conservatively assumed to be rigid and absorbs no energy in the analysis. In reality, upon impact the majority of the energy will be absorbed by the crushing of the automobile rather than moving of the cask. The NRC has not identified any design issues in the TN–32 review which affect any other casks previously approved.

Comment C.4: One commenter asked that during a tornado, what structures are near the casks that could hit one of them and whether a meteorological analysis had been done to evaluate the effects of tornados on the casks.

Response: This is a site-specific issue. The cask user will have to address this issue in its 10 CFR 72.212 evaluation.

Comment C.5: One commenter asked about how a cask could become buried and what assumptions were used for causes for the burial accident.

Response: TN–32 SAR Section 11.2.10 provides possible causes for accidental cask burial such as an earthquake.

Comment C.6: One commenter stated that the unloading function is not given much attention in the full safety analysis of the cask for accidents.

Response: General procedure descriptions for these operations are summarized in Section 8.2 of the SAR. These procedure descriptions were reviewed by the NRC. As discussed in Section 8 of the SER, the NRC concluded that these procedure descriptions were acceptable for use in developing detailed site-specific procedures. Detailed loading and unloading procedures will be developed on a site-specific basis by the cask user.

Comment C.7: One commenter asked a number of questions relating to the accident analysis assumptions for explosions involving combustible materials shipped to reactor sites and on transportation links near nuclear power plants. Specifically, the commenter asked about controls over what is shipped near the Point Beach plant and a number of other potential sources of explosion.

Response: This comment about Point Beach is beyond the scope of this rule. The applicant, Transnuclear, did evaluate the TN–32 cask design for its capability to withstand an explosion with a force up to 25 psi of external pressure. Further, the NRC has evaluated the effects of a truck bomb located adjacent to storage casks. The use of a generally licensed cask by a utility requires that the user ensure that the site is not subject to any potential accident that has not been analyzed. This would include any potential active or passive source of explosion at or near the pad.

Comment C.8: One commenter stated that consideration of a sabotage threat is not up to date for ISFSI designs.

Response: The NRC disagrees with the comment. The NRC reviewed potential issues related to possible radiological sabotage of storage casks at reactor site ISFSIs in the 1990 rule that added Subparts K and L to 10 CFR Part 72 (55 FR 29181; July 18, 1990). The NRC still finds the results of the 1990 rule current and acceptable. In addition, each Part 72 licensee is required by 10 CFR 73.51 or t 73.55 to develop a physical protection plan for the ISFSI. The licensee is also required to install systems that provide high assurance against unauthorized activities that could constitute an unreasonable risk to public health and safety.

D. Criticality

Comment D.1: One commenter stated that in the KENO input file of page 6.6–7, the last zero in the unit cell resonance correction input should be changed to a 3.

Response: The NRC agrees with the typographical correction suggested by the commenter. The correct unit cell data was used in the NRC staff's confirmatory calculations and demonstrated that this error had a negligible effect on the criticality safety analysis results. The SAR has been revised as appropriate.

Comment D.2: One commenter asked a question about what confirming demonstration and analysis the NRC used to show that ''significant'' degradation of the neutron absorbing material used in each cask can not occur over the life of the facility. The commenter also disagreed with the NRC statement in the SER that neutron absorber plates would have a continued efficacy over the 20 year cask life because there is no knowledge basis for this and fabricators do not meet perfection in their products.

Response: The NRC staff does not consider the loss or degradation of fixed neutron poisons credible after installation into the cask because the poisons are fixed in place and contained. The neutron absorber is designed to remain effective in the TN–32 system for a storage period greater than 20 years and there are no credible means to lose the neutron absorber. Section 6.3.2 of the TN–32 SAR describes the neutron absorber and its environment, and evaluated boron depletion due to neutron absorption. Section 9.1.7 of the SAR describes the testing procedures for the neutron absorber material that will be manufactured and tested under the control and surveillance of a quality assurance and quality control program that conforms to the requirements of 10 CFR Part 72, Subpart G. The compositions and densities for the materials in the computer models were reviewed by the NRC staff and determined to be acceptable. The NRC staff notes that these materials are not unique and are commonly used in other spent fuel storage and transportation applications.

Comment D.3: One commenter asked what the comprehensive fabrication test was that is capable of verifying the presence and uniformity of the neutron absorber and if any of these tests really exist.

Response: As stated in SER Sections 6.1 and 6.3.2, the fabrication requirements and neutron and visual acceptance tests that must be performed are described in SAR Section 9.1.7. In SER Section 9.1.5, the NRC staff found the tests are adequate to validate the specified boron content and fabrication quality.

Comment D.4: One commenter asked why the applicant did not perform a calculation to verify that criticality safety is maintained for each type of fuel with TPAs that will be stored in the cask versus relying on a bounding analysis for fuel containing BPRAs.

Response: In SAR Section 6.4.2, the applicant explicitly evaluated all of the proposed fuel types to determine the most reactive fuel configuration. The most reactive fuel type was then used in the remainder of the criticality safety evaluation. The SAR shows that displacement of highly borated water within the active fuel region causes a slight increase in reactivity for this cask under the conditions evaluated. The BPRAs bound the TPAs. A fuel assembly can only contain either a BPRA or a TPA. The BPRAs extend down into the active fuel region and, as stated in SAR Section 2.3.4.1, they displace more borated water than the TPAs.

Comment D.5: One commenter asked about the fuel pin pitch parameter role in the calculation of k_{eff}, if the NRC understands what happens as it varies, and if the NRC expects different effects on k_{eff} than the applicant does. The commenter also asked if the fuel pins ''straighten up'' and become ''more centered'' as water comes in around them, and stated that there are a lot of unknowns about fuel behavior in dry casks.

Response: The pin pitch is the distance between fuel pins and can decrease if the fuel assembly grid spacers fail as evaluated in SAR Section 6A. The NRC staff compared the effects of varying the amount of borated water between an array of fuel pins and varying the amount of borated water between fuel assemblies in a TN–32 cask. As pin pitch is reduced for assemblies in a TN–32 cask, the amount of borated water between assemblies increases, resulting in a decrease in reactivity.

Comment D.6: One commenter asked what operating experience in cask unloading is used to establish the frequency for checking the boron concentration.

Response: The frequency for checking the changes to the water boron concentration is based on spent fuel pool operating experience that does not require experience in cask unloading. There is significant spent fuel pool operating experience that supports the TS frequency for checking the boron concentration of the water.

E. Thermal

Comment E.1: One commenter asked why the maximum fuel cladding temperature had been reduced from 348 °C [as approved in another cask design] to 328 °C [for the TN–32 design].

Response: The fuel cladding temperature is established to protect the cladding from failure during the storage lifetime. This temperature limit is based on several factors including the cladding hoop stress and the length of time the fuel has been cooled. Cladding hoop stress is related to the rod internal pressure. The rods are pressurized by gas present in the plenum and gap. Because casks certified under 10 CFR 72 Subpart L have a broad range of applicability and in response to the NRC staff comments, the applicant selected an upper-bound rod internal pressure to develop the clad temperature limits. The resulting maximum cladding temperature limit was 328 °C. The temperature limit is based on the methods given in PNL–6189, Levy, I.S., et al., Pacific Northwest Laboratories, ''Recommended Temperature Limits for Dry Storage of Spent Light-Water Zircaloy Clad Fuel Rods in Inert Gas'' May 1987. The limit was found acceptable by the NRC staff in the TN–32 Preliminary SER. The methods in PNL–6189 are also referenced in NUREG–1536, ''Standard Review Plan for Dry Cask Storage Systems'' January 1997.

Comment E.2: One commenter asked why SAR Revision 11A on page 4–1 was referenced for this design while Revision 9A was used in a previous SAR for the TN–32, and asked if there was a problem with the previous analysis and what substantial thermal changes had been included in the new analysis.

Response: The TN–32 SAR Revision 11A, was the version of the SAR reviewed and approved by the NRC staff as part of the process of cask certification under 10 CFR 72, Subpart L. SAR Revision 9A was the version reviewed by the NRC staff for site-specific licensing for casks used at Surry and North Anna. The information included in SAR Revision 9A was not applicable to the TN–32 thermal design and was not reviewed by the NRC staff for this current design approval. Therefore, the differences in thermal design between the two designs are beyond the scope of this rule. The NRC staff did not identify any safety issues in Revision 11A that applied to any other cask designs.

Comment E.3: One commenter asked that the NRC define clearly what is meant by ''short term'' for the temperature limit of 1058 °F on page 4–1 of the SER.

Response: The short term temperature limit is applicable to temporary spikes in cladding temperature such as those that may occur in some accidents or during operations like vacuum drying. The NRC agrees that this term is unclear and has adopted the concept of a transient temperature limit. Guidance on the application of the transient temperature limit (referred to as ''short term'') is discussed in NUREG–1536, Section 4,V.1. The basis of the 1058 °F temperature limit for zirconium alloy clad fuel, given in NUREG–1536, is from A.B Johnson and E.R. Gilbert, Pacific Northwest Laboratories, ''Technical Basis for Storage of Zircaloy-Clad Spent Fuel in Inert Gases'' PNL–4835, September 1983. Experimental data in that report demonstrated no damage to zirconium alloy cladding when subjected to 1058° F for 30 days. The basis for the temperature limit is to avoid conditions that could cause a rod to burst due to excessive internal pressure and to limit the amount of creep that may occur at the elevated temperatures.

For spent fuel storage, the NRC staff generally expects the length of time the cladding would be at elevated temperatures above the long term limit to be much less than 30 days. This expectation is consistent with technical specification actions to implement temporary cooling of the fuel or to establish acceptable conditions for normal storage within periods that are much less than 30 days. These actions typically limit the time fuel is allowed to approach and remain at the transient temperature limit. In addition, if suitable long term storage conditions do not exist or cannot be established, the technical specifications may also require further actions such as removal of the fuel from the cask within 30 days. This expectation is also consistent with the assumptions for accident durations of 30 days or less.

Comment E.4: One commenter asked a number of questions concerning the cask heat up model discussed on pages 4–4 through 4–8 of the SER. Specific comments addressed: whether BPRAs and thimble plugs were included in the model for weight inputs and for radiation hot spots; why the model assumes gaps between the basket and cask bottom, between the basket and rails, and between the rails and cavity wall; and whether the gaps really exist or are added for conservatism.

Response: The heat contribution from the BPRAs and thimble plugs was considered in the cask analysis. Rather than explicitly modeling the fuel assemblies, BPRAs, and thimble plugs, they were modeled as homogenized units that had equivalent heat transfer characteristics. The weights of various

fuel assemblies including the heaviest BPRAs for storage in the TN–32 cask are presented in Table 2.1–1 of the SAR. In SAR Table 5.1–2, the applicant provided the incremental dose rate resulting from the BPRAs and TPAs at the same locations around the cask as for the fuel assemblies including the hot spots above and below the neutron shield. Gaps are assumed in the modeling as discussed in the response to Comment E.5.

Comment E.5: One commenter stated opposition to the thermal performance of the cask design being based on the gap size in the cask body layers. The commenter stated that fabricators will not be able to control the gap size to 0.04 inch that errors will occur, and that the limit is not conservative enough, adding risk to public safety. Further, the commenter noted that requiring only one demonstration test of conformance to the gap limit by the applicant will not guarantee that the other casks used will meet the same limit.

Response: Gaps between the various cask components were assumed in the analysis to account for fabrication and assembly tolerances and uncertainties. The NRC staff expects that the as-built casks will have gaps that are less than or equal to those assumed in the analysis. The implemented QA program at the fabricator's facility provides reasonable assurance that this will occur. However, to demonstrate the adequacy of the fabrication process and to provide defense-in-depth, the NRC will require thermal testing of a single cask by each agent or subcontractor authorized by the certificate holder to complete final assembly of the TN–32 cask body. This test shall be performed before the first loading of any cask assembled by that agent and/or subcontractor with a heat load equal to or greater than 23.7 kilowatts. The test will evaluate thermal performance for a range of heat loads up to and including the maximum authorized heat load of 32.7 kilowatts. Further, any changes to the fabrication process are required to be evaluated for thermal impact. If the change is found to be significant, the heat transfer performance of the modified cask must be verified by an additional thermal test.

Comment E.6: One commenter suggested that the vendor or applicant should conduct tests of the unloading process and full scale testing of the cask with a complete load and a representative fuel basket before the design is certified by rulemaking. Further, the commenter suggested that the test results should be presented to a public service commission hearing before a utility decides which cask to purchase and use, that the NRC should specify criteria on how the approval process is to be conducted and what specifications should be included in the SAR and other design documents, and that the NRC should specify that vendors and applicants will be fined or contracts will be terminated if fabricators do not meet the design criteria. Also, the commenter asked why the applicant does not know the thermal responses for the design and if the thermal test will be conducted with both sets of trunnions for thermal results.

Response: The NRC disagrees with the comment. The TN–32 storage cask design has been reviewed by the NRC. The basis of the safety review and findings are clearly identified in the SER and CoC. Testing is normally required when the analytic methods have not been validated or assured to be appropriate and/or conservative. In lieu of testing, the NRC finds analytic conclusions that are based on sound engineering methods and practices to be acceptable. The NRC staff has reviewed the analyses performed by the applicant and found them acceptable. The authority of a public service commission to approve a design or the use of tests is beyond the scope of this rule. The NRC has issued a number of guidance documents including NUREG–1536, ''Standard Review Plan for Dry Cask Storage Systems'' that provide information about the criteria used by the NRC to approve spent fuel storage cask designs. The design approval process is outlined in 10 CFR Part 72. It is the vendor's or applicant's responsibility who contracts with a fabricator to ensure that the casks and components are built in accordance with the approved design specifications and criteria, and in accordance with the CoC holder's QA program. If the NRC determines through inspection or other means that a cask has been fabricated that does not meet design criteria, then the NRC will take necessary enforcement action against the CoC holder or utility that is using the cask. The SAR provides a thermal analysis acceptable to the NRC staff as discussed in the TN–32 SER, Section 4. The purpose of the thermal test is discussed in the response to Comment E.5 above.

F. Materials

Comment F.1: One commenter stated that the use of a coating on the carbon steel in the cask design will cause problems and stated that stainless steel should be used in fabrication.

Response: The NRC disagrees with this comment. The materials used in the fabrication of the cask are described in Chapters 1 and 3 of the SAR and discussed in Section 3.1.4 of the NRC SER. Materials have been found to have properties that are acceptable as they meet the requirements for their respective applications in the cask system. The coating on the cask interior is flame sprayed aluminum that is a tightly adherent and stable coating in the spent fuel storage environment. These materials have been found to be suitable for the expected loading and storage in wet and dry environments, including corrosion and galvanic effects as discussed in Section 3.2.1 of the SER. There is no requirement for designers to select materials from a given class, e.g. stainless steels.

Comment F.2: One commenter stated that freeze-thaw causes icicles to hang down from the top of cask and have covered outlets on a VSC–24 cask at Point Beach and at Fort Saint Vrain. The commenter then asked if this can occur on a TN–32 cask and cause dripping along the neutron shield; if the resins in the shield can become water saturated; if the aluminum sleeves are water tight; if chemical reactions can occur; if snow, ice, and water can enter cracks or flaws in the gamma shield and reach the containment outer wall; if gaps exist in the trunnion area where water can enter; and if corrosion of carbon steel is a concern in this design. The commenter also asked if fog, rain, mist, and air pollution can affect these casks over time.

Response: The TN–32 design does not include vents, and therefore, there is no concern about ice formation. The outer shell of the neutron shield consists of a cylindrical shell section with closure plates at each end. The closure plates are welded to the surface of the gamma shield. The resins are encased (on all sides) with aluminum or steel. Therefore, it is unlikely that water will come in contact with resins. However, if water contacted the resin, there is no concern because the neutron shielding materials are common plastics that are inert with respect to water. The carbon steel is painted to prevent corrosion and the integrity of that paint will be monitored by the cask user, and repairs will be made if needed.

Comment F.3: One commenter asked if the quenching effect on BPRAs and thimble plugs has been evaluated; if the BPRAs and plugs absorb water, expand, and add weight when the cask is reflooded; if the BPRAs or plugs fall apart or depressurize, will that affect the removal of assemblies from the cask; if pinhole and hairline cracks in the fuel rods will absorb water and then later expand as the rods are dried out; and if the reflooding water is factored into the

lifting weight of the cask. Further, the commenter asked if fuel rods absorb water, will that prevent removal after long term storage. Lastly, the commenter recommended that tests include unloading of a real cask at Surry or elsewhere and that an inspection be conducted to determine what has happened to the fuel pellets, zircaloy, etc.

Response: BPRAs rods are constructed in a manner similar to fuel in that the neutron absorbing material is placed in sealed tubes made of either stainless steel or zirconium alloy. The thimble plug devices are solid stainless steel rods. Both BPRAs rods and thimble plug rods are attached to a stainless steel baseplate. The NRC staff has not identified any conditions in spent fuel dry storage, including quenching, that would cause failures of BPRAs or thimble plugs that would allow them to absorb water or break apart and affect unloading. Further if they are assumed to break apart, the NRC staff has concluded there are no adverse safety consequences. Table 1.2–1 in the TN–32 SAR provides the cask weight when filled with water.

Comment F.4: One commenter stated that the applicant should know the actual Charpy data rather than providing preliminary data; the flaw should not be parallel, radial, or in a line; the flaw depth and width should be known; and a special examination of the gamma shield is necessary even if the identified flaw size is less than the allowable. The commenter also asked how the Charpy V-notch testing will be verified before the tested materials are to be used in fabrication, and that the NRC clarify just what it is allowing and why.

Response: The NRC disagrees with the comment. The ''preliminary data'' is data based upon other plates and heats made to the same specifications as the gamma shield material, SA 266 Grade 2. The materials used in actual TN–32 casks will be tested before use in the cask to ensure that their properties meet or exceed what is required, as indicated in SER Section 9.1.1. The Charpy and other properties enumerated in the SER ensure safe performance under service thermal conditions. Charpy tests are always conducted using a standard ASTM method, E23, ''Standard Test Methods for Notched Bar Impact Testing of Metallic Materials.''

The gamma shield is a forged component. Flaws in forgings are very small. There is no safety related risk or materials problem related to the use of a forging in this application. Appendix 3E of the SAR specifies the allowable flaws for various orientations and locations. Flaws of these sizes will not propagate under service conditions. Any flaw in the gamma shield will be smaller than these sizes.

Comment F.5: One commenter noted that the NRC stated in a November 1, 1996, letter that aluminum oxide flaking might occur in the cask during initial heating and cooling, and that the flakes would most likely fall to the bottom of the cask and not come in contact with the fuel basket. The commenter disagreed with this statement because cask transportation and unloading evolutions could cause the flaking to contact the basket. The commenter asked what the basis is for NRC's position discussed in the 1996 letter and recommended that further analysis be performed to determine what happens to the aluminum oxide at the end of cask life.

Response: The comment about the November 1996 letter is beyond the scope of this rule. The letter is not related to this cask design. As discussed in the response to Comment I.13 the NRC staff expects no oxide flaking to occur in the cask.

Comment F.6: One commenter asked if aluminum flame spray induced stains can generate hydrogen or cause other chemical reactions that could cause problems, whether there is sufficient time in procedures to address this problem, if the NRC understands what the stain is, and if it could cloud the pool water and hinder unloading of the cask.

Response: There is no safety significant effect of the staining due to iron or other contaminants in the aluminum oxide. The concentration of impurities needed to lead to staining is believed to be so small that the NRC staff does not require analysis of chemical reactions that might result from the presence of these impurities. There is no expected effect on water quality or unloading operations.

Comment F.7: One commenter asked if basket support rails or the basket itself will yield and if an evaluation of the effects of yield, temperature changes and drying, and a side or vertical drop or tipover for unloading at the end of cask life has been conducted.

Response: The basket and the rails are evaluated in Appendix 3B of the SAR. The aluminum rail will not yield, even under vertical or tip-over conditions. The internals are always hot. There is no freeze-thaw condition. At the end of life, these internal components are expected to be in exactly the same condition as they were at the beginning of the storage period.

G. Design

Comment G.1: One commenter stated the assumption that the new top lifting trunnions are compatible with the Point Beach transporter and will be addressed by existing procedures. The commenter then asked if the TN–32 trunnions have been tested with the Point Beach transporter criteria, if there may be gaps and streaming at trunnion locations, what the dose effect may be, what heavy load criteria exist, and what testing will be done.

Response: The comment on the trunnion testing and compatibility with the Point Beach transporter is beyond the scope of this rule. Point Beach will have to address the issue in its site-specific evaluation under 10 CFR 72.212. Under a cask user's ALARA program to minimize worker exposure, localized radiation hot spots such as gaps and streaming around the trunnions will be avoided, or have temporary additional shielding during cask handling and preparation for transport to the storage pad.

Comment G.2: One commenter asked a number of questions about the fuel basket cavity that included: what the weight or total load that is transferred from the fuel basket cavity to the lip on the gamma shield shell is, and where the load is transferred; how the shrink fit works, how it is performed, why it is done, and if it has been tested; could water get between the containment shell and the gamma shield shell; what the potential is for corrosion between the two shells; whether an external event such as an airplane crash, tipover, or seismic event could cause the shells to separate; whether tests for freeze-thaw temperature changes for the life of the cask have been done; whether the two shells contract or expand together; if there is a way that pressure or stress can be transferred from one shell to the other and cause cracks in the welds or the containment wall; how much stress is created in the welds and on the bottom plate; and how the inner shell is lifted without removing the inner containment.

Response: The area referred to by the commenter as the ''lip on the gamma shield shell'' is interpreted by the NRC staff to be the confinement shell top forging. The fuel basket and fuel assemblies that weigh about 66,000 pounds rest directly on the bottom confinement plate. Therefore, the fuel basket and fuel assemblies weights are not transferred to the confinement shell top forging.

The shrink fit is established as follows: The gamma shield shell and the confinement shell are fabricated

separately. In order to obtain a close fit between these two shells, the outside diameter of the confinement shell is slightly larger than the inside diameter of the gamma shield shell. The gamma shield is then preheated which causes it to expand before slipping on the confinement shell. After the gamma shield shell cools, it shrinks and tightly clamps onto the confinement shell. Therefore, the fit between these two shells is very tight and no water could migrate between the two shells over the life of the cask. Consequently, corrosion between the two shells is not a concern. An external event such as a fire, tipover, or seismic event would not cause the two shells to separate as demonstrated in Sections 3, 4, and 11 of the SAR.

Likewise, temperature effects on the cask are evaluated in Sections 3 and 4 of the SAR. Due to the similarity of materials, both shells will contract or expand together. The 1.5-inch thick confinement shell is supported by the 8-inch thick gamma shield shell. Under accident conditions, the gamma shield shell protects the confinement shell from damages. The amount of stresses that are created in the welds and on the bottom plate due to various service loading combinations are less than the ASME allowable values and are presented in Sections 3.4 and Appendix 3A of the SAR. The TN–32 cask has a confinement shell that can not be removed.

Comment G.3: One commenter stated that the shape of the cask is of concern because the neutron outer shell does not cover the gamma shell at the top and bottom. The commenter then asked if this is due to the location of the trunnions and suggested that in a drop accident, the bottom trunnions might crack off and the edge of the neutron shell could be easily crushed or smashed.

Response: The NRC does not agree with the comment. Radially, except at the trunnions, the neutron shield runs the full length of the active region of the spent fuel assemblies which is the source of neutron radiation. The accident analysis for the TN–32 cask assumes that the neutron shield and steel outer shell were removed completely. With this assumption, the accident analysis bounds any lesser damage to the neutron shield and shell, and the estimated dose is within regulatory limits.

Comment G.4: One commenter asked if the load bearing aluminum rails can be jammed during unloading, whether crud or paint particles can fall into the rail slots and cause a movement problem, what other movement problems exist, or whether there would ever be a reason to remove the basket.

Response: The aluminum rails are located outside the basket. They do not interfere with the unloading operation. The aluminum rails establish and maintain basket orientation, and enhance heat transfer. The rails that surround the basket are oriented parallel to the axis of the cask body and are attached to the inner cavity wall of the cask body. Consequently, lateral movement of the basket inside the cavity is restricted by the rails. Although the basket is not attached to the cask body, there is no need to remove the basket from the cask cavity during an unloading operation.

Comment G.5: One commenter stated that the TN–32 is designed not to be susceptible to brittle fracture in temperatures as low as 20°F and noted that this was a positive characteristic for storage in cold climates.

Response: No response is necessary.

Comment G.6: One commenter asked a number of questions on fuel rod gas including: why the assumption is made that fuel gas internal pressure is present when the NRC permits an unlimited number of pinhole leaks and hairline cracks that would apparently permit the gas to escape over the 20 year life of the cask; what happens to the gas and does it mix with the helium; what the gas is; and what chemical reactions it can cause inside the cask.

Response: Based on operational experience, only a very small fraction of the fuel rods develop leaks (pin holes, hairline cracks, etc.) during reactor operation and pool storage. At the time of dry storage, the majority of fuel rods are intact and contain pressurized gas. The gas present in the spent fuel rod after removal from the reactor is from two sources helium fill gas placed in the rod during manufacture and a fraction of the fission gases (mostly krypton, xenon, and tritium) produced and released from the fuel pellets during reactor operation. Maintenance of intact cladding and retention of the gases within the rods, throughout dry storage, is part of the cask design consideration to protect operational personnel from unnecessary dose during unloading and to provide defense-in-depth. If the unlikely release of gas from a rod were to occur, the gases would mix with the cask fill gas and remain within the confinement boundary. The bulk of these gases are chemically inert and will not react with materials inside the cask. The trace amounts of gases that are chemically reactive include cesium (a volatile expected to exhibit gas-like behavior at cask conditions). There may be some chemical reactions between these reactive materials and the zirconium and steel in the cask. These reactions would be minimal and would not adversely affect the functions of any components that are important to safety.

Comment G.7: One commenter asked a number of questions about fuel pellets including, what the basis is for determining the weight of the fuel pellets after reactor exposure and pool exposure; whether pellets crack or break up over time, whether the pellets can absorb or adsorb water coming in from pinhole leaks and hairline cracks, and how it is determined that the pellets are dry when put into storage.

Response: The fuel weight is based upon data supplied originally for new fuel. Increases in fuel weight due to service exposure are minimal because they are due to oxidation. The fuel is UO_2 and does not oxidize unless the fuel cladding fails in service. After exposure to oxygen or water (in failed fuel) it becomes more rich in oxygen. This is represented as U_4O_9. Because most of the weight is in the uranium (mass about 238) and not in the oxygen (mass 16), this small increase represents an insignificant change. An average weight for the fuel type is taken into account in any calculations that require knowledge of mass of this system component.

The pinholes and hairline cracks would not absorb water, although they may be involved in the sorption of moisture and uptake of oxygen within the fuel because they could permit pool water, cask moisture, or cask oxygen to enter the fuel rod and contact the fuel pellets. Pinholes and hairline cracks are not expected to form during dry storage because the storage environment for the fuel cladding is maintained under protective and durable conditions.

The behavior of the fuel pellets is well studied and many literature references are available on this topic. Cracking in the fuel pellets generally occurs during reactor operation . The fuel pellets are fairly inert in the absence of oxygen. Therefore, the fuel is dried and then stored in a dry, helium gas (water and oxygen free) environment to preclude further oxidation.

In preparation for dry storage, the loading process ensures that moisture is removed from the fuel cladding, any fuel that may have pinholes or hairline cracks, and from the cask internals. The cask is thoroughly vacuum dried as prescribed in the technical specifications and the SAR. The vacuum drying process, which involves two, complete evacuate-fill cycles, coupled with the heat generation of the fuel, very effectively removes residual moisture that may be present in the fuel pellets

and interior components of the cask system and oxygen that is inside the cask. The helium fill gas is very pure and dry, and the cask is sealed to prevent entry of water and air during storage. The effectiveness of the vacuum drying process, the sources of residual impurities, and the potential effects of impurities, are reported in PNL–6365, ''Evaluation of Cover Gas Impurities and Their Effects on the Dry Storage of LWR Spent Fuel'' November 1987. Because the storage system provides an inert environment throughout the licensed period, very little further oxidation is expected to occur under normal storage conditions.

Comment G.8: One commenter asked how the aluminum boxes filled with resin are arranged around the cask, how far apart they are, how they are held to the gamma shield wall while the outer shell is installed, and to what are they attached.

Response: As shown in TN–32 SAR drawing 1049–70–2 and described in TN–32 SAR Sections 1.2.1, 3.1.1, and 4.1, about 60 aluminum boxes are tightly fitted around the exterior of the gamma shield. A steel outer shell completely encloses the aluminum boxes and holds them in place after construction. Details, such as temporary measures to hold the boxes in place during construction will be addressed by fabrication procedures and are beyond the scope of this rule.

Comment G.9: One commenter asked if the fuel basket rails discussed on page 4–2 of the SER can come loose over time along with the basket and affect the unloading of the fuel, and why they are not welded instead of being bolted as designed.

Response: Neither the applicant nor the NRC staff has identified any mechanisms that would cause the basket rail bolts to come loose over time. The basket rails are bolted to the cask wall because they are aluminum (for heat transfer) and the container wall is steel. The only function of the basket rail attachment bolts is to attach the basket rail to the inner cavity wall of the cask body; the bolts do not support any other loads. A bolted attachment functions as well as a welded attachment. Therefore, there is no need to weld the basket rail.

Comment G.10: One commenter suggested that changes be made to the SER concerning the shield lid design for the TN–32. The commenter stated that the only drawing in the SER of the shield lid is not very clear and asked if it is accurate. Further, the commenter suggested that the drawing should add details about TN–32 designs A and B to show the differences in lid designs and why they exist. The commenter suggested that on page 5–1 of the SER that the NRC should provide a better explanation of the lid thickness calculations and that the SER should discuss the materials that are being used in the lid design and how the changes affect the analysis of the cask.

Response: The NRC disagrees with this comment. The commenter requested changes in the level of detail included in the SER to better describe the cask design. The applicant's SAR includes a level of design detail that enables the NRC to make a safety finding. However, that same level of detail does not need to be repeated in the SER because it is already available on the docket and is retrievable by the NRC staff and the public. The NRC further disagrees that additional information on thickness calculations, a discussion of lid materials, and how changes in materials affect cask analysis should be added to the SER in Chapter 5. The applicant chooses design materials, dimensions, and methods of shielding, and includes details on this and supporting analysis in its SAR. The NRC followed its review guidance in NUREG–1536, ''Standard Review Plan For Dry Cask Storage Systems'' January 1997 and provided the appropriate level of detail and information specifically in Chapter 5 to reflect areas of review and findings.

Comment G.11: One commenter noted a concern about the applicant's proposed compression of BRPA springs or using a modified lid design. The commenter suggested that this was another example of a generic design being changed to a site-specific one in effect and, therefore, this should have been requested as a site-specific cask design application for approval of storage of BPRAs. The commenter then asked why the applicant had not designed the casks to hold Westinghouse 14x14 fuel in the beginning rather than changing the design later to accommodate longer assemblies due to the BPRAs collar. The commenter also stated that the design changes lead to confusion.

Response: The NRC disagrees with this comment. A vendor can choose to include any design characteristics and must demonstrate that the design is safe and in compliance with existing regulations. Adding the capability to store BPRAs could also have been requested under a site-specific license, but the regulations do not suggest one method over the other. The question about why the applicant did not originally design the cask to hold 14x14 fuel is beyond the scope of this rule.

Comment G.12: One commenter asked for a description of the difference between the configuration of the 6 inch shield plate and the 4.88 inch shield plate of the lid, why the 4.88 inch plate is acceptable, for a description of the 1.25 inch plate incorporated in the neutron shield, how the lids are put together, how having different lid designs will affect handling procedures, if the top neutron shield (4 inch thick polypropylene) is encased by 0.25 inches of steel on the top and bottom resulting in a total thickness of 4.5 inches, what being encased means, how the neutron shield encasing is welded together, if polypropylene is flammable or if it holds water, how it reacts under accident conditions of increased pressure and temperature caused by fire or explosions, how it could effect the resins on the outside of the cask during a fire event, and if it could be repaired after being melted. The commenter also suggested that it should be assured that the design can accommodate a correct fit of the drain pipe through the lid and that vent and drain closures are appropriate for the design.

Response: ''Encased'' means that the neutron shield is enclosed in a steel shell on all sides. The casing seams are welded with full penetration or fillet welds depending on the joint configuration. The alternate lid design for the TN–32A removes 1.12 inches of steel from the under-side of the lid and adds a 1.25 inch plate on the top side of the lid. Thus, for the TN–32 and TN–32B, the neutron shield casing is 0.25 inches thick on the top and bottom giving a thickness of 0.5 inches in the casing material plus 10.5 inches (6 inches + 4.5 inches) in the lid for a total steel thickness of 11 inches at the top of the cask. For the TN–32A, the bottom of the casing is the 1.25-inch thick supplemental plate and the top of the casing is a 0.38-inch thick steel plate giving a thickness of 1.63 inches in the casing material plus 9.38 inches (4.88 inches + 4.5 inches) in the lid for a total steel thickness of 11.01 inches at the top of the cask. Thus, the effective thickness of the lid was not changed and is acceptable. The two thick steel plates in the lid are welded together and the neutron shield in its casing is bolted to the top of the lid.

The radial neutron shield is a polyester that includes about 50 weight percent fire-retardant mineral fill, making it self-extinguishing. The top neutron shield is polypropylene that is ''slow burning to nonburning'' according to Table 24, Section 1 of the ''Handbook of Plastics and Elastomers.'' Furthermore, the weather protective cover isolates the top neutron shield

material from sources of ignition and the radial neutron shield is completely encased by the aluminum tubes and by the outer shell.

Both neutron shielding materials are common commercial plastics that are inert with respect to water. Again, the weather cover and the outer shell protect the material from direct contact with water.

Each user of the cask will have operating procedures to address the different lid designs if more than one design is used onsite. The two different lid designs are configured to accommodate the correct fitting of the drain and vent closures and associated hardware.

Comment G.13: One commenter asked if the requirement of 10 CFR 72.236(c) for redundant sealing is only for O-rings and about the applicability of this requirement for the welds for the VSC–24, and whether the shield lid weld is verified by ultrasonic testing.

Response: The requirement of 10 CFR 72.236(c) for redundant sealing is applicable to all casks that are approved under 10 CFR 72 Subpart L. The question about VSC–24 is beyond the scope of this rule. The TN–32 cask does not have a shield lid weld.

Comment G.14: One commenter asked if hydrogen would build up above the water level if the evacuation line became iced up and blocked, how the cask remains vented, whether it uses a metal pipe that runs far from the cask rather than using a flammable plastic pipe or duct tape, whether there are any sources of ignition if hydrogen did escape from the venting, what the heat source is that the NRC discusses in the SER and how it would affect the vented hydrogen, and whether a clogged line could cause water to remain in the cask longer than expected like it did at Arkansas Nuclear One.

Response: A discussion about hydrogen generation and control is discussed in the response to Comment I.5. The TN–32 SAR, Table 8.1–1, recommends the use of heat tape as the heat source to preclude icing of the evacuation line during vacuum drying.

Clogging of the drain line due to a design or material condition in the TN–32 cask is judged by the NRC staff to be an unlikely occurrence. However, if a clogged line caused delays in a draining operation, there is not an immediate safety concern because the fuel will be adequately cooled, or a criticality or shielding concern, and any hydrogen that may form will be vented.

Comment G.15: One commenter suggested that the marking on a dry cask should carry more information than model number, identification number, and empty weight, and that the marking should be on a plate that is covered and will not rust, and should state all important information about its contents because paper records can be lost or destroyed. This labeling would be useful in an accident, sabotage, or war to identify cask contents. The commenter also asked if the NRC has carefully reviewed the labeling of casks and the storage of supporting documents.

Response: The NRC agrees in part with this comment. Each cask must be conspicuously and durably marked with model number, a unique identification number, and with its empty weight under 10 CFR 72.236. The NRC did evaluate the need for and types of labeling in the statements of consideration for 10 CFR Part 72. The applicant in Section 1.2.1 of the SAR states that each cask will be marked with the required information but did not address the durability and visibility aspect of the marker. The SAR has been modified to reflect this missing information.

However, NRC regulations do not require the identification of cask contents on permanent markings affixed to the cask. The NRC notes that 72.212(b)(8) requires that each general licensee accurately maintain a record for each cask that lists the spent fuel stored in the cask. This record must be maintained by the cask user until decommissioning of the cask is complete.

Comment G.16: One commenter suggested that this cask design requires a berm to minimize doses to the public and that all dry cask storage installations should require berms to reduce line of sight for potential sabotage, vehicle access, and dose to the public.

Response: The NRC disagrees with this comment. These are site-specific issues that will be addressed by the cask user's ALARA program and physical protection program.

Comment G.17: One commenter stated that replacement of O-rings in a cask causes unnecessary dose consequences, requires time and resources and creates schedule problems for pool use. The commenter asked if using O-rings in the design was a good idea because of the need for replacement over time, how complicated the replacement process is, and if it must be performed with the cask in the pool.

Response: The materials used for the cask seals are durable and are expected to remain functional for the lifetime of the cask. In SAR Section 2.3.2.1, the applicant included test results for seals that have been in service since 1973. These tested seals are similar to those planned for use in the TN–32. Those results demonstrate a very good record of seal integrity, performance, and endurance.

If a seal required replacement, the expected dose for the workers performing that task would be less than or equal to the dose expected for cask unloading operations. The actions to replace the seal will be similar to those required for unloading except that fuel manipulation is not required. Seal replacement for the TN–32 would require placing the cask in a suitably shielded environment such as the spent fuel pool.

Comment G.18: One commenter had several questions/concerns on the design of the TN–32 cask as follows: whether the neutron shield on the top overlaps the gamma shield enough to cover the area of streaming up the gap on the sides of the lid, why there isn't a bolt on the left of the gamma lid, whether the rim with all of the bolt holes has been evaluated for stresses and cracking around the bolts and holes, why the neutron shields don't go up higher and down lower to cover the entire area, and why the trunnions don't fit into the neutron shield rather than above and below the shield. The commenter further questioned whether the doses would be lower with a different outside neutron shield.

Response: The neutron shield on the cask lid overlaps the outer most edge of the fuel by about one inch and is sufficient to prevent vertical streaming of the neutrons. The effects of angular streaming were considered in the analysis and included in the estimated operational dose to the workers and off site. The drawing is simply showing different sections of the cask in the same view and is not a symmetrical cross section. There are 48 bolts for attaching the lid to the cask body. Closure bolts were simulated in the finite element model by the coupling of corresponding nodes at the location of the bolt. Stresses in the closure bolts and surrounding areas due to various serviced loading combinations are less than the ASME allowable values as demonstrated in Appendix 3A of the SAR. Consequently, cracking around the bolts and holes will not occur. The radial neutron shield runs the full length of the active fuel region that is the location of the neutron source. The design has been found to be acceptable after a review against the regulatory requirements. The neutron shield extends half way up the upper trunnion so the trunnion must penetrate through the shield to attach to the cask body.

The placement of the trunnions is influenced by operational and handling considerations as well as regulatory factors. As long as the cask design meets the regulatory requirements, the details of design are the applicant's prerogative.

Comment G.19: One commenter expressed concern over the issue of ice clogging drain lines and asked if some company could develop a vacuum draining system that wouldn't have ice clogging concerns.

Response: The potential for ice formation in the vacuum lines can occur from the cooling effect of water vaporization and system depressurization that occur during evacuation. Icing is not expected in the cask because of the heat generated by the fuel. Reasonable precautions such as heating the evacuation lines (using heat tape) or controlling the evacuation rates by performing the evacuation in a series of stages are adequate to preclude icing problems.

Comment G.20: One commenter suggested changes to the tolerances in SAR drawings 1049–70–1, 1049–70–3, 1049–70–4, and 1049–70–5.

Response: The NRC agrees with the comment. These changes to the tolerances specified on the SAR drawings will not affect the structural analyses and the conclusions reached in the SER. The drawings have been changed accordingly in the SAR.

Comment G.21: One commenter stated that a note should be added to drawing 1049–70–4 specifying that a test fitting may be supplied on the access port cover plate.

Response: The NRC agrees with this comment. The addition of this fitting does not affect safety. Its purpose is to facilitate leak testing of the overpressure monitoring system. The drawing has been revised to reflect this change.

Comment G.22: One commenter stated that a note should be added to drawing 1049–70–7 allowing alternate configurations for the plumbing of the pressure monitoring system.

Response: The NRC agrees with this comment. The note should also state that the parts and equipment used are equivalent to those specified in the drawing. An adequate level of safety is obtained by the quality assurance process and leak testing and monitoring of the system as required by the technical specifications. The drawing has been revised to reflect this change.

Comment G.23: One commenter stated that the vent and drain port cover seal groove diameters on drawing 1049–70–3 should be changed as follows; 5.88 groove O.D. to 5.92, and 4.70 I.D. to 4.65.

Response: The NRC agrees with this comment. The changes to the drawing do not affect the structural design or the confinement boundary. A note has been added to the drawing to follow the manufacturer's recommendations.

Comment G.24: One commenter stated that in SAR Chapters 2 and 7 the metallic O-ring seal liners should be specified as stainless steel or nickel alloy.

Response: The NRC agrees with this comment. The use of either stainless steel or nickel alloy is acceptable to the NRC staff. The SAR has been revised.

Comment G.25: One commenter asked how the bottom plate is welded to the confinement shell, how the gamma shield bottom plate is welded to its shell, how the plates are arranged, how weld locations affect stresses, what the actual stresses are, and what mechanism could cause the plates to be detached.

Response: The weld between the bottom confinement plate and the confinement shell is a complete penetration weld. The weld has the same thickness as the plate and shell. Therefore, it makes no difference whether the weld is outside or inside the shell. The gamma shield shell rests on the bottom gamma shield plate and is welded all around the outside perimeter of the joint. Weld locations are included in the finite element model. Stress intensities for different cask components and welds for each service condition and the load combination are presented in Appendix 3A of the SAR. The bottom plate could become detached from the gamma shield shell if the weld connecting the gamma shield shell to the bottom plate were to fail completely. The mechanism for possible failure of this weld is discussed in Appendix 3E of the SAR. Special examinations are required for this weld to ensure that defects are detected and repaired before use for fuel storage. These requirements are presented in Appendix 3E of the SAR and discussed in Section 3.1.4.4 of the SER.

Comment G.26: One commenter stated that at this point in time TN should know if the bottom inner plate weld is going to be applied before or after the outer and inner shell assembly. The commenter asked if it was the shrink fit and why TN did not appear to know. The commenter stated an understanding that one shell has a seam and the carbon steel is wrapped into a cylinder and welded at the one meeting seam, while the other shell is in two halves requiring two seams and asked if that was correct. Then the commenter asked if there is a concern if one seam is located over or near the seam of the other, if the plate pushes out at the shell wall around its thickness, or if the shell of either the containment or gamma shield rests on their bottom plates, how this affects the weight distribution, how these two shells are put together, when welding is to be performed, and exactly how the welding will be inspected. The commenter noted that the use of the word ''if'' in the acceptance test section of the SER is not acceptable because the level of detail in the design and fabrication should be decided before a design is certified.

Response: The NRC disagrees with the comment. As long as the confinement barrier is welded to meet ASME code Section III, Subsection NB requirements, test standards, and acceptance standards, the barrier will be in conformance with a standard that will satisfy all of the safety requirements for this application. No adverse effects on the cask integrity is expected from either of the two fabrication alternatives; either alternative is acceptable. Therefore, the SAR can specify welding either before or after shell assembly. See the discussion for Comment G–2 about how the shells are assembled.

The steel of the seam meets the requirements of the steel used for the vessel. Location of seams in relation to one another will not affect performance. In terms of any alterations in stress (or weight distribution), it is noted that the containment vessel (and its seams) is ground to tight tolerances so that it will be exactly the right size to make the shrink fit process work. Circumferential and longitudinal confinement boundary welds are examined volumetrically by radiography and liquid penetrant or magnetic particle methods accepted by ASME NB–5000 standards. ASME Code, Section III, Division 1, Subsection NB–5231(b) requires either ultrasonic or radiographic examinations and either liquid penetrant or magnetic particle examinations be performed on the full penetration corner welded joints. Therefore, the fabricator can choose either ultrasonic or radiographic examinations to inspect the corner weld. In this case, the bottom inner plate weld is inspected using ultrasonic examination methods if the weld is applied before the outer and inner shells are assembled. If the weld is applied after assembly, this inspection is done radiographically. Both methods will be supplemented by either liquid penetrant or magnetic particle examinations. Non-confinement welds are inspected in accordance with the ASME Code, Subsection NF. Additional inspections will also be performed on the gamma shield shell to the bottom shield weld

and the lid to the shield lid weld as specified in SAR Section 9.

Comment G.27: One commenter stated that using mirrors and auxiliary lighting to inspect welds that were not directly visible ''sounded tricky.'' The commenter noted that ensuring that the basket retains its form throughout its life is important and asked the NRC to clarify what a plug weld is and how they are inspected.

Response: The NRC has accepted a number of methods to visually inspect hardware to verify materials quality, including the use of mirrors and auxiliary lighting as appropriate. The basket will retain its shape over the life of the containment system because it is fabricated using acceptable methods. Also, the cask is filled with helium that precludes environmentally induced alterations. Further, the basket is designed to accommodate the thermal cycles of the application without substantial distortions. The plug weld technique is used to connect the stainless steel tubes together as part of the fuel basket using solid stainless steel connecting bars. Each plug weld penetrates the full thickness of the stainless steel tube wall. These welds are not only 100 percent visually inspected, but sample coupons made by the same welding procedures, technique, and weld machine are tested to verify quality.

H. Technical Specifications

Comment H.1: One commenter stated that the maximum uranium content should be deleted from Section 2.1 of the TSs because this information is already included in the SAR.

Response: The NRC disagrees with this comment. This design information is crucial to the conclusions reached by the NRC about the TN–32 design in its SER. The maximum uranium masses, along with other fuel parameters, include the design tolerances considered in the SAR and, therefore, are not overly restrictive. The uranium content in the TSs are set to bound all potential variations for the design. Further, the NRC considers the maximum uranium content to be a fuel parameter that is a part of the design that can not be changed without NRC review and approval. Therefore, it should remain in the TSs.

Comment H.2: One commenter stated that the parameter labeling of Table 2.1.1–1 of the TSs should be revised as Minimum Initial Enrichment and Maximum Burnup to avoid confusion.

Response: The NRC agrees with this comment. TS Table 2.1.1–1 has been revised to use the terms Minimum Initial Enrichment and Maximum Burnup. Footnotes clarifying that the actual minimum enrichment is to be rounded down and burnup is to be rounded up were also added to the table. Additionally, a discussion related to the footnotes was added to the bases for the TSs (B2.1/B2.2) located in Chapter 12 of the SAR.

Comment H.3: One commenter stated that the frequency for Surveillance Requirement (SR) 3.1.3 and 3.1.4 should use the term TRANSPORT OPERATIONS for consistency.

Response: The NRC agrees with this comment. The affected TSs have been changed to use the term TRANSPORT OPERATIONS.

Comment H.4: One commenter stated that the frequency of SR 3.1.6.1 should be revised to state ''immediately prior to lifting the cask . . .''.

Response: The NRC agrees with this comment. The FREQUENCY requirement of SR 3.1.6.1 has been changed to state ''Once, immediately prior to lifting the cask and prior to cask transfer to or from ISFSI.''

Comment H.5: One commenter stated that the applicability of SR 3.2.1 should be revised to ''during TRANSPORT OPERATIONS'.

Response: The NRC disagrees with this comment because it is not necessary to include this information in the body of the TS. However, it is appropriate for clarity to insert a comment in the basis for the TS (B3.2.1) located in Chapter 12 of the SAR. The SAR has been revised accordingly.

Comment H.6: One commenter stated that the cell opening and boron loading should be removed from Section 4.1.1 of the TSs.

Response: The NRC disagrees with this comment. This design information is crucial to the conclusions reached by the NRC in its SER. The minimum boron loading and the minimum cell opening for the basket include any design tolerances included in the SAR. Design features that may affect safety if altered or modified are included in the TSs.

Comment H.7: One commenter stated that the Codes and Standards Section, 4.1.3, of the TSs should be removed.

Response: The NRC disagrees with the comment. This information is required under 10 CFR 72.24(c)(4).

Comment H.8: One commenter stated that in the storage location for Casks, 4.2.1 of the TSs, the 16-foot dimension should be listed as a minimum value or a tolerance should be added.

Response: The NRC does not agree with this comment to add a tolerance. As written, the TSs state that ''the casks shall be spaced a minimum of 16 feet apart, center-to-center.'' This specification assures that the minimum cask spacing assumed in the analysis is achieved to allow proper dissipation of radiant heat energy.

Comment H.9: One commenter stated that references to consideration as important to safety [for a berm] be removed from Section 4.3.6 of the TSs.

Response: The NRC disagrees with this comment. As defined in 10 CFR 72.3, structures, systems, and components important to safety are those features of the ISFSI or monitored retrievable storage (MRS) whose function is to maintain the conditions required to store spent fuel safely. Thus, when a berm or other system, structure, or component is installed to meet the normal condition dose limits of 10 CFR 72.104 (i.e., to provide safe storage), it is considered important to safety. However, under 10 CFR 72.122, the quality standards for the feature's design, fabrication, erection, and testing may be at a level commensurate with the safety importance of the function to be performed. See NUREG/CR 6407, ''Classification of Transportation Packaging and Dry Spent Fuel Storage Components According to Importance to Safety'' February 1996. Generally, features that are not needed to meet the accident conditions will not have to meet as high a standard as those that need to function in an accident.

Comment H.10: One commenter stated that the proposed TN–32 TSs are confusing, more complicated than those of the VSC–24, and are not written in plain English. For example, the commenter noted that 1.3 ''completion times'' on page 1.3–2 is confusing with too many words.

Response: The NRC disagrees with the comment. The TN–32 TSs are modeled on the improved Standard Technical Specifications (ISTS) for power reactors. The ISTS were developed as the result of extensive technical meetings and discussions between the NRC staff and the nuclear power industry in the early 1990s in an effort to improve clarity and consistency of the power reactor TSs and to make them easier for operators to use. The most likely users of the TN–32 spent fuel storage cask technical specifications are power reactor licensees familiar with the format of the ISTS. Although different in form than the VSC–24 TSs, the NRC staff believes that the format of the proposed TN–32 TSs will make them easier for operators to use and will help to achieve consistency between power reactor TSs and spent fuel dry cask storage TSs. The NRC staff also believes that the specific wording of Section 1.3, ''Completion Times'' helps to clarify the TSs by walking the user through each step in

detail and by explaining the conditions, the required action, and the allowable time to complete the required action.

Comment H.11: One commenter requested an explanation of SR 3.0.2. The commenter stated that the use of 1.25 times the interval specified was confusing and that workers should have definite clear directions. One commenter questioned the 25 percent extension of time allowed by SR 3.0.2. The commenter stated that the surveillance should not be missed and should be completed on time.

Response: The basis for SR 3.0.2 is discussed in the TN–32 Technical Specification Bases Section B 3.0, ''Surveillance Requirement Applicability.'' This section explains the NRC staff's rationale for allowing a 25-percent extension in the completion of periodic surveillances. The NRC staff finds the 25-percent extension does not significantly degrade the reliability that results from performing the surveillance at its specified frequency. For those cases where it is necessary to adhere to a strict time frame for completing a surveillance, the specific SR will state that the 25-percent extension of SR 3.0.2 is not applicable. The 25-percent extension is also not applicable in cases when a surveillance frequency is specified by a regulation because the requirements of the regulations take precedence over TSs. The NRC staff believes that the provisions of SR 3.0.2 are clear to users of the TSs and will ensure that all required surveillances will be performed within an acceptable time period, consistent with the NRC staff's safety analyses.

Comment H.12: One commenter asked the frequency of alarm checks and calibration for accuracy. The commenter stated that automatic testing and alarms at the plant should be developed. The commenter also stated that the testing interval of every 36 months for the channel operational test (COT) in SR 3.1.5.2 was inadequate due to the importance of the pressure switch.

Response: The NRC agrees that the instrumentation for monitoring the seals is important and that is why the NRC required TSs for surveillance of this instrumentation. The surveillance requirements for the cask interseal pressure monitoring (e.g. alarm checks and calibration frequency) are given in SR 3.1.5.1 and SR 3.1.5.2.

SR 3.1.5.1 requires monitoring of the interseal pressure at a frequency of once per 7 days. This check ensures that the condition of the alarm is verified at an acceptable frequency. The surveillance frequency is acceptable to the NRC staff based on the measures to verify the integrity of the cask seals and the pressure monitoring system during cask preparations, the static and passive nature of the seals, and the low likelihood that the seal or the monitoring system will develop a leak after placing them into service.

SR 3.1.5.2 requires a channel operational test (COT) of the pressure monitoring instrumentation at a frequency of once every 36 months. According to the TS definition, the COT tests the pressure sensing instrumentation and low pressure indication feature by injecting an actual or simulated signal as close to the sensor as possible to verify the operability of the alarm functions. The COT also includes adjustments, as necessary, of the required alarm setpoint so that the setpoint is within the required range and accuracy. Section 8.3 of the SAR that was reviewed and accepted by the NRC further describes the COT for the TN–32.

By establishment of requirements in the TSs, the NRC imposed minimum performance requirements of the equipment used for the overpressure monitoring system. It is incumbent on the general licensee to procure and install pressure monitoring equipment on the TN–32 cask that has acceptable reliability. This would include having provisions for instrument drift to ensure that the requirements for continuous monitoring of the cask seal are met. Based on considerable industry experience with instrumentation, suitable instrumentation that meets the performance requirements for the TN–32 is available. Further, the monitoring frequency is also acceptable to the NRC staff based on the measures to verify the integrity of the cask seals, the pressure monitoring system during cask preparations, and the low likelihood that the seal or the system will develop a leak after placing them into service.

Regarding the commenter's suggestion of creating an automated or computerized method for testing the instrumentation, details on site-specific design of this equipment is beyond the scope of this rule.

Comment H.13: One commenter stated that the measurement location for the cask temperature in SR 3.1.6.1 should be outside the auxiliary loading area in ambient conditions before the cask starts the transfer to the ISFSI. The commenter further stated that additional criteria is needed to specify the location because the cask temperature should not be taken next to a heater inside the building.

Response: The NRC disagrees with this comment. The cask body temperatures are not going to undergo rapid change induced by ambient conditions. This is because the mass of the cask is so large. It is the cask user's responsibility to ensure that the temperature measurement represents the actual temperature of the outer surface of the cask rather than some other heat source that might be located in the vicinity of the cask. This level of detail is beyond the scope of this rule.

Comment H.14: One commenter asked for clarification of the limitations on changes discussion in LCO 3.0.4. The commenter felt that the way the LCO was worded is ambiguous because it allows actions to be taken that are not endorsed.

Response: The ultimate purpose of LCO 3.0.4 is to allow the cask to be placed in a safe condition in accordance with the Required Action(s) of the governing TS. LCO 3.0.4 precludes placing the cask in an unacceptable condition; specifically one in which the governing LCO would not be met in the Applicability desired to be entered, or if that Applicability would have to be exited at a certain time to comply with the Required Actions. LCO 3.0.4 does not allow actions to be taken that are not approved by the NRC staff.

Comment H.15: One commenter stated that a clarification to the code should be made in Table 4.1–1 of the TSs that the weld of the lid shield plate to the lid is not impact tested.

Response: The NRC agrees with the comment and the TSs have been changed accordingly.

Comment H.16: One commenter stated that in Section 4.1.3, and Table 4.1–1 of the TSs, all references to NB should be changed to NF for the basket.

Response: The NRC agrees with the comment because the TN–32 is a storage only cask, and have changed the TSs accordingly.

I. Miscellaneous

Comment I.1: One commenter pointed out that an NRC letter and technical report calculation numbers are not the same.

Response: The NRC agrees with this comment. The SAR has been revised to correct the discrepancy.

Comment I.2: One commenter stated that the SAR Rev. 11A references an old technical report revision date.

Response: The NRC agrees in part with this comment and has determined that the technical report referenced by the applicant in the SAR was the one used in the supporting analysis and is not the most recent version. The NRC has determined that the information used in the supporting analysis is consistent with that included in the more recent revision. Therefore, using the more recent revision would not

impact the applicant's analysis and the NRC requires no update to the reference in the SAR.

Comment I.3: One commenter asked if a vacuum pump fails while a cask is filled with air and some water, how long could workers take to fix the pump before heat up took place in the cask?

Response: The time and rate of heatup of a cask partially filled with water would depend on the type of fuel, its burnup, and enrichment. According to SR 3.1.1.1, vacuum drying must be complete within 24 hours of the completion of cask draining. Therefore, if vacuum drying is not complete for whatever reason by the 24-hour period, specific actions are required by TS 3.1.1 to place the fuel in the desired safe condition.

Comment I.4: One commenter asked for information about Interim Staff Guidance (ISG) 7 referred to in the SER. Further, the commenter asked what different cask is referred to, if partial helium injection is effective, and if it has been tested. Also, the commenter recommends that testing be conducted for the TN–32.

Response: The purpose of the helium injection is to improve the thermal conductivity of the fill gas as a temporary measure to provide an opportunity to troubleshoot and repair breakdowns during the drying or helium fill process. ISG 7, ''Potential Generic Issue Concerning Heat Transfer in a Transportation Accident'' dated October 2, 1998, provides NRC staff guidance for mixtures of gases within the VSC–24, a spent fuel storage cask. In support of ISG–7, a sensitivity study was performed to evaluate the relative change in cladding temperatures as a result of significant reductions in the thermal conductivity of the fill gas (e.g., 30 percent that of helium). This evaluation found that the cladding temperature was relatively insensitive to gas thermal conductivity as evidenced by an increase in the fuel cladding and bulk gas temperatures of about 3 percent. The NRC staff did not review nor require any testing of the helium injection process based on the analysis and the restrictions imposed by the TSs on operations without a full helium environment.

Comment I.5: One commenter suggested that an unloading test should be done to see what would happen. The commenter asked how the check valve is put into the documents [procedures], how workers can validate this, what water level is in the cask with how much space above, can hydrogen accumulate in that space, and if the draining and venting is performed through connected hoses. The commenter also suggested that the procedure is dangerous, could be confusing for a new worker, and that figure 8.2–1 of the SAR should be added to the SER for clarity. Further, the commenter asked a number of questions about the reflooding evolution: what happens to steam and if hydrogen can form and mix and could exit the cask; what other chemical reactions could occur, if paint, crud or BPRAs pieces, or bits of aluminum could fall and clog equipment; what would occur if cooling water were put in at the top hole instead of in the drain pipe at the bottom of the cask; and if the SER and SAR provide sufficient and correct guidance on the fill, vent, and drain opening for loading and unloading.

Response: The NRC disagrees with this comment about testing. Testing is normally required when the analytic methods have not been validated or assured to be appropriate and/or conservative. In lieu of testing, the NRC finds analytic conclusions that are based on sound engineering methods and practices to be acceptable. The TN–32 Dry Storage Cask design including the unloading process has been reviewed by the NRC. The basis of the safety review and findings are clearly identified in the SER and CoC. In addition, as a condition of the CoC, each cask user must demonstrate the ability to unload a cask as a part of its pre-operational testing and training exercise. The demonstration of the ability to unload a cask, in combination with NRC staff review and acceptance of the analyses performed by TN, provides reasonable assurance that the TN–32 cask can be safely unloaded.

The unloading process including the check valve is described in TN–32 SAR Section 8.2. Detailed site-specific procedures for performing unloading operations are required to be developed and demonstrated at each facility that uses the TN–32. Cask users are required to provide adequate procedures, training, and quality oversight to ensure that the procedure actions are performed as required. The vent and drain ports have different size pipe threads in order to aid in precluding any confusion for the worker. A note has been added to the SAR drawing and Chapter 8 for clarification.

For hydrogen generation to occur, there must be either a chemical interaction between the water in the cask and cask materials or radiolysis of the water. Hydrogen generation itself is not a safety problem because there must also be conditions that allow for accumulation of hydrogen and air (or oxygen) to an ignitable mixture and an ignition source. For the materials present in the TN–32 cask, the rate of hydrogen generation is low when compared to other materials such as zinc based coatings. The applicant provided an evaluation of hydrogen in the TN–32 SAR, Section 3.4.1.4, that addressed hydrogen generation, measures to preclude hydrogen accumulation, and that the TN–32 does not have any ignition sources because the cask closure is bolted.

During loading, the cask is completely filled with water and continuously vented which precludes the accumulation of hydrogen. For the cask draining operation, the cask remains vented. The applicant concluded that the hydrogen buildup in a 2-hour period (the expected time for draining) would be well below the ignitable limit of 4 percent. Vacuum drying is performed after draining. In this condition there is no longer a source of hydrogen generation.

During cask reflood, the cask is continuously vented, precluding the accumulation of hydrogen. The cask fill gas and possibly steam will be forced out of the cask through the vent until the cask is full and the reflood is complete. After the reflood is complete, the cask remains vented as it is placed in the pool and the lid removed. The procedure descriptions in the TN–32 SAR, Section 8, include specific provisions for venting of the cask during times when the cask is filled with water such as during draining and reflood operations.

The NRC staff reviewed and accepted the analysis of hydrogen generation and procedure descriptions to load and unload the TN–32 cask in Preliminary SER Sections 3.1.4.1 and 8. A discussion of crud development is included in the response to Comment I.13.

Comment I.6: One commenter stated that based on the information in the documents that pressurized water reactor (PWR) fuel burned to 45,000 MWD/MTU with a 6-year cooling time can not be loaded in the cask because it increases the neutron source by 12%.

Response: The NRC agrees with the comment. As specified in Table 2.1.1–1 of the TSs, fuel must be cooled at least 7 years before it can be stored in the TN–32 cask.

Comment I.7: One commenter asked how pinhole leaks and hairline cracks can be detected or seen in rods in the middle of an assembly, how many of these defects are permitted in one rod, (as many as 100?), what is the acceptable defect size, if blisters and crud can be present, if a rod or BPRAs can be depressurized, and if utilities or the NRC are clear on what is acceptable.

Response: An example of pinhole leaks and hairline cracks is given in SAR Section 6A.3. Only assemblies that are intact are allowed in the TN–32. The TN–32 meets the criticality safety requirements of 10 CFR Part 72 without any additional fuel condition requirements. The criteria for an intact assembly are defined in TS Section 1.1 as fuel assemblies without known or suspected cladding defects other than pinhole leaks or hairline cracks and can be handled by normal means. Partial fuel assemblies (fuel assemblies with missing fuel rods) must not be classified as intact fuel assemblies unless dummy fuel rods are used to displace an amount of water greater than or equal to that displaced by the original fuel rods. As proof that the fuel to be loaded is undamaged, the NRC will accept, as a minimum, a review of the records to verify that the fuel is undamaged, followed by an external visual examination of the fuel assembly before loading to identify any obvious damage. For fuel assemblies where reactor records are not available, the level of proof will be evaluated on a case-by-case basis. The purpose is to provide reasonable assurance that the fuel is undamaged. Depressurized rods and BPRAs do not impact the safe operation of the cask as discussed in the response to F.3 above.

Comment I.8: One commenter asked how helium purity is tested, if it will be done and if it will be in the documents [procedures].

Response: Testing or sampling for helium purity is performed by the helium supplier and certified to the cask user upon delivery. TS 4.1.4 requires that the cask be filled with helium with a purity of at least 99.99 per cent and documented accordingly. The purity of the helium will be controlled under the licensee's quality assurance program. Only pure helium will be used to backfill the cask; no other gasses will be added during backfill. Acceptable helium purity for dry spent fuel storage casks was defined by R. W. Knoll et al. At Pacific Northwest Laboratory in, ''Evaluation of Cover Gas Impurities and Their Effects on the Dry Storage of LWR Spent Fuel'' PNL–6365, November 1987.

Comment I.9: One commenter asked if the 0.10 fraction for release of full fines is valid, if there has been any more testing after the 1992 Sandia report, and if anything new has been conducted after the 1980 rod burst tests.

Response: The NRC staff has accepted the 0.10 fraction for releasability of fuel fines for the TN–32. The basis for this acceptance is provided in the TN–32 SER Section 7.3. The NRC staff does not have information on experiments or testing more recent than that referenced in the SER.

Comment I.10: One commenter asked why there is a progression to backfill twice with helium.

Response: This process ensures a high confidence that residual moisture and oxidizing impurities are removed from the cask cavity. It is a recommendation of PNL–6365, ''Evaluation of Cover Gas Impurities and Their Effects on the Dry Storage of LWR Spent Fuel'' November 1987.

Comment I.11: One commenter asked what would happen if a gas sample found that helium had been lost , if a water sample reflected crud particulates, paint flakes, or parts of a deteriorated BPRA or TPA. The commenter noted a concern that the above materials in the water could clog equipment and require filter changes in the pool if mixed with spent fuel pool water. The commenter suggested that some equipment to filter the cask water before to mixing with pool water is needed along with a filtration system to control gas releases from the cask.

Response: There is not a requirement to sample the cask cavity for the presence of helium. The cask is designed and analyzed to maintain a helium environment for the duration of the authorized storage period. However, if helium is hypothetically assumed to not be present in a cask during storage, there is a possibility that the fuel may be degraded. Any leakage from these postulated degraded fuel rods would be retained by the cask confinement system that acts as a barrier to releases of radioactive materials to the environment. Specific actions are outlined in the unloading procedure descriptions in SAR Table 8.2–1 regarding analyzing a gas sample for radioactive material (to detect degraded fuel). If degraded fuel is detected, appropriate actions are required for the cask user to develop procedures to minimize exposures to workers and releases to the environment. A requirement to sample the water discharged from the cask during reflood operations is beyond the scope of this rule.

The NRC disagrees with the recommendation to add a filtration system to cask water because the spent fuel pool already has a filtration and purification system in place. Further, the design of the cask precludes the need for a gas filtration system. A discussion of crud development is included in the response to Comment I.13.

Comment I.12: One commenter discussed the use of poured resin material, the importance of procedures for mixing and pouring, the need for detailed procedures for workers who may never have worked on nuclear application material, the need for management supported work ethics, the need to report and correct mistakes, and the need for production workers making the boron aluminum sheets to be aware of the effects of flaw removal. The commenter asked if there are clear criteria for inspection and testing of resin material by the fabricator, and what the measures are to ensure the absence of voids in resin material and if they are clear.

Response: The fabrication of the resin neutron shield will be performed under specific controls and procedures to provide a uniform and effective material. Radiation surveys performed around the cask after loading are designed to detect flaws or mistakes that will adversely affect the ability of the cask to meet the offsite dose limits. Fabrication, testing, and repair of the components in the cask important to safety are covered by an NRC approved quality assurance program either directly or as a supplier or subcontractor to a holder of a QA program. The applicable QA requirements are contained in 10 CFR Part 72 Subpart G.

Comment I.13: One commenter asked a number of questions on the cask filling and venting process and how the procedures will preclude ignition of hydrogen. The commenter asked how the cask filling process works and if the fill and drain lines vent gases during cask filling and if hydrogen can form during the process; if steam, hydrogen, paint flakes, or crud (debris) will fall into the fuel basket and between rods and clog the drain lines, and what happens to these materials during the fill process; if effluent flows from the cask to the fuel pool and affects pool water quality or reacts chemically with materials ; and if casks can be safely unloaded based on the above.

Response: The filling and venting process are discussed in the response to Comment I.5. Except for crud, the NRC staff does not expect paint flakes, particles or debris in the TN–32 cask because the coating on the cask interior is flame sprayed aluminum that is a tightly adherent and stable coating in the spent fuel storage environment and the other cask materials do not create debris during any of the expected conditions in the cask. Some crud may be dislodged from the fuel cladding during spent fuel dry storage, but the crud particles for PWR fuel are very small with diameters ranging from 1 to 3 micro-meters as reported in SAND88–1358, ''Estimate of CRUD Contribution to Shipping Cask Containment

Requirements.'' Particles of this size do not pose a clogging concern in vent/drain lines for this cask. Apart from the crud, no materials other than water and steam are discharged to the pool, where crud from wet fuel storage is already present. The amount of crud from the spent fuel cask is expected to be very small and would be captured in the spent fuel pool filtration system. Crud is generally made up of metal oxides that are not chemically reactive.

The unloading process is outlined in section 8.2 of the TN–32 SAR along with supporting analysis in sections 3 and 4. The NRC staff reviewed and accepted the operating descriptions and analysis, and concluded in the SER that there was reasonable assurance that the casks could be safely unloaded by qualified personnel using detailed procedures developed by the cask user at an ISFSI site.

Comment I.14: One commenter asked the basis for the 24 hour timeframe for conducting the dryness test; the basis for stating that a high vacuum is an indication that the cavity is dry; what analysis provides the basis for the height of the vacuum and whether the analysis is for the specific materials in the cask; the definition of a dry cavity and whether it includes the aluminum paint, drain pipe, bottom plate, zircaloy, pellets, etc.; how do you really know that the contents of the cavity are dry.

Response: The basis for the 24-hour time limit to achieve the required vacuum and cask dryness is discussed in detail in TS bases B.3.1.1. The purpose of the time limit is to prevent the temperature of the basket components from exceeding their analyzed temperature range. A high vacuum ensures that most of the moisture will be removed from all components in the cavity including coatings. The vacuum drying process is further discussed in the response to Comment G.7.

Comment I.15: One commenter asked if an analysis has ever been completed to see what happens when the fuel and other cavity contents are dried out and then placed back in the pool. The commenter asked how the materials react with the pool water and whether it affects the pool.

Response: The information provided in SAR Section 3.4.1 discusses material interactions and would apply to when the fuel and cavity were dried out and placed in the pool with the introduction of water to the materials. The NRC staff has determined that this information is complete and acceptable.

Comment I.16: One commenter asked if it is appropriate to use the same procedures to dry the cask out after being in the pool for seven days and if the process is still accurate.

Response: The procedures used for drying the cask and the expected materials and fuel interactions are discussed in the response to Comment G.7. The procedures are applicable to an exposure of the cask to pool water of any duration.

Comment I.17: One commenter asked if there was a weld problem in Precision Components Fabrication and how the problem was resolved. The commenter believed there was a concern with the shims and asked where the shims are located and how they are removed at unloading.

Response: Shims are not used in the TN–32 cask closure design; the lid is bolted on and not welded. Questions related to the fabrication activities at Precision Components Fabrication are beyond the scope of this rule.

Comment I.18: One commenter asked if the TN–RAM shipping problems had been resolved and if this was a concern for the TN–32 design.

Response: This comment is beyond the scope of this rule that deals with a storage cask design.

Comment I.19: One commenter stated that the gaps (in welds) was one of the real concerns for the TN–32 and asked what are the gaps.

Response: Gap welds are not a concern with the TN–32 cask design because the lid is bolted not welded in place. Therefore, this comment is not applicable to this rule.

Comment I.20: One commenter asked if the documents at Transnuclear and the subcontractors were controlled according to their Quality Assurance (QA) program. The commenter stated that there had been some problems with the Transnuclear QA manual and asked if the problem was now resolved. The commenter further asked if workers understand what a defect is and if the QA program clearly defines a defect. The commenter stated that there should be a requirement to store documents in process in fireproof boxes at the end of each work day.

Response: The NRC recognizes the relationship of the comment with the inspection findings noted in NRC Inspection reports 71–0250/97 and 72–1021/97–206. The inspection findings were addressed and the resolution was reviewed by the NRC. TN was notified that their response was acceptable and that no further information was required in NRC letters to Transnuclear dated July 28, 1997, and August 8, 1997. There is no regulatory requirement or applicant procedure to store design documents in fireproof boxes.

Comment I.21: One commenter asked if the SAR has been updated and if it will have another update with the CoC approval.

Response: The applicant has revised the SAR in response to rulemaking comments and questions before CoC issuance. The final version issued with this rule is available in the NRC Public Document Room.

Comment I.22: One commenter asked if soil liquefaction has been adequately addressed in the TN–32 pad design.

Response: Soil liquefaction is a site-specific issue and is beyond the scope of this rule that adds a generic cask design to the listing.

Comment I.23: One commenter asked if the Surry cask design has been amended to use increased burnup and enrichment.

Response: Virginia Power has submitted a request to the NRC to amend their cask design to permit storage of fuel with higher enrichment and with higher burnup. This request will be reviewed by the NRC staff.

Comment I.24: One commenter asked if ''assembly line methods'' of fabrication are causing problems and multiple non-conformance for the TN–32 design, and if there are problems that should be resolved.

Response: The NRC is not aware of any fabrication methods that have caused problems or non-conformance with the TN–32 design.

Summary of Final Revisions

As a result of the staff's response to public comments, or to rectify issues identified during the comment period, the following items in the TSs have been modified: TS 1.1 (staff initiative), TS 2.1 (staff initiative), Table 2.1.1–1 (see comment H.2), TS 3.1.3 (see comment H.3), TS 3.1.4 (see comment H.3), TS 3.1.6.1 (see comment H.4), TS 4.1.3 (see comment H.16), Table 4.1–1 (see comment H.15 and H.16), and TS 5.2.3 (staff initiative).

The proposed CoC has been revised to clarify the requirements for making changes to the CoC by specifying that the CoC holder must submit an application for an amendment to the certificate if a change to the CoC, including its appendices, is desired. The CoC has also been revised to delete the proposed exemption from the requirements of 10 CFR 72.124(b) because a recent amendment of this regulation makes the exemption unnecessary (64 FR 33178; June 22, 1999). The staff has also updated the CoC, including the addition of explicit conditions governing acceptance tests and maintenance program, approved contents, design features, and

authorization, and has removed the bases section from the TSs attached to the CoC to ensure consistency with NRC's format and content. In addition, other minor, nontechnical changes have been made to CoC 1021 to ensure consistency with NRC's new standard format and content for CoCs. The NRC staff has also modified its SER. The NRC staff has also modified the rule language by changing the word ''Certification'' to ''Certificate'' to clarify that it is the Certificate that expires.

Agreement State Compatibility

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

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required. This final rule adds an additional cask to the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites without additional site-specific approvals from the Commission. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Merri Horn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–8126, e-mail mlh1@nrc.gov.

Paperwork Reduction Act Statement

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

Public Protection Notification

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

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113), requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is adding the Transnuclear TN–32 cask system to the list of NRC-approved cask systems for spent fuel storage in 10 CFR 72.214. This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

Regulatory Analysis

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

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

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

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

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this

determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Regulatory Flexibility Certification

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

Backfit Analysis

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

List of Subjects in 10 CFR Part 72

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

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

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

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

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

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

2. In § 72.214, Certificate of Compliance 1021 is added to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1021.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the TN–32 Dry Storage Cask.

Docket Number: 72–1021.

Certificate Expiration Date: April 19, 2020.

Model Number: TN–32, TN–32A, TN–32B.

Dated at Rockville, Maryland, this 6th day of March, 2000.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 00–6630 Filed 3–17–00; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulation H; Docket No. R–1064]

Membership of State Banking Institutions in the Federal Reserve System

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim rule with request for public comments.

SUMMARY: The Board is amending Regulation H to implement provisions of the Gramm-Leach-Bliley Act for state member banks. The Gramm-Leach-Bliley Act authorizes state member banks to control, or hold an interest in, financial subsidiaries which may conduct certain activities that are financial in nature or incidental to a financial activity. The Board has promulgated this rule on an interim basis, effective on March 11, 2000, in order to allow state member banks that meet applicable criteria to acquire control of, or an interest in, a financial subsidiary as soon as possible following the effective date of the relevant provisions of the Gramm-Leach-Bliley Act.

The Board solicits comments on all aspects of the interim rule and will amend the rule as appropriate in response to comments received.

DATES: This interim rule is effective on March 11, 2000. Comments must be submitted on or before May 12, 2000.

ADDRESSES: Comments, which should refer to Docket No. R–1064, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m., weekdays or delivered to the guard station in the Eccles Building Courtyard on 20th Street, N.W. (between Constitution Avenue and C Street, N.W.) at any time. Comments will be available for inspection and copying by any member of the public in the Freedom of Information Office, Room MP–500 of the Martin Building, between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in § 261.8 of the Board's Rules Regarding Availability of Information (12 CFR 261.8).

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel (202/452–3625), Kieran J. Fallon, Senior Counsel (202/452–5270), Michael J. O'Rourke, Counsel (202/452–3288), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), contact Janice Simms (202/872–4984).

SUPPLEMENTARY INFORMATION:

Background

The Board is amending Regulation H (Membership of State Banking Institutions in the Federal Reserve System) to implement section 121 of the Gramm-Leach-Bliley Act (GLB Act) (Pub. L. 106–102; 113 Stat. 1373–82) as it applies to state member banks. The Comptroller of the Currency has recently issued a rule to implement those parts of section 121 applicable to national banks (65 FR 12905, March 10, 2000). The Board's rule for state member

banks parallels that adopted by the Comptroller.

The GLB Act permits qualifying state member banks to control, or hold an interest in, a new type of subsidiary, referred to as a ''financial subsidiary.'' A financial subsidiary may engage in activities that have been determined to be financial in nature or incidental to financial activities under the GLB Act, including general insurance agency activities in any location and travel agency activities. In addition, a financial subsidiary may engage in underwriting, dealing in and making a market in all types of securities—activities previously prohibited for subsidiaries of state member banks by the Glass-Steagall Act. A financial subsidiary also may conduct any activity that the state member bank is permitted to conduct directly.

The GLB Act prohibits financial subsidiaries from engaging in certain types of activities. As a general matter, a financial subsidiary may not engage as principal in underwriting insurance, providing or issuing annuities, real estate development or real estate investment, and merchant banking and insurance company investment activities.

A financial subsidiary is defined as any company controlled by one or more insured depository institutions, but does not include (1) a subsidiary that the state member bank is specifically authorized to hold by the express terms of Federal law (other than section 9 of the Federal Reserve Act), such as an Edge Act subsidiary held under section 25 of the Federal Reserve Act, or (2) a subsidiary that engages only in activities that the parent bank could conduct directly and that are conducted on the same terms and conditions that govern the conduct of the activity by the state member bank.

The interim rule sets forth the criteria that state member banks must meet to own or control a financial subsidiary, the activities that financial subsidiaries may and may not engage in, and the procedures that will be applied to state member banks that own or control a financial subsidiary and that fail to continue to meet the Act's eligibility requirements. The interim rule also establishes a streamlined notice procedure for state member banks to receive the Federal Reserve's approval to acquire a financial subsidiary or engage in a newly authorized financial activity through an existing financial subsidiary.

The authority for a state member bank to own or control a financial subsidiary is in addition to the existing authority of state member banks to establish so-called operations subsidiaries that engage in activities that the parent bank may conduct directly and that are conducted on the same terms and conditions that govern the conduct of these activities by the bank. See 12 CFR 250.141. Thus, state member banks may continue to retain and to establish new operations subsidiaries permitted under state law and the Board's interpretation without complying with the requirements of this subpart applicable to financial subsidiaries.

Description of the Interim Rule

Section 208.71—What Are the Requirements To Invest in or Control a Financial Subsidiary?

Under the GLB Act, a state member bank may control, or hold an interest in, a financial subsidiary only if certain criteria are met. First, the state member bank and each of its depository institution affiliates must be well capitalized and well managed. An institution is well capitalized if it meets or exceeds the capital levels designated as ''well capitalized'' by the institution's appropriate Federal banking agency under section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o). Well managed is defined by reference to the achievement of specific examination ratings.[1] Second, the aggregate consolidated total assets of the bank's financial subsidiaries may not exceed the lesser of 45 percent of the bank's consolidated total assets or $50 billion. This dollar figure will be adjusted according to an indexing mechanism to be established jointly by the Board and the Secretary of the Treasury.

Third, if the state member bank is one of the largest 100 insured banks, the bank must have at least one issue of outstanding eligible debt that is currently rated in one of the three highest investment grade rating categories by a nationally recognized statistical rating organization. Eligible debt refers to unsecured debt that has an initial maturity of more than 360 days. The debt must be issued and outstanding, may not be supported by any form of credit enhancement, and may not be held in whole or in any significant part by affiliates or insiders of the bank or by any other person acting on behalf of or with funds from the bank or an affiliate. If the state member bank is one of the second 50 largest insured banks, the bank may meet this debt rating requirement or an alternative criteria that the Board and the Secretary of the Treasury anticipate establishing by regulation in the near future. The debt rating and alternative criteria do not apply to a bank if its financial subsidiaries do not engage in any newly authorized financial activity as principal.

Finally, the state member bank must obtain the Federal Reserve's approval to acquire control of, or an interest in, the financial subsidiary using the streamlined notice procedures set forth in § 208.76 of the rule. The state member bank also must obtain any necessary approvals from its state supervisory authority.

Section 208.72—What activities may a financial subsidiary conduct?

A financial subsidiary of a state member bank may conduct only three types of activities:

- Activities that have been determined to be financial in nature or incidental to financial activities and permissible for financial holding companies under section 4(k) of the Bank Holding Company Act of 1956. These activities are listed in § 225.86 of the Board's Regulation Y;[2]
- Activities that the Secretary of the Treasury, in consultation with the Board, determines to be financial in nature or incidental to financial activities and permissible for financial subsidiaries of national banks pursuant to section 5136A(b) of the Revised Statutes of the United States (12 U.S.C. 24a(b)); and
- Activities that the state member bank is permitted to engage in directly, subject to the same terms and conditions that govern the conduct of the activity by the state member bank.

As required by the GLB Act, the rule prohibits a financial subsidiary of a state member bank from engaging as principal in insurance underwriting (except to the extent permitted under state law and the GLB Act), providing or issuing annuities, real estate investment or development (except to the extent expressly authorized by applicable state and Federal law), and merchant banking and insurance company investment activities permitted for financial holding companies under sections 4(k)(4)(H) or (I) of the Bank Holding Company Act.

[1] *See* 12 C.F.R. 208.77(f). A depository institution that has not been examined will be considered well managed if its appropriate Federal banking agency determines that the institution's managerial resources are satisfactory.

[2] On March 10, 2000, the Board adopted amendments to its Regulation Y, which include a new § 225.86 that sets forth the activities that are financial in nature or incidental to financial activities under section 4(k) of the Bank Holding Company Act.

Section 208.73—What Additional Restrictions Are Applicable to State Member Banks With Financial Subsidiaries?

The GLB Act requires that a state member bank that owns or controls a financial subsidiary comply with a number of prudential safeguards. Section 208.73 implements these requirements.

For purposes of determining its compliance with all applicable regulatory capital standards, the state member bank must deduct its aggregate outstanding equity investment, including retained earnings, in all financial subsidiaries from its total assets and tangible equity and deduct such amount from its total risk-based capital, and ''de-consolidate'' the assets and liabilities of the financial subsidiary from those of the bank. The capital deduction must be made equally from Tier 1 and Tier 2 capital. The bank must meet all applicable capital requirements—including the well capitalized requirement of § 208.71 and the capital levels established by the Board under section 38 of the Federal Deposit Insurance Act—after these adjustments.

Subsection (b) requires that the state member bank establish policies and procedures to manage the financial and operational risks arising from its ownership of a financial subsidiary and preserve the bank's separate corporate identity. In addition, the rule specifies that a financial subsidiary of a state member bank is considered an affiliate (and not a subsidiary) of the bank for purposes of sections 23A and 23B of the Federal Reserve Act, and a subsidiary of a bank holding company (and not a subsidiary of a bank) for purposes of the anti-tying prohibitions of the Bank Holding Company Act Amendments of 1970.

Section 208.74—What Happens if the State Member Bank Fails to Continue To Meet Certain Requirements?

The Board will give notice to a state member bank that owns or controls a financial subsidiary if the Board finds that the state member bank or any of its depository institution affiliates fails to continue to be well capitalized and well managed, that the assets of the bank's financial subsidiaries exceed 45 percent of the parent bank's consolidated assets, or that the state member bank has failed to comply with the operational safeguards required by the rule. To assist the Board in enforcing the requirements of the Act, the rule requires a state member bank to notify the Board if the bank learns that any of its depository institution affiliates has ceased to be well capitalized and well managed.

If a state member bank receives a notice of noncompliance from the Board, the bank must execute an agreement with the Board to bring itself back into compliance with the rule's requirements. Any relevant depository institution affiliate also must execute an agreement with its appropriate Federal banking agency to restore itself to well capitalized and well managed status. The Board and the appropriate Federal banking agency may impose conditions on the direct or indirect activities of the state member bank or depository institution affiliate, respectively, until the institution restores its compliance with rule's requirements. If the deficiencies are not corrected within 180 days (or such longer period as the Board may permit), the Board may require the state member bank to divest its financial subsidiaries.

If a state member bank that is one of the largest 100 insured banks fails to continue to meet the debt rating requirement or alternative criteria of § 208.71(b), if applicable, the state member bank may not acquire any additional equity capital (including debt qualifying as capital) of the financial subsidiary until the bank once again meets these requirements.

Section 208.75—What Happens if the State Member Bank or Any of Its Insured Depository Institution Affiliates Has Received Less Than a ''Satisfactory'' CRA Rating?

The GLB Act requires the Board to prohibit a state member bank from acquiring control of a financial subsidiary, or commencing any additional activity or acquiring control of any company through an existing financial subsidiary if the bank or any insured depository institution affiliate has received less than a ''satisfactory'' rating from its appropriate Federal banking agency at its most recent examination under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*) (CRA). Section 208.75 implements these prohibitions. The rule clarifies that, if this prohibition is in effect, the financial subsidiary may not acquire control of another company by acquiring substantially all of the assets of the company. These prohibitions are effective until the bank or relevant insured depository institution achieves at least a ''satisfactory'' rating in its next examination under the CRA. Subsection (b) clarifies that this section does not prohibit a financial subsidiary from engaging in any additional activity, or acquiring control of a company engaged only in activities, that the state member bank is permitted to engage in directly.

The prohibition applies only if the state member bank or any of its insured depository institution affiliates has received a less than ''satisfactory'' rating in meeting community credit needs at its most recent examination under the CRA. Accordingly, the CRA rating requirement does not apply to special purpose banks that are not subject to CRA examination under the Federal banking agencies' CRA regulations,[3] or to *de novo* insured depository institutions that have not yet received (and are not the successor of an institution that has received) a CRA rating.

Section 208.76—What Federal Reserve Approvals Are Necessary for Financial Subsidiaries?

The rule establishes a streamlined notice procedure for state member banks that seek to engage in newly authorized financial activities through a financial subsidiary. As a general matter, the notice must provide basic information on the financial subsidiary and its existing and proposed activities and include a certification that the state member bank and its depository institution affiliates meet the requirements of the GLB Act and the rule to own or control a financial subsidiary. If the notice relates to the initial affiliation of the state member bank with a company engaged in insurance activities, the notice also must describe the company's insurance activities and identify the states where the company holds an insurance license. This additional information will assist the Board in fulfilling its obligations to consult with the relevant state insurance authorities under section 307(c) of the GLB Act.

A state member bank must file a notice with the appropriate Reserve Bank prior to acquiring control of, or an interest in, a financial subsidiary, or engaging in an additional financial activity through an existing financial subsidiary. A notice is not required for a financial subsidiary to engage in an additional activity that the parent state member bank is permitted to conduct directly. A notice will be deemed approved on the fifteenth day after receipt by the appropriate Reserve Bank of an informationally complete submission, unless the notice is disapproved or the bank is notified that additional time to review the notice is needed.

[3] *See* 12 C.F.R. 228.11(c)(3).

II. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish an initial regulatory flexibility analysis with this interim regulation. The interim rule implements the new investment powers granted to state member banks under authority of section 121 of the Gramm-Leach-Bliley Act. (Pub. L. 106–102; 113 Stat. 1373–82). As the rule authorizes expanded activities by state member banks, no additional burdens are being placed on the banks and, in fact, these new powers should enhance the overall efficiency and flexibility of the banks. The rule does not overlap with other federal rules, and enables state member banks to engage in an expanded range of activities using a streamlined notification procedure. The notice procedure described in this rule is voluntary, and the criteria set forth in the rule to control, or hold an interest in, a financial subsidiary, are those required by the Gramm-Leach-Bliley Act.

The initial regulatory flexibility analysis also requires a description of and, where feasible, an estimate of the number of small entities to which the rule will apply. The interim rule will apply to all state member banks (which numbered 1011 as of December 31, 1999), regardless of size, and allows small banking organizations to take advantage of the expanded powers conferred by the Gramm-Leach-Bliley Act with minimal additional burdens. The Board specifically seeks comment on the likely burden that the interim rule may impose on banks that seek to control or hold an investment in financial subsidiaries.

III. Administrative Procedure Act

The Board will make the interim rule effective on March 11, 2000, without first reviewing public comments. Pursuant to 5 U.S.C. 553, the Board finds that it is impracticable to review public comments prior to the effective date of the interim rule, and that there is good cause to make the interim rule effective on March 11, 2000. This is because the rule sets forth procedures to implement statutory changes that will become effective on March 11, 2000. The Board is seeking public comment on the interim rule and will amend the rule as appropriate after reviewing the comments.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the interim rule under the authority delegated to the Board by the Office of Management and Budget.

The OMB control number for this interim rule is 7100–0292. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless the Board has displayed a currently valid OMB control number.

The collection of information requirements in this rulemaking are found in 12 CFR 208.76. This information is required to evidence compliance with section 121 of the Gramm-Leach-Bliley Act. The respondents are current and future state member banks.

The notice cited in 12 CFR 225.76 provides that a state member bank may control, or hold an interest in, a financial subsidiary, or engage in an additional financial activity through an existing financial subsidiary, by filing a single written declaration with the appropriate Federal Reserve Bank. The notice must identify the financial subsidiary and its activities and certify that the bank meets the relevant statutory criteria to own or control a financial subsidiary. In addition, if the notice reflects the initial affiliation of a bank with a company engaged in permissible insurance activities, information regarding the nature, scope, and authority of such activities must be provided. There will be no reporting form for this information collection. The agency form number for this declaration will be the FR 4017. The Board estimates that approximately 100 state member banks will file this notice during the first year and that it will take an average of 1 hour to complete this notice. This would result in an estimated annual burden of 100 hours. Based on a rate of $20 per hour, the annual cost to the public for this information collection is estimated to be $2,000.

A bank may request confidentiality for the information contained in these information collections pursuant to section (b)(4) and (b)(6) of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(6)).

Comments are invited on: (1) whether the collections of information are necessary for the proper performance of the Federal Reserve's functions, including whether the information has practical utility; (2) the accuracy of the Federal Reserve's estimate of the burden of the information collections, including the cost of compliance; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology. Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, with copies of such comments to be sent to Mary M. West, Federal Reserve Clearance Officer, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

V. Solicitation of Comments Regarding the Use of "Plain Language"

Section 722 of the GLB Act requires the Board to use "plain language" in all proposed and final rules published after January 1, 2000. The Board invites comments about how to make the interim rule easier to understand, including answers to the following questions:

(1) Is the material organized is an effective manner? If not, how could the material be better organized?

(2) Are the terms of the rule clearly stated? If not, how could the terms be more clearly stated?

(3) Does the rule contain technical language or jargon that is unclear? If not, which language requires clarification?

(4) Would a different format (with respect to the grouping and order of sections and use of headings) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?

(5) Would increasing the number of sections (and making each section shorter) clarify the rule? If so, which portions of the rule should be changed in this respect?

(6) What additional changes would make the rule easier to understand?

List of Subjects in 12 CFR Part 208

Accounting, Agriculture, Banks, Banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set forth in the preamble, Title 12, Chapter II, Part 208 of the Code of Federal Regulations is amended as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for Part 208 continues to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1820(d)(9),

1823(j), 1828(o), 1831, 1831o, 1831p–1, 1831r–1, 1831w, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106 and 4128.

2. The existing Subpart G—Interpretations is redesignated as Subpart H.

3. A new Subpart G is added to read as follows:

Subpart G—Financial Subsidiaries of State Member Banks

208.71 What are the requirements to invest in or control a financial subsidiary?
208.72 What activities may a financial subsidiary conduct?
207.73 What additional provisions are applicable to state member banks with financial subsidiaries?
208.74 What happens if the state member bank fails to continue to meet certain requirements?
208.75 What happens if the state member bank or any of its insured depository institution affiliates has received a less than a ''satisfactory'' CRA rating?
208.76 What Federal Reserve approvals are necessary for financial subsidiaries?
208.77 Definitions.

Subpart G—Financial Subsidiaries of State Member Banks

§ 208.71 What are the requirements to invest in or control a financial subsidiary?

(a) *In general.* A state member bank may control, or hold an interest in, a financial subsidiary only if:

(1) The state member bank and each depository institution affiliate of the state member bank are well capitalized and well managed;

(2) The aggregate consolidated total assets of all financial subsidiaries of the state member bank do not exceed the lesser of:

(i) 45 percent of the consolidated total assets of the parent bank; or

(ii) $50,000,000,000, which dollar amount shall be adjusted according to an indexing mechanism jointly established by the Board and the Secretary of the Treasury;

(3) The state member bank, if it is one of the largest 100 insured banks (based on consolidated total assets of the bank as of the end of each calendar year), meets the debt rating or alternative requirement of paragraph (b) of this section, if applicable; and

(4) The Board or the appropriate Reserve Bank has approved the bank to acquire the interest in or control the financial subsidiary under § 208.76.

(b) *Debt rating or alternative requirement for 100 largest insured banks*—

(1) *General.* A state member bank meets the debt rating or alternative requirement of this paragraph (b) if:

(i) The bank has at least one issue of outstanding eligible debt that is currently rated in one of the three highest investment grade rating categories by a nationally recognized statistical rating organization; or

(ii) If the bank is one of the second 50 largest insured banks (based on consolidated total assets of the bank as of the end of each calendar year), the bank satisfies any alternative criteria jointly established by the Board and the Secretary of the Treasury.

(2) *Financial subsidiaries engaged only in financial agency activities.* This paragraph (b) does not apply to a state member bank if the financial subsidiaries of the bank engage in financial activities described in § 208.72(a)(1) and (2) only in an agency capacity.

§ 208.72 What activities may a financial subsidiary conduct?

(a) *Authorized activities.* A financial subsidiary may engage in only the following activities:

(1) Any activity listed in § 225.86 of the Board's Regulation Y (12 CFR 225.86);

(2) Any activity that has been determined to be financial in nature or incidental to a financial activity by the Secretary of the Treasury, in consultation with the Board, pursuant to Section 5136A(b) of the Revised Statutes of the United States (12 U.S.C. 24a(b)); and

(3) Any activity that the state member bank is permitted to engage in directly (subject to the same terms and conditions that govern the conduct of the activity by the state member bank).

(b) *Impermissible activities.* Notwithstanding paragraph (a) of this section, a financial subsidiary may not engage as principal in the following activities:

(1) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability or death (except to the extent permitted under applicable state law and sections 302 or 303(c) of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1407–1409, 15 U.S.C. 6712 or 6713(c)), or providing or issuing annuities the income of which is subject to tax treatment under section 72 of the Internal Revenue Code (26 U.S.C. 72);

(2) Real estate development or real estate investment, unless otherwise expressly authorized by applicable state and Federal law; and

(3) Any activity permitted for financial holding companies by section 4(k)(4)(H) or (I) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

§ 208.73 What additional provisions are applicable to state member banks with financial subsidiaries?

(a) *Capital deduction.*

(1) *Capital deduction required.* For purposes of determining compliance with applicable regulatory capital standards (including the well capitalized standard of § 208.71(a)(1)), a state member bank that controls or holds an interest in a financial subsidiary must:

(i) Deduct the aggregate amount of the bank's outstanding equity investment, including retained earnings, in all financial subsidiaries from its total assets and tangible equity and deduct such investment from its total risk-based capital (this deduction shall be made equally from Tier 1 and Tier 2 capital); and

(ii) Not consolidate the assets and liabilities of any financial subsidiary with those of the bank.

(2) *Financial statement disclosure of capital deduction.* Any published financial statement of a state member bank that controls or holds an interest in a financial subsidiary must, in addition to providing information prepared in accordance with generally accepted accounting principles, separately present financial information for the bank reflecting the capital deduction and adjustments required by paragraph (a)(1) of this section.

(b) *Safeguards for the bank.* A state member bank that establishes, controls or holds an interest in a financial subsidiary must:

(1) Establish procedures for identifying and managing financial and operational risks within the state member bank and the financial subsidiary that adequately protect the state member bank from such risks; and

(2) Establish reasonable policies and procedures to preserve the separate corporate identity and limited liability of the state member bank and the financial subsidiaries of the state member bank.

(c) *Application of sections 23A and 23B of the Federal Reserve Act.* For purposes of sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c, 371c–1):

(1) A financial subsidiary of a state member bank shall be deemed an affiliate, and not a subsidiary, of the bank;

(2) The restrictions contained in section 23A(a)(1)(A) of section 23A shall not apply with respect to covered transactions between the bank and any

individual financial subsidiary of the bank;

(3) The bank's investment in a financial subsidiary shall not include retained earnings of the financial subsidiary;

(4) Any purchase of, or investment in, the securities of a financial subsidiary by an affiliate of the bank will be considered to be a purchase of, or investment in, such securities by the bank; and

(5) Any extension of credit by an affiliate of the bank to a financial subsidiary of the bank will be considered to be an extension of credit by the bank to the financial subsidiary if the Board determines that such treatment is necessary or appropriate to prevent evasions of the Federal Reserve Act and the Gramm-Leach-Bliley Act.

(d) *Application of anti-tying prohibitions.* A financial subsidiary of a state member bank shall be deemed a subsidiary of a bank holding company and not a subsidiary of the bank for purposes of the anti-tying prohibitions of section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971 et seq.).

§ 208.74 What happens if the state member bank fails to continue to meet certain requirements?

(a) *Qualifications and safeguards.* The following procedures apply to a state member bank that controls or holds an interest in a financial subsidiary.

(1) *Notice by Board.* If the Board finds that a state member bank or any of its depository institution affiliates fails to continue to be well capitalized and well managed or comply with the asset limitation set forth in § 208.71(a)(2) or the safeguards set forth in § 208.73(b), the Board will notify the state member bank in writing and identify the areas of noncompliance.

(2) *Notification by state member bank.* A state member bank must promptly notify the Board if the bank becomes aware that any depository institution affiliate of the bank has ceased to be well capitalized and well managed.

(3) *Execution of agreement.* Within 45 days after receiving a notice under paragraph (a)(1) of this section, or such additional period of time as the Board may permit, the:

(i) State member bank must execute an agreement acceptable to the Board to comply with all applicable capital, management, asset and safeguard requirements; and

(ii) Any relevant depository institution affiliate of the state member bank must execute an agreement acceptable to its appropriate Federal banking agency to comply with all applicable capital and management requirements.

(4) *Imposition of limits.* Until the Board determines that the conditions described in the notice under paragraph (a)(1) of this section are corrected:

(i) The Board may impose any limitations on the conduct or activities of the state member bank or any subsidiary of the bank as the Board determines to be appropriate under the circumstances and consistent with the purposes of section 121 of the Gramm-Leach-Bliley Act (12 U.S.C. 24a, 335, 371c, and 1971), including requiring the Board's prior approval for any financial subsidiary of the bank to acquire any company or engage in any additional activity; and

(ii) The appropriate Federal banking agency for any relevant depository institution affiliate may impose any limitations on the conduct or activities of the depository institution or any subsidiary of that institution as the agency determines to be appropriate under the circumstances and consistent with the purposes of section 121 of the Gramm-Leach-Bliley Act (12 U.S.C. 24a, 335, 371c, and 1971).

(5) *Divestiture.* The Board may require a state member bank to divest control of any financial subsidiary if the conditions described in a notice under paragraph (a)(1) of this section are not corrected within 180 days of receipt of the notice or such additional period of time as the Board may permit. Any divestiture must be completed in accordance with any terms and conditions established by the Board.

(6) *Consultation.* The Board will consult with all relevant Federal and state regulatory authorities in taking any action under this subsection.

(b) *Debt rating or alternative requirement.* If a state member bank does not continue to meet any applicable debt rating or alternative requirement of § 208.71(b), the bank may not, directly or through a subsidiary, purchase or acquire any additional equity capital of any financial subsidiary until the bank restores its compliance with the requirements of that section. For purposes of this paragraph, the term ''equity capital'' includes, in addition to any equity investment, any debt instrument issued by the financial subsidiary if the instrument qualifies as capital of the subsidiary under federal or state law, regulation or interpretation applicable to the subsidiary.

§ 208.75 What happens if the state member bank or any of its insured depository institution affiliates has received less than a ''satisfactory'' CRA rating?

(a) *Limits on establishment of financial subsidiaries and expansion of existing financial subsidiaries.* If a state member bank, or any of its insured depository institution affiliates, has received less than a ''satisfactory'' rating in meeting community credit needs in its most recent examination under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*):

(1) The state member bank may not, directly or indirectly, acquire control of any financial subsidiary; and

(2) Any financial subsidiary controlled by the state member bank may not commence any additional activity or acquire control, including all or substantially all of the assets, of any company.

(b) *Exception for certain activities.* The prohibition in paragraph (a)(2) of this section does not apply to any activity, or to the acquisition of control of any company that is engaged only in activities, that the state member bank is permitted to conduct directly and that are conducted on the same terms and conditions that govern the conduct of the activity by the state member bank.

(c) *Duration of prohibitions.* The prohibitions described in paragraph (a) of this section shall continue in effect until such time as the state member bank and each insured depository institution affiliate of the state member bank has achieved at least a ''satisfactory'' rating in meeting community credit needs in its most recent examination under the Community Reinvestment Act.

§ 208.76 What Federal Reserve approvals are necessary for financial subsidiaries?

(a) *Notice requirements.* (1) A state member bank may not acquire control of, or an interest in, a financial subsidiary unless it files a notice (in letter form, with enclosures) with the appropriate Reserve Bank.

(2) A state member bank may not engage in any additional activity pursuant to § 208.72(a)(1) or (2) through an existing financial subsidiary unless the state member bank files a notice (in letter form, with enclosures) with the appropriate Reserve Bank.

(b) *Contents of notice.* Any notice required by paragraph (a) of this section must:

(1) In the case of a notice filed under paragraph (a)(1) of this section, describe the transaction(s) through which the bank proposes to acquire control of or an interest in the financial subsidiary;

(2) Provide the name and head office address of the subsidiary;

(3) Provide a description of the current and proposed activities of the financial subsidiary and the specific authority permitting each activity;

(4) Certify that the bank and each of its depository institution affiliates, was well capitalized at the close of the previous calendar quarter, and remains well capitalized as of the date the bank files its notice;

(5) Certify that the bank and each of its depository institution affiliates is well managed as of the date the bank files its notice;

(6) Certify that the bank meets the debt rating or alternative requirement of § 208.71(b), if applicable; and

(7) Certify that the bank and its financial subsidiaries are in compliance with the asset limit set forth in § 208.71(a)(3) both before the proposal and on a pro forma basis.

(c) *Insurance activities.* (1) If a notice filed under paragraph (a) of this section relates to the initial affiliation of the bank with a company engaged in insurance activities, the notice must describe the type of insurance activity that the company is engaged in or plans to conduct and identify each state where the company holds an insurance license and the state insurance regulatory authority that issued the license.

(2) The appropriate Reserve Bank will send a copy of any notice described in this subsection to the appropriate state insurance regulatory authorities and provide such authorities with an opportunity to comment on the proposal.

(d) *Approval procedures.* A notice filed with the appropriate Reserve Bank will be deemed approved on the fifteenth day after receipt of a complete notice by the appropriate Reserve Bank, unless prior to that date the Board or the appropriate Reserve Bank notifies the bank that the notice is approved, that the notice will require additional review, or that the bank does not meet the requirements of this subpart.

§ 208.77 Definitions.

The following definitions shall apply to this subpart:

(a) *Affiliate, Company, Control, and Subsidiary.* The terms ''affiliate'', ''company'', ''control'', and ''subsidiary'' have the meanings given those terms in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

(b) *Appropriate Federal Banking Agency, Depository Institution, Insured Bank and Insured Depository Institution.* The terms ''appropriate Federal banking agency'', ''depository institution'', ''insured bank'' and ''insured depository institution'' have the meanings given those terms in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(c) *Eligible Debt.* The term ''eligible debt'' means unsecured debt with an initial maturity of more than 360 days that:

(1) Is not supported by any form of credit enhancement, including a guarantee or standby letter of credit; and

(2) Is not held in whole or in any significant part by any affiliate, officer, director, principal shareholder, or employee of the bank or any other person acting on behalf of or with funds from the bank or an affiliate of the bank.

(d) *Financial Subsidiary.* The term ''financial subsidiary'' means any company that is controlled by one or more insured depository institutions *other than:*

(1) A subsidiary that only engages in activities that the state member bank is permitted to engage in directly and that are conducted on the same terms and conditions that govern the conduct of the activities by the state member bank; or

(2) A subsidiary that the state member bank is specifically authorized by the express terms of a Federal statute (other than section 9 of the Federal Reserve Act (12 U.S.C. 321 *et seq.*)), and not by implication or interpretation, to control, such as by section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601–604a or 12 U.S.C. 611–631) or the Bank Service Company Act (12 U.S.C. 1861 *et seq.*).

(e) *Well Capitalized.* The term ''well capitalized'' has the meaning given the term in section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831.).

(f) *Well Managed.* The term ''well managed'' means:

(1) Unless otherwise determined in writing by the appropriate Federal banking agency, the institution has received a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with its most recent examination or subsequent review and at least a rating of 2 for management (if such rating is given); or

(2) In the case of any depository institution that has not been examined by its appropriate Federal banking agency, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

By order of the Board of Governors of the Federal Reserve System, March 10, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–6468 Filed 3–17–00; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 340

RIN 3064–AB37

Restrictions on the Sale of Assets from the Federal Deposit Insurance Corporation

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is issuing this rule to implement certain requirements of the Resolution Trust Corporation Completion Act of 1993. Under that law, people or entities that may have done certain acts that might have contributed to the failure of an insured institution may not buy assets of failed institutions from the FDIC. This rule establishes a self-certification process as a prerequisite to the purchase of assets from the FDIC and provides definitions of various terms in the law in order to make the limitations of the law clearer.

EFFECTIVE DATE: July 1, 2000.

FOR FURTHER INFORMATION CONTACT: Steven K.Trout, Senior Resolutions Specialist, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898–3758; or Elizabeth Falloon, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 736–0725.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. Background
II. Final Rule
III. Regulatory Analysis
A. Paperwork Reduction Act
B. Regulatory Flexibility Act
C. Small Business Regulatory Enforcement Fairness Act
D. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families.

I. Background

The FDIC is required to issue regulations that accomplish two things. First, the regulations must prohibit the sale of an asset of a failed financial institution to certain individuals or entities who may have contributed to the demise of that institution. Second, the regulations must prohibit the sale of an asset using FDIC financing to certain persons who have defaulted and engaged in fraudulent activities with respect to a loan from the institution.

This requirement is found at section 20 of the Resolution Trust Corporation Completion Act of 1993 (RTCCA or Act), which amended section 11(p) of the Federal Deposit Insurance Act (FDI Act).

In order to meet this requirement, we published a notice of proposed rulemaking in the **Federal Register** on September 21, 1999 (64 FR 51084) and solicited comments on the proposed rule. This rule implements the statutory requirements and is somewhat broader than the statutory minimum. The most significant way that the rule exceeds the statutory minimum relates to whether the restriction goes beyond the particular institution harmed by the particular wrongdoing. Under the regulation, prospective purchasers who are prohibited from buying assets of a failed institution may not purchase assets of any failed institution. In contrast, the statutory requirements might only limit the restriction to the assets of a particular institution.

Under the regulation, prospective purchasers are restricted from buying assets from failed financial institutions for which the FDIC are acting as conservator or receiver in certain circumstances. Specifically, under § 340.3 of the regulation, an individual or entity (or its associated person, as that term is defined) that has defaulted on obligations owed to a failed financial institution or the FDIC that aggregate over $1 million, and has made fraudulent misrepresentations in connection with any one of those obligations, is prohibited from using FDIC financing to purchase assets of any failed financial institution.

Section 340.4(a)(1) of the regulation provides that if an officer or director of a failed financial institution (or a related entity) participated in a material way in one or more transactions that resulted in a substantial (greater than $50,000) loss to that failed financial institution, the person would not be permitted to purchase an asset of any failed institution from the FDIC. The rule defines when an individual or entity has ''participated in a material way in a transaction that caused a substantial loss to a failed institution,'' as this phrase is not defined in the statute. The definition includes anyone who has been found by a court or tribunal (or, in certain circumstances, has been alleged in formal legal proceedings) in connection with a substantial loss to a failed institution to have (i) violated any federal banking laws or to have breached a written agreement with a federal banking agency or with the failed financial institution; (ii) engaged in an unsafe or unsound practice in conducting the affairs of the failed institution; or (iii) breached a fiduciary duty to the failed institution.

Under § 340.4(a)(2), if an individual or entity has, by federal regulatory action, been removed from or barred from participating in the affairs of any failed financial institution, the person would not, regardless of the source of payment or financing, be permitted to purchase an asset of any failed financial institution from the FDIC.

Under § 340.4(a)(3), if a prospective purchaser or related entity has demonstrated a pattern or practice of defalcation, as defined in the rule, regarding an obligation to a failed financial institution, the prospective purchaser would be barred from purchasing any asset of any failed institution from the FDIC, regardless of the source of financing or payment. The definition of ''pattern or practice of defalcation'' requires more than one incident involving either intent or reckless disregard for whether a loss was caused and requires that the resulting loss be ''substantial''.

Finally, under § 340.4(a)(4), a person who has defaulted on an obligation to a failed institution and has been convicted of committing, or conspiring to commit, any offense under section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, 1341, 1343 or 1344 of Title 18 of the United States Code (generally having to do with financial crimes, fraud and embezzlement) affecting any failed institution will not be permitted to purchase any asset of any failed institution from the FDIC.

In promulgating this regulation, we do not intend to imply that we will provide seller financing in connection with any particular asset sale just because a purchaser is not disqualified under the regulation. Persons who want seller financing will have to satisfy other criteria, such as creditworthiness. Further, we may promulgate other policies and rules restricting purchasers' eligibility to buy assets from the FDIC.

The rule provides for implementation of the restrictions set forth above through a self-certification process. All purchasers of assets covered by the regulation must execute a Purchaser Eligibility Certification in the form established by the FDIC. Federal, state and local governmental agencies and instrumentalities and government-sponsored entities such as Government National Mortgage Association, Fannie Mae and Freddie Mac are excepted from the self-certification requirement, but the Director of the FDIC's Division of Resolutions and Receiverships (DRR), can require a certification from any prospective purchaser if it appears that such a prospective purchaser would fall within the restricted categories. In the final rule, a language change has been made to § 340.7 to clarify that the list of enumerated organizations is not exclusive, and that other similar federally-regulated, government-sponsored enterprises may be exempt from the requirement of providing a certification unless otherwise required by the Director of DRR.

The prohibitions do not apply to a sale or transfer of assets that is part of a workout or settlement of obligations to a failed institution.

Some of the requirements of this regulation have been in effect under prior FDIC policies. The FDIC may continue to have additional policy requirements relating to buyer qualifications that address other policy goals.

In response to our Notice of Proposed Rulemaking we received two comments. One of these comments came from a trade association, and the other came from a financial institution, and both of them supported the adoption of the proposed rule in its entirety.

II. Final Rule

We are adopting the proposed rule without substantive change. However, section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, section 722, 113 Stat. 1338 (1999), requires the federal banking agencies to use plain language in all rulemakings. Thus, we have made numerous nonsubstantive changes to the regulation to ensure that it is in plain language.

III. Regulatory Analysis

A. Paperwork Reduction Act

This rule requires the collection of certain information from prospective purchasers of assets from the FDIC. The information is collected through the completion of a Purchaser Eligibility Certification form. The Office of Management and Budget (OMB) has reviewed and approved this form in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et. seq.*). The Purchaser Eligibility Certification has been assigned control number 3064–0135. OMB clearance will expire on February 28, 2003.

The FDIC has a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments, at any time, regarding any aspect of these collections of information. Comments may be sent to: Steven F. Hanft, Assistant Executive Secretary (Regulatory Analysis), Federal Deposit Insurance Corporation, Room F–4080,

550 17th Street NW., Washington, DC 20429.

B. Regulatory Flexibility Act

The only burden imposed by this regulation is the completion of a certification form described above in the Paperwork Reduction Act section. The burden produced by this requirement does not require the use of professional skills or the preparation of special reports or records and has a minimal impact, economic and time-wise, on those individuals and entities that seek to purchase assets from the FDIC. Moreover, this minimal burden is imposed only on those individuals and entities voluntarily seeking to purchase assets from the FDIC. Accordingly, the Board certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis are not applicable.

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121) provides generally for agencies to report rules to Congress and for Congress to review the rules. The reporting requirement is triggered when the FDIC issues a final rule as defined by the Administrative Procedure Act (APA) at 5 U.S.C. 551. Because the FDIC is issuing a final rule as defined by the APA, the FDIC will file the reports required by SBREFA.

The Office of Management and Budget has determined that this final rule does not constitute a ''major rule'' as defined by SBREFA.

D. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 340

Asset disposition, Banks, banking.

For the reasons set out in the preamble, the FDIC amends chapter III of title 12 of the Code of Federal Regulations by adding a new part 340 to read as follows:

PART 340—RESTRICTIONS ON SALE OF ASSETS BY THE FEDERAL DEPOSIT INSURANCE CORPORATION

Sec.

340.1 What is the statutory authority for the regulation, what are its purpose and scope, and can the FDIC have other policies on related topics?
340.2 Definitions.
340.3 What are the restrictions on the sale of assets by the FDIC if the buyer wants to finance the purchase with a loan from the FDIC?
340.4 What are the restrictions on the sale of assets by the FDIC regardless of the method of financing?
340.5 Can the FDIC deny a loan to a buyer who is not disqualified from purchasing assets using seller-financing under this regulation?
340.6 What is the effect of this part on transactions that were entered into before its effective date?
340.7 When is a certification required, and who does not have to provide a certification?
340.8 Does this part apply in the case of a workout, resolution, or settlement of obligations?

Authority: 12 U.S.C. 1819 (Tenth), 1821(p).

§ 340.1 What is the statutory authority for the regulation, what are its purpose and scope, and can the FDIC have other policies on related topics?

(a) *Authority.* The statutory authority for adopting this part is section 11(p) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1821(p). Section 11(p) was added to the FDI Act by section 20 of the Resolution Trust Corporation Completion Act (Pub. L. 103–204, 107 Stat. 2369 (1993)).

(b) *Purpose.* The purpose of this part is to prohibit individuals or entities who profited or engaged in wrongdoing at the expense of an insured institution, or seriously mismanaged an insured institution, from buying assets of failed financial institutions from the FDIC.

(c) *Scope.* The restrictions of this part generally apply to assets of failed institutions owned or controlled by the FDIC in any capacity, even though the assets are not owned by the insured institution that the prospective purchaser injured. Unless we determine otherwise, this part does not apply to the sale of securities in connection with the investment of corporate and receivership funds pursuant to the Investment Policy for Liquidation Funds managed by the FDIC as it is in effect from time to time. In the case of a sale of securities backed by a pool of assets that may include assets of failed institutions by a trust or other entity, this part applies only to the sale of assets by the FDIC to an underwriter in an initial offering, and not to any other purchaser of the securities.

(d) *The FDIC retains the authority to establish other policies restricting asset sales.* Neither section 11(p) of the FDI Act nor this part in any way limits the authority of the FDIC to establish policies prohibiting the sale of assets to prospective purchasers who have injured any failed financial institution, or to other prospective purchasers, such as certain employees or contractors of the FDIC, or individuals who are not in compliance with the terms of any debt or duty owed to the FDIC. Any such policies may be independent of, in conjunction with, or in addition to the restrictions set forth in this part.

§ 340.2 Definitions.

(a) *Associated person* of an individual or entity means:

(1) With respect to an individual:

(i) The individual's spouse or dependent child or any member of his or her immediate household;

(ii) A partnership of which the individual is or was a general or limited partner; or

(iii) A corporation of which the individual is or was an officer or director;

(2) With respect to a partnership, a managing or general partner of the partnership; or

(3) With respect to any entity, an individual or entity who, acting individually or in concert with one or more individuals or entities, owns or controls 25 percent or more of the entity.

(b) *Default* means any failure to comply with the terms of an obligation to such an extent that:

(1) A judgment has been rendered in favor of the FDIC or a failed institution; or

(2) In the case of a secured obligation, the property securing such obligation is foreclosed on.

(c) *FDIC* means the Federal Deposit Insurance Corporation.

(d) *Failed institution* means any bank or savings association that has been under the conservatorship or receivership of the FDIC or RTC. For the purpose of this part, ''failed institution'' includes any entity owned and controlled by a failed institution.

(e) *Obligation* means any debt or duty to pay money owed to the FDIC or a failed institution, including any guarantee of any such debt or duty.

(f) *Person* means an individual, or an entity with a legally independent existence, including: a trustee; the beneficiary of at least a 25 percent share of the proceeds of a trust; a partnership; a corporation; an association; or other organization or society.

(g) *RTC* means the former Resolution Trust Corporation.

(h) *Substantial loss* means:

(1) An obligation that is delinquent for ninety (90) or more days and on which there remains an outstanding balance of more than $50,000;

(2) An unpaid final judgment in excess of $50,000 regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding;

(3) A deficiency balance following a foreclosure of collateral in excess of $50,000, regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding;

(4) Any loss in excess of $50,000 evidenced by an IRS Form 1099–C (Information Reporting for Discharge of Indebtedness).

§ 340.3 What are the restrictions on the sale of assets by the FDIC if the buyer wants to finance the purchase with a loan from the FDIC?

A person may not borrow money or accept credit from the FDIC in connection with the purchase of any assets from the FDIC or any failed institution if:

(a) There has been a default with respect to one or more obligations totaling in excess of $1,000,000 owed by that person or its associated person; and

(b) The person or its associated person made any fraudulent misrepresentations in connection with any such obligation(s).

§ 340.4 What are the restrictions on the sale of assets by the FDIC regardless of the method of financing?

(a) A person may not acquire any assets from the FDIC or from any failed institution if the person or its associated person:

(1) Has participated, as an officer or director of a failed institution or of an affiliate of a failed institution, in a material way in one or more transaction(s) that caused a substantial loss to that failed institution;

(2) Has been removed from, or prohibited from participating in the affairs of, a failed institution pursuant to any final enforcement action by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the FDIC, or any of their successors;

(3) Has demonstrated a pattern or practice of defalcation regarding obligations to any failed institution; or

(4) Has been convicted of committing or conspiring to commit any offense under 18 U.S.C. 215, 656, 657, 1005, 1006, 1007, 1014, 1032, 1341, 1343 or 1344 affecting any failed institution and there has been a default with respect to one or more obligations owed by that person or its associated person.

(b) For purposes of paragraph (a) of this section, a person has participated ''in a material way in a transaction that caused a substantial loss to a failed institution'' if, in connection with a substantial loss to a failed institution, the person has been found in a final determination by a court or administrative tribunal, or is alleged in a judicial or administrative action brought by the FDIC or by any component of the government of the United States or of any state:

(1) To have violated any law, regulation, or order issued by a federal or state banking agency, or breached or defaulted on a written agreement with a federal or state banking agency, or breached a written agreement with a failed institution;

(2) To have engaged in an unsafe or unsound practice in conducting the affairs of a failed institution; or

(3) To have breached a fiduciary duty owed to a failed institution.

(c) For purposes of paragraph (a) of this section, a person or its associated person has demonstrated a ''pattern or practice of defalcation'' regarding obligations to a failed institution if the person or associated person has:

(1) Engaged in more than one transaction that created an obligation on the part of such person or its associated person with intent to cause a loss to any financial institution insured by the FDIC or with reckless disregard for whether such transactions would cause a loss to any such insured financial institution; and

(2) The transactions, in the aggregate, caused a substantial loss to one or more failed institution(s).

§ 340.5 Can the FDIC deny a loan to a buyer who is not disqualified from purchasing assets using seller-financing under this regulation?

The FDIC still has the right to make an independent determination, based upon all relevant facts of a person's financial condition and history, of that person's eligibility to receive any loan or extension of credit from the FDIC, even if the person is not in any way disqualified from purchasing assets from the FDIC under the restrictions set forth in this part.

§ 340.6 What is the effect of this part on transactions that were entered into before its effective date?

This part does not affect the enforceability of a contract of sale and/or agreement for seller financing in effect prior to July 1, 2000.

§ 340.7 When is a certification required, and who does not have to provide a certification?

(a) Before any person may purchase any asset from the FDIC that person must certify, under penalty of perjury, that none of the restrictions contained in this part applies to the purchase. The FDIC may establish the form of the certification and may change the form from time to time.

(b) Notwithstanding paragraph (a) of this section, a state or political subdivision of a state, a federal agency or instrumentality such as the Government National Mortgage Association, or a federally-regulated, government-sponsored enterprise such as Fannie Mae or Freddie Mac does not have to give a certification before it can purchase assets from the FDIC, unless the Director of the FDIC's Division of Resolutions and Receiverships, or his designee, in his discretion, requires a certification of any such entity.

§ 340.8 Does this part apply in the case of a workout, resolution, or settlement of obligations?

The restrictions of §§ 340.3 and 340.4 do not apply if the sale or transfer of an asset resolves or settles, or is part of the resolution or settlement of, one or more obligations, regardless of the amount of such obligations.

Dated at Washington, D.C. this 9th day of March, 2000.

By Order of the Board of Directors, Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–6823 Filed 3–17–00; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

12 CFR Part 1501

RIN 1505–AA80

Financial Subsidiaries

AGENCY: The Department of the Treasury.

ACTION: Interim final rule with request for comments.

SUMMARY: The Department of the Treasury (Treasury) is issuing an interim final rule to implement the provisions of section 121 of the Gramm-Leach-Bliley Act (GLBA) that authorize the Secretary of the Treasury (Secretary), in consultation with the Board of Governors of the Federal

Reserve System (Board), to determine whether activities are financial in nature or incidental to a financial activity, and therefore permissible for a financial subsidiary of a national bank. The interim final rule sets forth the procedure whereby a national bank or other interested party may request the Secretary to make such a determination.

DATES: This interim final rule is effective March 14, 2000. Written comments must be submitted on or before May 15, 2000.

ADDRESSES: Please direct written comments to: New Financial Activities Request, Office of Financial Institutions Policy, 1500 Pennsylvania Avenue, NW, Room SC 37, Washington, DC 20220. Comments also may be mailed electronically to *financial.institutions@do.treas.gov* or delivered to the Treasury Department mail room between the hours of 8:45 a.m. and 5:15 p.m. at the 15th Street entrance to the Treasury Building. Members of the public may inspect comments in Room SC 37 of the Treasury Department.

FOR FURTHER INFORMATION CONTACT: Joan Affleck-Smith, Director, Office of Financial Institutions Policy (202/622–2740); Matthew Green, Senior Financial Analyst (202/622–2740), Gerry Hughes, Senior Financial Analyst (202/622–2740); Roberta K. McInerney, Assistant General Counsel (Banking and Finance) (202/622–0480); or Gary W. Sutton, Senior Banking Counsel (202/622–0480).

SUPPLEMENTARY INFORMATION:

Background

On November 12, 1999, the President signed the GLBA, Public Law 106–102, 113 Stat. 1338, which comprehensively restructures the statutory framework that governs the financial services industry to allow affiliations among banks, securities firms, insurance firms and other financial companies. Section 121 of the GLBA authorizes national banks to acquire control of, or hold an interest in, a new type of subsidiary called a ''financial subsidiary.'' The GLBA defines a financial subsidiary as a company that is controlled by one or more insured depository institutions, other than a subsidiary that engages solely in activities that national banks may engage in directly (under the same terms and conditions that govern the conduct of these activities by national banks) or a subsidiary that a national bank is specifically authorized to control by the express terms of a Federal statute. A financial subsidiary may engage in specified activities that are financial in nature and activities that are incidental to financial activities if the national bank and the subsidiary meet certain requirements and comply with stated safeguards.

Under section 121 of the GLBA, an activity is financial in nature or incidental to a financial activity if the activity has been defined to be financial in nature or incidental to a financial activity for bank holding companies pursuant to section 4(k)(4) of the Bank Holding Company Act of 1956. The activities already defined to be financial in nature that are authorized for a financial subsidiary are listed in 12 CFR 5.39(e) (65 FR 12905, March 10, 2000). (Certain of these activities are further delineated in 12 CFR 225.86 (See the Board's interim rule published in the **Federal Register** of March 17, 2000.).)

Under section 121 of the GLBA, the Secretary of the Treasury, in consultation with the Board, is also authorized to determine that additional activities are financial in nature or incidental to a financial activity in accordance with subparagraph (B) of section 121(b)(1). Subparagraph (B) sets forth the procedure that a national bank or other party must follow to request the Secretary to determine that an activity is financial in nature or incidental to a financial activity. This interim regulation further explains those procedures.

Interim Effectiveness of the Rule

This interim rule is effective on March 14, 2000. Section 553 of the Administrative Procedure Act permits agencies to issue a rule without public notice and comment when the agency, for good cause, finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Section 553 also permits agencies to issue a rule without delaying its effectiveness for thirty days from publication if the agency finds good cause and publishes this finding with the rule. 5 U.S.C. 553(d)(3).

Treasury finds that there is good cause for issuing this interim rule without notice and public comment and without a delayed effective date for the following reason: section 121 of the GLBA, which permits national banks through financial subsidiaries to engage in activities that are financial in nature, becomes effective on March 11, 2000. Such activities include both the activities defined in section 4(k)(4) of the Bank Holding Company Act to be financial in nature (subject to certain exceptions), and those determined by the Secretary, in consultation with the Board, to be financial in nature or incidental to a financial activity. It is in the public interest to make this interim rule effective immediately, so that national banks and other interested parties will know how to request that the Secretary make such a determination. Treasury requests comments on all aspects of this interim rule and will consider those comments before the rule is finalized. However, publishing the rule in interim final form enables national banks and other interested parties to seek a determination as to whether an activity is financial in nature during this comment process.

Section-by-Section Analysis

The GBLA authorizes the Secretary to determine that activities are financial in nature or incidental to financial activities after consulting with the Board. Subsection (a) states that a national bank or any other interested party may request a determination that a new activity is financial in nature.

A request for a determination that an activity is financial in nature must identify and define the activity for which the determination is sought. The request must also include specific information about what the activity would involve and how it would be conducted, and explain in detail why the activity should be considered financial in nature or incidental to a financial activity. Importantly, the request must provide information that is sufficient to support a finding by the Secretary that the activity is financial. The requester also must provide any additional information required by the Secretary.

On receiving a request, the Secretary will provide the Board with a copy of the proposal and consult with the Board in accordance with section 5136A(b)(1)(B)(i) of the Revised Statutes. The Secretary also may request public comment on the proposal. The Secretary will endeavor to act on all requests within 60 days of completion of the consultative process and the close of the public comment period, if applicable.

Regulatory Flexibility Act Analysis

Because no notice of proposed rulemaking is required for this interim final rule, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of

information contained in this regulation has been reviewed under the requirements of the Paperwork Reduction Act (44 U.S.C. 3507(j)) and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1505–0174. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Comments concerning the collection of information should be directed to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC, 20503, with copies to Joan Affleck-Smith, Director, Office of Financial Institutions Policy, 1500 Pennsylvania Avenue NW, Room SC 37, Washington, DC 20220. Any such comments should be submitted not later than May 19, 2000. Comments are specifically requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Secretary, including whether the information will have practical utility; the accuracy of the estimated burden associated with the proposed collection of information (see below); how to enhance the quality, utility, and clarity of the information to be collected; how to minimize the burden of complying with the proposed collection of information, including the application of automated collection techniques or other forms of information technology; and estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this regulation is in 12 CFR 1501.1. This information is required to request that the Secretary determine whether an activity is financial in nature or incidental to a financial activity. This information will be used to enable the Secretary to evaluate a request for such a determination. The collection of information is required to obtain a benefit. The likely respondents are national banks.

Estimated total annual reporting burden: 400 hours.

Estimated average annual burden hours per respondent: 20 hours.

Estimated number of respondents: 20.

Estimated annual frequency of responses: Once.

Executive Order 12866 Determination

The Department of the Treasury has determined that this rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

List of Subjects in 12 CFR Part 1501

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Department of the Treasury adds a new part 1501 to chapter XV of title 12, to read as follows:

PART 1501—FINANCIAL SUBSIDIARIES

Sec.

1501.1 How do you request the Secretary to determine that an activity is financial in nature or incidental to a financial activity?

Authority: Section 5136A of the Revised Statutes of the United States (12 U.S.C. 24a).

§ 1501.1 How do you request the Secretary to determine that an activity is financial in nature or incidental to a financial activity?

(a) *Requests regarding activities that may be financial in nature or incidental to a financial activity.* A national bank or other interested party may request the Secretary to determine that an activity not defined to be financial in nature or incidental to a financial activity in Section 4(k)(4) of the Bank Holding Company Act (12 U.S.C. 1843(k)(4)), is financial in nature or incidental to a financial activity.

(b) *What information must the request contain?* A request submitted under this section must be in writing and must:

(1) Identify and define the activity for which the determination is sought, specifically describing what the activity would involve and how the activity would be conducted;

(2) Explain in detail why the activity should be considered financial in nature or incidental to a financial activity; and

(3) Provide information supporting the requested determination and any other information required by the Secretary concerning the proposed activity.

(c) *What factors will the Secretary take into account in making his determination?* (1) Section 121 of the Gramm-Leach-Bliley Act (GLBA) (Public Law 106–102, 113 Stat. 1373) requires the Secretary to take into account the following factors in making his determination:

(i) The purposes of section 5136A of the Revised Statutes (12 U.S.C. 24a) and the GLBA;

(ii) Changes or reasonably expected changes in the marketplace in which banks compete;

(iii) Changes or reasonably expected changes in the technology for delivering financial services; and

(iv) Whether the activity is necessary or appropriate to allow a bank and the subsidiaries of a bank to—

(A) Compete effectively with any company seeking to provide financial services in the United States;

(B) Efficiently deliver information and services that are financial in nature through the use of technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions; and

(C) Offer customers any available or emerging technological means for using financial services or for the document imaging of data.

(2) Because the Secretary is required to consider the factors in paragraph (c)(1) of this section in making his determination, any request should address the factors in paragraph (c)(1) of this section. The Secretary may also consider other relevant factors.

(d) *What action will the Secretary take after receiving a request?* (1) *Consultation with the Board of Governors of the Federal Reserve System (Board).* Upon receiving the request, the Secretary will send a copy to the Board and consult with the Board in accordance with section 5136A(b)(1)(B)(i) of the Revised Statutes (12 U.S.C. 5136A(b)(1)(B)(i)).

(2) *Public notice.* The Secretary may, as appropriate and after consultation with the Board, publish a description of the proposal in the **Federal Register** with a request for public comment.

(e) *How and when will the Secretary act on a request?* In the case of each request, the Secretary:

(1) Will inform the requester of the Secretary's final determination regarding the requested activity; and

(2) Will endeavor to inform the requester of the Secretary's final determination within 60 days of completion of both the consultative process described in paragraph (d)(1) of this section and the public comment period, if any.

(f) *What must a national bank do in order for a financial subsidiary to engage in activities that the Secretary has determined are financial in nature or incidental to financial activities?* Once the Secretary determines that an activity is financial in nature or incidental to a financial activity (either in accordance with this section or after evaluation of a proposal raised by the Board under section 5136A(b)(1)(B)(ii) of the Revised Statutes), a financial subsidiary may engage in the activity subject to the requirements of 12 CFR

part 5 and in accordance with any terms or conditions established by the Secretary in connection with authorizing the activity.

Dated: March 13, 2000.

Gregory A. Baer,

Assistant Secretary for Financial Institutions, Department of the Treasury.

[FR Doc. 00–6610 Filed 3–17–00; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–44–AD; Amendment 39–11643; AD 2000–06–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier Inc. Models DHC–6-1, DHC–6–100, DHC–6–200, and DHC–6–300 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new airworthiness directive (AD) that applies to all Bombardier Inc. (Bombardier) Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes that are equipped with pneumatic deicing boots. This AD requires revising the Airplane Flight Manual (AFM) to include requirements for activation of 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 activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: May 5, 2000.

ADDRESSES: You may examine information related to this AD at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE–44-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 506, 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 Bombardier Models DHC–6–1, DHC-6–100, DHC–6–200, and DHC–6–300 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 12, 1999 (64 FR 55201). 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. The following paragraphs present the comments received on the NPRM. Also included is the FAA's response to each comment, including any changes incorporated into the final rule based on the comments.

Comment Issue No. 1: Coordinate With Original Equipment Manufacturer

What is the Commenter's Concern?: One commenter states that the FAA should coordinate with the original equipment manufacturer before issuing the AD.

What is the FAA's Response to the Concern?: We concur.

The FAA coordinates and will continue to coordinate with the manufacturer of any affected airplanes before issuing an AD.

Is it Necessary to Change the AD?: No.

Comment Issue No. 2: Provide the Criteria for Determining Acceptable Stall Warning Margins

What is the Commenter's Concern?: One commenter requests that the FAA provide the criteria for determining whether an airplane has an acceptable stall warning margin. The commenter references recent NPRM AD withdrawals in the FAA's Transport Airplane Directorate.

What is the FAA's Response to the Concern?: We cannot provide such information because no regulatory basis exists for determining or applying a mandatory stall margin with contamination. We can review manufacturer-provided data to determine what testing was conducted, and then determine the effects of ice accretion on the stall angle and the handling characteristics in the roll axis. This would include reviewing the service history of each airplane. With all of this information, we could determine whether the stall warning margin was acceptable and if the AD action could be withdrawn.

Such was the case with the NPRM withdrawals in the FAA's Transport Airplane Directorate. The airplanes affected were Cessna Models 500, 501, 550, 551, and 560 series airplanes, and British Aerospace Jetstream Model 4101 airplanes. You may find the specific justification for each of these withdrawals in the **Federal Register** through the following citations:

—For the Cessna airplanes: 64 FR 62995, November 18, 1999; and -For the Jetstream airplanes: 64 FR 62990, November 18, 1999.

No specific information was submitted for the Bombardier DHC–6 series airplanes.

Is it Necessary to Change the AD?: No.

Comment Issue No. 3: Review the Effects of Ice Bridging

What is the Commenter's Concerns?: A commenter states that the FAA did not reference in the NPRM any testing to assure that ice bridging does not exist on any of the affected airplanes. This commenter requests that the FAA carefully review the effects of ice bridging. Ice bridging, as referred to in the aviation community, occurs when the mechanical deicing boots do not clear airframe icing from the wing surface. This occurs because the ''ice bridge'' that forms over the inflated boots increases in ice thickness while the deicing boots ineffectively inflate and deflate under the ice bridge.

The commenter also requests explanation on the use of the term ''modern'' in a similar AD action that

the FAA's Transport Airplane Directorate initiated.

What is the FAA's Response to the Concerns?: The FAA considered the effects of ice bridging while developing the AD. We consulted the aviation community, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and the National Aeronautics and Space Administration (NASA). Based on information from the aviation community, we believe that little evidence of ice bridging exists as it relates to current deicing boot designs. Also, ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

The FAA's Transport Airplane Directorate addressed the issue of ''modern'' versus ''older'' pneumatic boot systems in a recent AD action. That information, in its entirety, follows:

''Several commenters request that the difference between the ''older'' and ''modern'' boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

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

Is it Necessary to Change the AD?: No.

Comment Issue No. 4: Limit the AFM Change to Approach and Hold Phases of Flight

What is the Commenter's Concern? One commenter requests that the FAA limit the AFM change of operating the boots at the first sign of ice accretion to the approach and hold phases of flight. This commenter references the work that the Ice Protection Harmonization Working Group (IPHWP) is currently doing. The commenter states that the IPHWP believes that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments. Since these operations occur at lower speeds, ice accumulating on the wing and tail surfaces could cause instability.

What is the FAA's Response to the Concern? We do not concur to limiting the AFM change to the holding and approach phases of flight. We acknowledge that the IPHWG is working on a proposed operations rule. The IPHWG continues to work on this proposed rule and has not reached technical agreement. We have records of in-flight roll upsets in icing during the climb and cruise phases of flight on small airplanes that are of a similar type design to the Bombardier DHC–6 series airplanes.

We concur that the ice protection system should not be operated at times when no ice is accreting. We have changed the description of the atmospheric conditions that the deicing boots must be operated from ''icing conditions'' to ''known or observed/detected icing that the flight crew visually observed on the aircraft or was identified by the on-board sensors.''

Is it Necessary to Change the AD?: Yes. We have made the change described above in the final rule.

Comment Issue No. 5: Conduct Further Testing Before Issuing the AD

What is the Commenter's Concern? One commenter requests that the FAA conduct more tests before proceeding with this AD action. The commenter agrees that operating the pneumatic boots continuously is the best way to identify ice accretion. However, the commenter states concern over the residual ice that could accumulate in this mode. The commenter recommends the following:

—The FAA research the possibility of mandating the installation of a reliable ice detection system to alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions;

—The FAA work together with the manufacturers to determine how efficient the pneumatic boots are in shedding significant thinner ice accretions than encountered previously; and

—The FAA quantify the performance effects of prolonged operation with residual ice on the airfoil prior to implementing any new boot operation procedures.

What is the FAA's Response to the Concern? We do not concur with the concerns over residual ice. Operation of the pneumatic deicing boots typically results in persistent ice accretions on the boots surfaces, even with 1/4-inch to 1/2-inch of ice accretion prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activating the wing and tail pneumatic deicing boots at the first sign of ice accretion (or at the annunciation of an ice detector system) and periodically operating the deicing boots will result in persistent ice accretions.

However, the proposed actions will minimize the residual and intercycle ice accretions because the ice will shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness that results from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. The thickness, shape, texture, and location of the ice accretion affect the adverse airplane flying qualities that result from ice accretions.

Certain airplane manufacturers have previously issued AFM information that contains procedures to activate the deicing boots at the first sign of ice accumulation. We have received no reports indicating any adverse effects of residual ice because of early activation of the deicing boots for these airplane designs.

Those airplane models that are equipped with deicing boot systems with automatic operating modes result in operation of the boots with less than the recommended thickness of accreted ice. We have received no reports indicating any adverse effects resulting from the use of the automatic mode.

We concur that the installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretion. We are working with industry on the possibility of developing such a system. If developed, tested, and approved, the FAA may consider additional rulemaking. For the time being, we are issuing this AD to impose a deicing boot operation change to address the reduced handling qualities or controllability problems associated with ice accretion on the protected surfaces.

Is it Necessary to Change the AD? No.

Comment Issue No. 6: Require Action to Reduce Adhesion Characteristics

What is the Commenter's Concern? One commenter requests that the FAA mandate actions to minimize or reduce the ice adhesion characteristics of boot material. The commenter states that one reason flightcrews see large amounts of residual ice is because residual ice

sticks to the boot surface as the boot ages. This may increase if the adhesion qualities of the boot material are not maintained. The commenter suggests the use of certain compounds, such as ICEX ™ (an ice-phobic chemical spray), to reduce ice adhesion.

What is the FAA's Response to the Concern?: We concur that materials such as ICEX ™ could reduce ice adhesion. However, factors such as normal wear and tear, patching, and oxidation of boot material, prevent us from establishing an effective level of application or adequate intervals of application. We will include a NOTE in the AD to recommend regular treatment of deicing boots with use of approved ice release agents. This is in addition to the required actions.

Is it Necessary to Change the AD?: No. However, as discussed above, the FAA is including a NOTE in the AD to recommend regular treatment of deicing boots with use of approved ice release agents.

The FAA's Determination

What is the FAA's final determination on this issue? After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the following:

—The change in the description of the atmospheric conditions that the deicing boots must be operated;

—The addition of the NOTE to recommend regular treatment of deicing boots with use of approved ice release agents; and

—Minor editorial corrections.

How does the change, addition, and corrections affect the AD?: We have determined that the change, addition, and 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 162 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. A copy of the final 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.

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:

2000–06–03 Bombardier Inc.: Amendment 39–11643; Docket No. 99–CE–44–AD.

(a) *What airplanes are affected by this AD?* Models DHC–6–1, DHC–6–100, DHC–6–200, DHC–6–300 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 de-icing 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 known or observed/detected icing that the flight crew has visually observed on the aircraft or was identified by the on-board sensors; and

—After the airplane is determined to be clear of ice.''

Note: The FAA recommends periodic treatment of deicing boots with approved ice release agents, such as ICEX ™, in accorance with the manufacturer's application instructions.

(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 §§ 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 May 5, 2000.

Issued in Kansas City, Missouri, on March 10, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–6616 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–52–AD; Amendment 39–11644; AD 2000–06–04]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft Corporation SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new airworthiness directive (AD) that applies to all Fairchild Aircraft Corporation (Fairchild) SA226 and SA227 series airplanes that are equipped with pneumatic deicing boots. This AD requires revising the Airplane Flight Manual (AFM) to include requirements for activation of 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 activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: May 5, 2000.

ADDRESSES: You may examine information related to this AD at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–52–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 506, 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 Fairchild SA226 and SA227 series 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 12, 1999 (64 FR 55177). 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. The following paragraphs present the comments received on the NPRM. Also included is the FAA's response to each comment, including any changes incorporated into the final rule based on the comments.

Comment Issue No. 1: Coordinate With Original Equipment Manufacturer

What is the Commenter's Concern?: One commenter states that the FAA should coordinate with the original equipment manufacturer before issuing the AD.

What is the FAA's Response to the Concern?: We concur. The FAA coordinates and will continue to coordinate with the manufacturer of any affected airplanes before issuing an AD.

Is it Necessary to Change the AD?: No.

Comment Issue No. 2: Provide the Criteria for Determining Acceptable Stall Warning Margins

What is the Commenter's Concern?: One commenter requests that the FAA provide the criteria for determining whether an airplane has an acceptable stall warning margin. The commenter references recent NPRM AD withdrawals in the FAA's Transport Airplane Directorate.

What is the FAA's Response to the Concern?: We cannot provide such information because no regulatory basis exists for determining or applying a mandatory stall margin with contamination. We can review manufacturer-provided data to determine what testing was conducted, and then determine the effects of ice accretion on the stall angle and the handling characteristics in the roll axis. This would include reviewing the service history of each airplane. With all of this information, we could determine whether the stall warning margin was acceptable and if the AD action could be withdrawn.

Such was the case with the NPRM withdrawals in the FAA's Transport Airplane Directorate. The airplanes affected were Cessna Models 500, 501, 550, 551, and 560 series airplanes, and British Aerospace Jetstream Model 4101 airplanes. You may find the specific justification for each of these withdrawals in the **Federal Register** through the following citations:

—For the Cessna airplanes: 64 FR 62995, November 18, 1999; and

—For the Jetstream airplanes: 64 FR 62990, November 18, 1999.

No specific information was submitted for the Fairchild SA226 and SA227 series airplanes.

Is it Necessary to Change the AD?: No.

Comment Issue No. 3: Review the Effects of Ice Bridging

What is the Commenter's Concerns?: A commenter states that the FAA did not reference in the NPRM any testing to assure that ice bridging does not exist on any of the affected airplanes. This commenter requests that the FAA carefully review the effects of ice bridging. Ice bridging, as referred to in the aviation community, occurs when the mechanical deicing boots do not clear airframe icing from the wing surface. This occurs because the ''ice bridge'' that forms over the inflated boots increases in ice thickness while the deicing boots ineffectively inflate and deflate under the ice bridge.

The commenter also requests explanation on the use of the term ''modern'' in a similar AD action that the FAA's Transport Airplane Directorate initiated.

What is the FAA's Response to the Concerns?: The FAA considered the effects of ice bridging while developing the AD. We consulted the aviation community, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and the National Aeronautics and Space Administration (NASA). Based on information from the aviation community, we believe that little evidence of ice bridging exists as it relates to current deicing boot designs. Also, ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

The FAA's Transport Airplane Directorate addressed the issue of ''modern'' versus ''older'' pneumatic boot systems in a recent AD action. That information, in its entirety, follows:

''Several commenters request that the difference between the ''older'' and ''modern'' boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

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

Is it Necessary to Change the AD?: No.

Comment Issue No. 4: Limit the AFM Change to Approach and Hold Phases of Flight

What is the Commenter's Concern? One commenter requests that the FAA limit the AFM change of operating the boots at the first sign of ice accretion to the approach and hold phases of flight. This commenter references the work that the Ice Protection Harmonization Working Group (IPHWP) is currently doing. The commenter states that the IPHWP believes that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments. Since these operations occur at lower speeds, ice accumulating on the wing and tail surfaces could cause instability.

What is the FAA's Response to the Concern?: We do not concur to limiting the AFM change to the holding and approach phases of flight. We acknowledge that the IPHWG is working on a proposed operations rule. The IPHWG continues to work on this proposed rule and has not reached technical agreement. We have records of in-flight roll upsets in icing during the climb and cruise phases of flight on small airplanes that are of a similar type design to the Fairchild SA226 and SA227 series airplanes.

We concur that the ice protection system should not be operated at times when no ice is accreting. We have changed the description of the atmospheric conditions that the deicing boots must be operated from ''icing conditions'' to ''known or observed/detected icing that the flight crew visually observed on the aircraft or was identified by the on-board sensors.''

Is it Necessary to Change the AD?: Yes. We have made the change described above in the final rule.

Comment Issue No. 5: Conduct Further Testing Before Issuing the AD

What is the Commenter's Concern?: One commenter requests that the FAA conduct more tests before proceeding with this AD action. The commenter agrees that operating the pneumatic boots continuously is the best way to identify ice accretion. However, the commenter states concern over the residual ice that could accumulate in this mode. The commenter recommends the following:

—The FAA research the possibility of mandating the installation of a reliable ice detection system to alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions;

—The FAA work together with the manufacturers to determine how efficient the pneumatic boots are in shedding significant thinner ice accretions than encountered previously; and

—The FAA quantify the performance effects of prolonged operation with residual ice on the airfoil prior to implementing any new boot operation procedures.

What is the FAA's Response to the Concern? We do not concur with the concerns over residual ice. Operation of the pneumatic deicing boots typically results in persistent ice accretions on the boots surfaces, even with ¼inch to ½inch of ice accretion prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activating the wing and tail pneumatic deicing boots at the first sign of ice accretion (or at the annunciation of an ice detector system) and periodically operating the deicing boots will result in persistent ice accretions.

However, the proposed actions will minimize the residual and intercycle ice accretions because the ice will shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness that results from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. The thickness, shape, texture, and location of the ice accretion affect the adverse airplane flying qualities that result from ice accretions.

Certain airplane manufacturers have previously issued AFM information that contains procedures to activate the deicing boots at the first sign of ice accumulation. We have received no reports indicating any adverse effects of residual ice because of early activation of the deicing boots for these airplane designs.

Those airplane models that are equipped with deicing boot systems with automatic operating modes result in operation of the boots with less than the recommended thickness of accreted ice. We have received no reports indicating any adverse effects resulting from the use of the automatic mode.

We concur that the installation of a reliable ice detection system would

alleviate the difficulties associated with flightcrew recognition of airfoil ice accretion. We are working with industry on the possibility of developing such a system. If developed, tested, and approved, the FAA may consider additional rulemaking. For the time being, we are issuing this AD to impose a deicing boot operation change to address the reduced handling qualities or controllability problems associated with ice accretion on the protected surfaces.

Is it Necessary to Change the AD? No.

Comment Issue No. 6: Require Action To Reduce Adhesion Characteristics

What is the Commenter's Concern? One commenter requests that the FAA mandate actions to minimize or reduce the ice adhesion characteristics of boot material. The commenter states that one reason flightcrews see large amounts of residual ice is because residual ice sticks to the boot surface as the boot ages. This may increase if the adhesion qualities of the boot material are not maintained. The commenter suggests the use of certain compounds, such as ICEX™(an ice-phobic chemical spray), to reduce ice adhesion.

What is the FAA's Response to the Concern?: We concur that materials such as ICEX™ could reduce ice adhesion. However, factors such as normal wear and tear, patching, and oxidation of boot material, prevent us from establishing an effective level of application or adequate intervals of application. We will include a NOTE in the AD to recommend regular treatment of deicing boots with use of approved ice release agents. This is in addition to the required actions.

Is it Necessary to Change the AD?: No. However, as discussed above, the FAA is including a NOTE in the AD to recommend regular treatment of deicing boots with use of approved ice release agents.

The FAA's Determination

What is the FAA's final determination on this issue?: After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the following:

—The change in the description of the atmospheric conditions that the deicing boots must be operated;

—The addition of the NOTE to recommend regular treatment of deicing boots with use of approved ice release agents; and

—Minor editorial corrections.

How does the change, addition, and corrections affect the AD?: We have determined that the change, addition, and 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 160 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 § 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 § 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. A copy of the final 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.

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:

2000–06–04 Fairchild Aircraft Corporation: Amendment 39–11644; Docket No. 99–CE–52–AD.

(a) *What airplanes are affected by this AD?* Models SA226–T, SA226–AT, SA226–T(B), SA227–AT, SA227–TT, SA226–TC, SA227–AC, SA227–PC, SA227–BC, SA227–CC, SA227–DC 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 de-icing 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 known or observed/detected icing that the flight crew has visually observed on the aircraft or was identified by the on-board sensors; and

—After the airplane is determined to be clear of ice.''

Note: The FAA recommends periodic treatment of deicing boots with approved ice release agents, such as ICEX ™, in accordance with the manufacturer's application instructions.

(e) *Can the pilot accomplish the action?* Yes. Anyone who holds at least a private pilot certificate, as authorized by § 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 May 5, 2000.

Issued in Kansas City, Missouri, on March 10, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–6617 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–43–AD; Amendment 39–11642; AD 2000–06–02]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GmbH 228 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new airworthiness directive (AD) that applies to all Dornier Luftfahrt GmbH (Dornier) 228 series airplanes that are equipped with pneumatic deicing boots. This AD requires revising the Airplane Flight Manual (AFM) to include requirements for activation of 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 activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: May 5, 2000.

ADDRESSES: You may examine information related to this AD at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–43–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 506, 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 Dornier 228 series 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 54818). 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. The following paragraphs present the comments received on the NPRM. Also included is the FAA's response to each comment, including any changes incorporated into the final rule based on the comments.

Comment Issue No. 1: Coordinate With Original Equipment Manufacturer

What is the Commenter's Concern?: One commenter states that the FAA should coordinate with the original equipment manufacturer before issuing the AD.

What is the FAA's Response to the Concern?: We concur. The FAA coordinates and will continue to coordinate with the manufacturer of any affected airplanes before issuing an AD.

Is it Necessary to Change the AD?: No.

Comment Issue No. 2: Provide the Criteria for Determining Acceptable Stall Warning Margins

What is the Commenter's Concern?: One commenter requests that the FAA provide the criteria for determining whether an airplane has an acceptable stall warning margin. The commenter references recent NPRM AD withdrawals in the FAA's Transport Airplane Directorate.

What is the FAA's Response to the Concern?: We cannot provide such information because no regulatory basis exists for determining or applying a mandatory stall margin with contamination. We can review manufacturer-provided data to determine what testing was conducted, and then determine the effects of ice accretion on the stall angle and the handling characteristics in the roll axis. This would include reviewing the

service history of each airplane. With all of this information, we could determine whether the stall warning margin was acceptable and if the AD action could be withdrawn.

Such was the case with the NPRM withdrawals in the FAA's Transport Airplane Directorate. The airplanes affected were Cessna Models 500, 501, 550, 551, and 560 series airplanes, and British Aerospace Jetstream Model 4101 airplanes. You may find the specific justification for each of these withdrawals in the **Federal Register** through the following citations:

—For the Cessna airplanes: 64 FR 62995, November 18, 1999; and
—For the Jetstream airplanes: 64 FR 62990, November 18, 1999.

No specific information was submitted for the Dornier 228 series airplanes airplanes.

Is it Necessary to Change the AD?: No.

Comment Issue No. 3: Review the Effects of Ice Bridging

What is the Commenter's Concerns?: A commenter states that the FAA did not reference in the NPRM any testing to assure that ice bridging does not exist on any of the affected airplanes. This commenter requests that the FAA carefully review the effects of ice bridging. Ice bridging, as referred to in the aviation community, occurs when the mechanical deicing boots do not clear airframe icing from the wing surface. This occurs because the ''ice bridge'' that forms over the inflated boots increases in ice thickness while the deicing boots ineffectively inflate and deflate under the ice bridge.

The commenter also requests explanation on the use of the term ''modern'' in a similar AD action that the FAA's Transport Airplane Directorate initiated.

What is the FAA's Response to the Concerns?: The FAA considered the effects of ice bridging while developing the AD. We consulted the aviation community, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and the National Aeronautics and Space Administration (NASA). Based on information from the aviation community, we believe that little evidence of ice bridging exists as it relates to current deicing boot designs. Also, ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

The FAA's Transport Airplane Directorate addressed the issue of ''modern'' versus ''older'' pneumatic boot systems in a recent AD action. That information, in its entirety, follows:

> ''Several commenters request that the difference between the ''older'' and ''modern'' boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.
>
> The FAA acknowledges that definitions of ''older'' and ''modern'' pneumatic boot systems should be provided. Therefore, for the purposes of this AD, ''modern'' pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. ''Older'' pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early deice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)''

Is it Necessary to Change the AD?: No.

Comment Issue No. 4: Limit the AFM Change to Approach and Hold Phases of Flight

What is the Commenter's Concern?: One commenter requests that the FAA limit the AFM change of operating the boots at the first sign of ice accretion to the approach and hold phases of flight. This commenter references the work that the Ice Protection Harmonization Working Group (IPHWP) is currently doing. The commenter states that the IPHWP believes that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments. Since these operations occur at lower speeds, ice accumulating on the wing and tail surfaces could cause instability.

What is the FAA's Response to the Concern?: We do not concur to limiting the AFM change to the holding and approach phases of flight. We acknowledge that the IPHWG is working on a proposed operations rule. The IPHWG continues to work on this proposed rule and has not reached technical agreement. We have records of in-flight roll upsets in icing during the climb and cruise phases of flight on small airplanes that are of a similar type design to the Dornier 228 series airplanes.

We concur that the ice protection system should not be operated at times when no ice is accreting. We have changed the description of the atmospheric conditions that the deicing boots must be operated from ''icing conditions'' to ''known or observed/detected icing that the flight crew visually observed on the aircraft or was identified by the on-board sensors.''

Is it Necessary to Change the AD?: Yes. We have made the change described above in the final rule.

Comment Issue No. 5: Conduct Further Testing Before Issuing the AD

What is the Commenter's Concern?: One commenter requests that the FAA conduct more tests before proceeding with this AD action. The commenter agrees that operating the pneumatic boots continuously is the best way to identify ice accretion. However, the commenter states concern over the residual ice that could accumulate in this mode. The commenter recommends the following:

—The FAA research the possibility of mandating the installation of a reliable ice detection system to alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions;
—The FAA work together with the manufacturers to determine how efficient the pneumatic boots are in shedding significant thinner ice accretions than encountered previously; and
—The FAA quantify the performance effects of prolonged operation with residual ice on the airfoil prior to implementing any new boot operation procedures.

What is the FAA's Response to the Concern?: We do not concur with the concerns over residual ice. Operation of the pneumatic deicing boots typically results in persistent ice accretions on the boots surfaces, even with ¼-inch to ½-inch of ice accretion prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activating the wing and tail pneumatic deicing boots at the first sign of ice accretion (or at the annunciation of an ice detector system) and periodically operating the deicing boots will result in persistent ice accretions.

However, the proposed actions will minimize the residual and intercycle ice accretions because the ice will shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness that results from this procedure is less than the ice accretion thickness typically recommended prior

to operation of the pneumatic deicing boot. The thickness, shape, texture, and location of the ice accretion affect the adverse airplane flying qualities that result from ice accretions.

Certain airplane manufacturers have previously issued AFM information that contains procedures to activate the deicing boots at the first sign of ice accumulation. We have received no reports indicating any adverse effects of residual ice because of early activation of the deicing boots for these airplane designs.

Those airplane models that are equipped with deicing boot systems with automatic operating modes result in operation of the boots with less than the recommended thickness of accreted ice. We have received no reports indicating any adverse effects resulting from the use of the automatic mode.

We concur that the installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretion. We are working with industry on the possibility of developing such a system. If developed, tested, and approved, the FAA may consider additional rulemaking. For the time being, we are issuing this AD to impose a deicing boot operation change to address the reduced handling qualities or controllability problems associated with ice accretion on the protected surfaces.

Is it Necessary to Change the AD?: No.

Comment Issue No. 6: Require Action To Reduce Adhesion Characteristics

What is the Commenter's Concern?: One commenter requests that the FAA mandate actions to minimize or reduce the ice adhesion characteristics of boot material. The commenter states that one reason flightcrews see large amounts of residual ice is because residual ice sticks to the boot surface as the boot ages. This may increase if the adhesion qualities of the boot material are not maintained. The commenter suggests the use of certain compounds, such as ICEX™ (an ice-phobic chemical spray), to reduce ice adhesion.

What is the FAA's Response to the Concern?: We concur that materials such as ICEX could reduce ice adhesion. However, factors such as normal wear and tear, patching, and oxidation of boot material, prevent us from establishing an effective level of application or adequate intervals of application. We will include a NOTE in the AD to recommend regular treatment of deicing boots with use of approved ice release agents. This is in addition to the required actions.

Is it Necessary to Change the AD?: No. However, as discussed above, the FAA is including a NOTE in the AD to recommend regular treatment of deicing boots with use of approved ice release agents.

The FAA's Determination

What is the FAA's final determination on this issue?: After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the following:

—The change in the description of the atmospheric conditions that the deicing boots must be operated;
—The addition of the NOTE to recommend regular treatment of deicing boots with use of approved ice release agents; and
—Minor editorial corrections.

How does the change, addition, and corrections affect the AD?: We have determined that the change, addition, and 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 13 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. A copy of the final 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 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:

2000–06–02 Dornier LuftfahrtGMBH: Amendment 39–11642; Docket No. 99–CE–43–AD.

(a) *What airplanes are affected by this AD?:* Models Dornier 228–100, Dornier 228–101, Dornier 228–200, Dornier 228–201, Dornier 228–202, and Dornier 228–212 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 de-icing 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 known or observed/detected icing that the flight crew has visually observed on the aircraft or was identified by the on-board sensors; and

—After the airplane is determined to be clear of ice.''

Note: The FAA recommends periodic treatment of deicing boots with approved ice release agents, such as ICEX, in accorance with the manufacturer's application instructions.

(e) *Can the pilot accomplish the action?* Yes. Anyone who holds at least a private pilot certificate, as authorized by § 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 §§ 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 May 5, 2000.

Issued in Kansas City, Missouri, on March 10, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–6691 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–11–AD; Amendment 39–11634; AD 2000–05–24]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. KAP 140 and KFC 225 Autopilot Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all aircraft equipped with a certain Honeywell International Inc. (Honeywell) KAP 140 or KFC 225 autopilot system. AlliedSignal Avionics Inc. manufactured these autopilot systems before transferring the design data to Honeywell. This AD requires that you inspect the autopilot servo actuator for a loose fastener and modify the autopilot servo actuator when a loose fastener is found. This AD is the result of a report of failure of the autopilot servo actuator to disengage when the autopilot power was removed. The actions specified by this AD are intended to detect and correct a loose fastener in the autopilot servo actuator, which could cause the autopilot servo actuator to not disengage when power to the autopilot is removed. This could cause the pilot to experience additional control forces.

DATES: Effective April 12, 2000.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of April 12, 2000.

The FAA must receive any comments on this rule on or before April 28, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE–11–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Honeywell International Inc., 23500 West 105th Street, Olathe, Kansas 66061. You may examine this information at the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–11–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Clyde Erwin, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4149; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused this AD?

We recently received a field report describing an instance of excessive flight control friction associated with an airplane equipped with a Honeywell KS 271C aileron servo actuator. This event occurred during ground operations with no power applied to the airplane. The Honeywell KS 270C, KS 271C, and KS 272 series autopilot servo actuators are utilized on aircraft equipped with a Honeywell KAP 140 or KFC 225 autopilot system.

AlliedSignal Avionics Inc. manufactured these autopilot systems before transferring the design data to Honeywell.

Examination of the subject actuator revealed a loose fastener, which inhibited free motion of the servo actuator engagement and disengagement mechanism. This autopilot servo actuator failed to properly disengage when power to the autopilot was removed.

What Are the Consequences if the Condition Is Not Corrected?

This condition, if not detected and corrected, could cause the autopilot servo actuator to not disengage when power to the autopilot is removed. This could cause the pilot to experience additional control forces.

Relevant Service Information

Is there service information that applies to this subject? Yes. Honeywell has issued the following service bulletins:

Service Bulletin No.	Date	Applies to
SB KS 270C–4 ALERT Part number (P/N): 600–01514–0041.	Revision 1: February/2000	KS 270C Pitch Servo Actuators, P/N 065–00178–XXXX (all versions), serial numbers (S/N) 2701 and below.
SB KS 271C–5 ALERT P/N: 600–01516–0051.	Revision 1: February/2000	KS 271C Primary Servo Actuators, P/N 065–00179–XXXX (all versions), S/N 4201, 4158 through 4148, and 4103 and below.
SB KS 272C–4 ALERT P/N: 600–01518–0042.	Revision 2: February/2000	KS 272C Trim Servo Actuators, P/N 065–00180–XXXX (all versions), S/N 2435 and below.

What are the provisions of the service bulletins? The service bulletins specify and include procedures for inspecting the autopilot servo actuator for a loose fastener and modifying the autopilot servo actuator when a loose fastener is found.

The FAA's Determination and an Explanation of the Provisions of the AD

What has the FAA decided?: After examining the circumstances and reviewing all available information related to the events described above, including the relevant service information, the FAA has determined that:

—An unsafe condition exists or could develop on all aircraft that are certificated in any category and are equipped with a certain Honeywell KAP 140 or KFC 225 autopilot system;

—The actions of the above-referenced service bulletins should be accomplished on aircraft with an affected autopilot servo actuator installed; and

—AD action should be taken in order to detect and correct a loose fastener in the autopilot servo actuator, which could cause an autopilot servo actuator to not disengage when power to the autopilot is removed. This could cause the pilot to experience additional control forces.

What does this AD require?: This AD requires that you inspect the autopilot servo actuators for a loose fastener and modify the autopilot servo actuator when a loose fastener is found. This AD also gives you the option of accomplishing the following actions as an alternative to the inspection and modification actions:

—Check the primary flight controls for normal feel and motion and make any necessary adjustments;

—Pull and tie off the applicable circuit breakers as referenced in the Compliance section of the applicable service information; and

—Fabricate a placard, using letters of 1/8-inch in height, with the words ''Autopilot Not Operational'', and install this placard in the cockpit within the pilot's clear view.

What is the compliance time of this AD?: Within 15 hours time-in-service (TIS) after the effective date of this AD.

Will the public have the opportunity to comment prior to the issuance of the rule?: No. Since a situation exists that requires the immediate adoption of this regulation, the FAA finds that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, 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 this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the 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 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 this 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. 2000–CE–11–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

These regulations 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, the FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–05–24 **Honeywell International Inc.:** Amendment 39-11634; Docket No. 2000-CE–11-AD.

(a) *What aircraft are affected by this AD?:* Any aircraft, certificated in any category, that is equipped with a Honeywell KAP 140 or KFC 225 autopilot system and incorporates any autopilot servo actuator referenced in the Honeywell service information and the chart presented below. AlliedSignal Avionics Inc. manufactured the KAP 140 and KFC 225 autopilot systems before transferring the design data to Honeywell:

Service Bulletin No.	Date	Applies to
SB KS 270C–4 ALERT Part number (P/N): 600–01514–0041.	Revision 1: February/2000	KS 270C Pitch Servo Actuators, P/N 065–00178–XXXX (all versions), serial numbers (S/N) 2701 and below.
SB KS 271C–5 ALERT P/N: 600–01516–0051.	Revision 1: February/2000	KS 271C Primary Servo Actuators, P/N 065–00179–XXXX (all versions), S/N 4201, 4158 through 4148, and 4103 and below.
SB KS 272C–4 ALERT P/N: 600–01518–0042.	Revision 2: February/2000	KS 272C Trim Servo Actuators, P/N 065–00180–XXXX (all versions), S/N 2435 and below.

(b) *Who must comply with this AD?* Anyone who wishes to operate an aircraft on the U.S. Register, where the aircraft incorporates one of the above-referenced autopilot servo actuators. These autopilot systems and autopilot servo actuators could be installed on, but not limited to, the following aircraft:

Type certificate holder	Aircraft models	Autopilot installed
Cessna Aircraft Company	172R, 172S, 182S, 206H, and T206H airplanes	Model KAP 140.
Commander Aircraft Company	114B and 114TC airplanes	Model KFC 225.
Mooney Aircraft Corporation	M20R and M20S airplanes	Model KFC 225.
The New Piper Aircraft, Inc	PA–28–181 airplanes	Model KAP 140.
The New Piper Aircraft, Inc	PA–46–350P airplanes	Model KFC 225.
Raytheon Aircraft Company	Beech A36 airplanes, S/N E3157, E3218 through E3293, E3295, and E3297 through E3301.	Model KFC 225.
Raytheon Aircraft Company	Beech B36TC airplaces, S/N EA611, EA620, EA629 through EA649, and EA651.	Model KFC 225.
Raytheon Aircraft Company	Beech 58 airplanes, S/N TH1841, TH1870, TH1884 through TH1932, and TH1934.	Model KFC 225

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct a loose fastener in an autopilot servo actuator, which could cause the autopilot servo actuator to not disengage when power to the autopilot is removed. This could cause the pilot to experience additional control forces.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following:

Action	When	In accordance with
Inspect the autopilot servo actuator for a loose fastener.	Within 15 hours time-in-service after the effective date of this AD.	The applicable service information referenced in paragraph (a) of this AD.
Modify the autopilot servo actuator when a loose fastener is found.	Prior to further flight after the required inspection.	The applicable service information referenced in paragraph (a) of this AD.

(e) *Is it permissible to just not use the autopilot since it is optional equipment?* You may do this provided you accomplish the following:

(1) Check the primary flight controls for normal feel and motion and make any necessary adjustments;

(2) Pull and tie off the applicable circuit breakers as referenced in the Compliance section of the applicable service information referenced in paragraph (a) of this AD;

(3) Fabricate a placard, using letters of ⅛-inch in height, with the words ''Autopilot Not Operational''; and

(4) Install this placard in the cockpit within the pilot's clear view.

(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, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) This AD applies to each aircraft 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 aircraft 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 Clyde Erwin, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4149; facsimile: (316) 946–4407.

(h) *What if I need to fly the aircraft 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 aircraft to a location where you can accomplish the requirements of this AD.

(i) *Are any service bulletins incorporated into this AD by reference?* Yes. Actions required by this AD must be done in accordance with Honeywell Service Bulletin No. SB KS 270C–4 ALERT, P/N: 600–01514–0041, Revision 1: February/2000; Honeywell Service Bulletin No. SB KS 271C–5 ALERT, P/N: 600–01516–0051, Revision 1: February/2000; or Honeywell Service Bulletin No. SB KS 272C–4 ALERT, P/N: 600–01518–0042, Revision 2:

February/2000. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Honeywell International Inc., 23500 West 105th Street, Olathe, Kansas 66061. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the **Federal Register**, 800 North Capitol Street, NW, suite 700, Washington, DC.

(j) *When does this amendment become effective?* This amendment becomes effective on April 12, 2000.

Issued in Kansas City, Missouri, on March 6, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–6161 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–58–AD; Amendment 39–11639; AD 2000–05–29]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, that requires repetitive inspections to detect cracking of various areas of the forward pressure bulkhead, and repair, if necessary. This amendment also provides for certain optional preventive modifications, which, if accomplished, would terminate the repetitive inspections for the affected areas. This amendment is prompted by reports indicating that numerous fatigue cracks were found on critical areas of the forward pressure bulkhead. The actions specified by this AD are intended to prevent such fatigue cracking, which could result in rapid decompression of the airplane fuselage.

DATES: Effective April 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of April 24, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Nenita K. Odesa, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2557; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes was published in the **Federal Register** on October 9, 1998 (63 FR 54391). That action proposed to require repetitive inspections to detect cracking of various areas of the forward pressure bulkhead, and repair, if necessary. That action also proposed to require certain preventive modifications, which, when accomplished, would terminate the repetitive inspections for most, but not all, of the affected areas.

Comments

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

Support for the Proposal

Two commenters support the proposed rule.

Request to Increase the Initial Inspection Threshold

Several commenters, including the manufacturer, request an increase in the initial inspection threshold from 15,000 total flight cycles, as proposed, to 20,000 total flight cycles, as recommended in Boeing Alert Service Bulletin 737–57A1173, Revision 2, dated January 15, 1998. The commenters state that research by the manufacturer supports the conclusion that the compliance threshold recommended in the alert service bulletin is adequate. To justify its request, the manufacturer submitted substantiating data that show that the compliance time recommended in the service bulletin is conservative.

The FAA concurs with the commenters' requests to revise the initial compliance threshold in the final rule to match the compliance time recommended by the manufacturer in the alert service bulletin (i.e., prior to the accumulation of 20,000 total flight cycles or within 3,000 flight cycles after the effective date of this AD, whichever occurs later). After review of the data submitted by the manufacturer, the FAA has determined that the compliance times recommended in the alert service bulletin are adequate to ensure that any cracks will be detected before the cracks reach critical length. Therefore, paragraph (a) of this final rule has been revised accordingly, and paragraphs (a)(1) and (a)(2) have not been included in this final rule.

Request to Use Repetitive Inspection Interval Specified in Alert Service Bulletin

Most of the commenters request that the repetitive inspection interval be revised to more closely correspond with those recommended in Boeing Alert Service Bulletin 737–57A1173, Revision 2. Several of the commenters justify their requests by stating that, because of the difficulty in accessing the affected area, accomplishing the proposed inspections outside of a regularly scheduled ''C''-check would place a significant burden on operators. The commenters also provide various other justifications for their requests, including:

- The compliance times specified in the alert service bulletin are conservative.
- Operators are already performing the inspections specified in the service bulletin, so there is a significant amount of data on cracking in the affected area.
- No in-flight incidents (including loss of pressurization) have been reported related to the cracking addressed in the proposal.
- Cracks in the affected area of the forward pressure bulkhead propagate very slowly.

A number of commenters also provide substantial amounts of data to support their requests.

The FAA concurs with the commenters' requests to require the repetitive inspections at the interval recommended in the alert service bulletin. Based on the FAA's review of the analyses submitted by the manufacturer to substantiate the repetitive inspection intervals recommended in the alert service bulletin, the FAA has determined that a repetitive inspection interval of 6,000 flight cycles is adequate to ensure that any cracking will be detected and corrected in a timely manner. Paragraph (a) of this final rule has been revised accordingly.

Request to Address Existing Repairs

Two commenters request that the proposal be revised to address repairs on the affected areas of the forward pressure bulkhead. Paragraph (b) of the proposal states that repairs are to be accomplished ''in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1173, Revision 2, dated January 15, 1998; except, where the alert service bulletin specifies that the manufacturer may be contacted for repair instructions,. . .'' repairs should be accomplished in accordance with a method approved by the FAA. One commenter also inquires whether repairs in accordance with the Structural Repair Manual (SRM) (which is approved by the FAA) that are not referenced in Boeing Alert Service Bulletin 737–53A1173, Revision 2, or other repairs that are approved by the FAA, will need further approval.

The FAA concurs with the request to address repairs that are accomplished in accordance with the SRM but are not referenced in the alert service bulletin. Since the issuance of the notice of proposed rulemaking (NPRM), the FAA has reviewed and approved Boeing Alert Service Bulletin 737–53A1173, Revision 3, dated May 6, 1999. Among other things, Revision 3 of the alert service bulletin includes references to new chapters of the SRM as acceptable sources of service information for the accomplishment of repairs. In addition, since the issuance of the NPRM, the FAA also has determined that SRM chapters referenced in Boeing Service Bulletin 737–53A1173, Revision 1, dated April 25, 1996, are acceptable sources of service information for accomplishment of repairs. Therefore, paragraph (b) of this final rule has been revised to add references to Boeing Service Bulletin 737–53A1173, Revision 1, and Boeing Alert Service Bulletin 737–53A1173, Revision 3, as acceptable sources of information for accomplishment of repairs, except where the service bulletin specifies that the manufacturer may be contacted for repair instructions.

Another commenter requests that the proposal be revised to approve repairs accomplished in accordance with data approved by a Designated Engineering Representative (DER) but not in accordance with the SRM.

The FAA concurs that repairs not in accordance with the SRM but approved by a DER are acceptable for compliance with this AD. However, the FAA has determined that DER-approved repairs are acceptable methods of compliance to the AD only if the responsible DER has been authorized by the FAA to make such a finding. For all other repairs (i.e., repairs not accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such a finding) that affect the performance of the requirements of this AD, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. Therefore, paragraph (b) of the final rule has been revised to state that repairs accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings, are acceptable for compliance with this AD.

In addition, one commenter, the airplane manufacturer, inquires whether Boeing DER's have the authority to approve Boeing Service Bulletin 737–53A1208, and Boeing Alert Service Bulletin 73757A1173, Revision 3. The commenter also inquires whether Boeing DER's will be authorized to approve alternative methods of compliance to the AD when allowed by law. The commenter makes no specific request for a change to the AD.

With regard to DER approval of the referenced service bulletins, as stated previously, since receipt of the comment, the FAA has reviewed and approved Boeing Service Bulletin 737–53A1208, and Boeing Service Bulletin 737–57A1173, Revision 3. With regard to DER approval of alternative methods of compliance, the FAA is considering authorizing certain Boeing DER's to approve alternative methods of compliance that provide an acceptable level of safety. After this AD has been issued, designated DER's will receive a letter from the FAA defining the limits of their approval authority. No change to the final rule is necessary in this regard.

Request to Revise Number of Affected Airplanes

One commenter questions how the FAA arrived at its estimate that there are 2,802 affected airplanes in the worldwide fleet, as stated in the proposal. The commenter points out that the effectivity of Boeing Alert Service Bulletin 737–57A1173, Revision 2, includes Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes having line numbers before 2738. The commenter states that 157 of these affected airplanes are out of service; therefore, the actual number of affected airplanes should be 2,580 airplanes. The commenter makes no specific request related to its comment.

The FAA infers that the commenter is requesting that the proposed rule be revised to reduce the estimated number of affected airplanes in the worldwide fleet, such that the estimated number of affected airplanes is based on airplanes having line numbers 1 through 2737, as defined in the alert service bulletin. The FAA concurs with such a reduction, and the cost impact section of the preamble of this final rule has been revised accordingly.

In addition, as a result of this comment, the FAA finds that some clarification of the applicability of this AD may be necessary. Therefore, the applicability statement of this final rule has been revised to specifically reference the line numbers of the affected airplanes—i.e., line numbers 1 through 2737 inclusive—rather than the service bulletin in which the affected airplanes are listed. (This change makes no additional airplanes subject to this AD.)

Request to Use Alternative Repetitive Inspection Interval

Two commenters suggest repetitive inspection intervals other than those specified in the NPRM or the alert service bulletin. One commenter recommends that the FAA require repetitive visual inspections at intervals not to exceed 4,500 flight cycles, and repetitive high frequency eddy current inspections at intervals not to exceed 12,000 cycles. Another commenter's recommendation involves scheduling the repetitive inspections based on the number of total flight cycles accrued.

The FAA does not concur with the commenters' suggestions for an alternative repetitive inspection threshold. The FAA finds that to require

only visual inspections at intervals not to exceed 4,500 flight cycles, and high frequency eddy current inspections at intervals not to exceed 12,000 cycles, may not ensure that cracking will be detected in a timely manner. Regarding the request to schedule the repetitive inspections based on the number of total flight cycles accrued, the commenter submitted no technical data to substantiate its request. No change to the final rule is necessary in this regard.

Request to Eliminate Requirement for Preventive Modifications

One commenter requests that the proposal be revised to eliminate the requirement to accomplish the preventive modifications of the center web, vertical chords, and side chord areas of the forward pressure bulkhead. The commenter justifies its request on the basis that Boeing is monitoring the occurrences of cracking of the forward pressure bulkhead in the fleet of affected airplanes.

The FAA does not concur with the commenter's rationale for eliminating the preventive modification requirement. The proposal to mandate the preventive modifications is based on the FAA's determination that long-term continued operational safety will be better assured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections.

However, since the issuance of the NPRM, the FAA has determined that the preventive modification of the center web specified in Boeing Alert Service Bulletin 737–53A1173, Revision 2 [which paragraph (c) of the NPRM cites as the appropriate source of service information for the preventive modifications], is not adequate to ensure the prevention of cracking in the center web area.

As stated previously, the FAA has reviewed and approved Boeing Alert Service Bulletin 737–57A1173, Revision 3. The FAA has determined that accomplishment of the preventive modifications of the forward pressure bulkhead in accordance with Revision 3 of the alert service bulletin is adequate to ensure prevention of cracking and would eliminate the need for the repetitive inspections. However, because additional work would be required over that which was proposed in the NPRM, mandating the preventive modifications in accordance with Revision 3 of the alert service bulletin would require the issuance of a supplemental notice of proposed rulemaking to reopen the public comment period. The FAA finds that to delay this final rule in this way would be inappropriate because the FAA has determined that an unsafe condition exists and the required inspections and repairs, if necessary, must be accomplished in a timely manner to ensure continued safety.

In addition, the FAA finds that it would be more appropriate to provide the option for all preventive modifications to be accomplished, at the same time, in accordance with Revision 3 of the alert service bulletin, rather than to require only the modification of the vertical chords and side chords at WL 195 in accordance with Revision 2 of the alert service bulletin. Therefore, paragraph (c) of this final rule has been revised to remove the requirement to accomplish any of the preventive modifications, and to provide for accomplishment of the preventive modifications in accordance with Revision 3 of the alert service bulletin as an option that would constitute terminating action for the repetitive inspection requirements of this AD. The FAA also may consider further rulemaking to require accomplishment of the preventive modifications in accordance with Revision 3 of the alert service bulletin.

Request for Clarification of Language

One commenter notes that, in several locations, the NPRM refers to an ''unsafe condition.'' The commenter inquires what is meant by ''unsafe,'' and how such a determination was made by the FAA. The commenter makes no specific request for a change.

The FAA infers that the commenter is requesting clarification of language used in the NPRM. The FAA defines an unsafe condition as one that could result in a hazardous condition. As stated in the preamble of the NPRM, the FAA has received reports indicating that operators have found numerous fatigue cracks on the body station 178 forward pressure bulkhead on certain Boeing Model 737 series airplanes. Because fatigue cracks were found in certain critical structural areas of the bulkhead, the FAA finds that such fatigue cracking constitutes an unsafe condition, in that it could result in rapid decompression of the airplane fuselage. No change to the final rule is necessary in this regard.

The same commenter inquires what is meant by the phrases ''degree of urgency associated with the unsafe condition,'' and ''average utilization of the affected fleet,'' which appear in the ''Differences Between Proposed Rule and Alert Service Bulletin'' section of the NPRM. With regard to ''degree of urgency,'' the commenter inquires how this degree was determined and considered in the NPRM. The commenter questions what events have occurred since 1994 (i.e., when the largest reported bulkhead crack was found and the initial issue of Boeing Service Bulletin 737–53A1173 was issued) that lend a ''degree of urgency'' to the proposed rulemaking. With regard to ''average utilization of the affected fleet,'' the commenter questions how average utilization was considered in the proposed rulemaking.

The FAA infers from the context in which the phrases were used (specifically, in explaining why the proposed compliance time was reduced from the compliance time recommended in the service bulletin) that the commenter is requesting clarification as to what events or specific factors prompted the FAA to propose a compliance time of 15,000 total flight cycles and a repetitive interval of 3,000 flight cycles for the repetitive inspections proposed in the NPRM.

The degree of urgency associated with the unsafe condition was determined and considered based on the nature of the cracking. A 25-inch crack in the web of the forward pressure bulkhead prompted the issuance of the original service bulletin in 1994. In 1997, the FAA received reports of cracking in a new area—the side chord at WL 207. Upon review of the history of cracking in the forward pressure bulkhead, the FAA determined that cracks had been found in the multiple locations on the web, in the vertical beam chords, and in the side chords at WL 195 and 207. This determination prompted the FAA to consider further rulemaking action, which resulted in the issuance of the subject NPRM.

The FAA evaluated the average utilization of the fleet based on a review of the average annual cycles of affected airplanes. Such annual utilization numbers and the ''C''-check maintenance interval (approximately 12 to 18 months) of several operators of the affected airplanes were considered in developing the compliance times.

However, considering the context in which the subject phrases appeared, the FAA finds that the commenter's inquiries on both degree of urgency and average utilization of the fleet are no longer relevant to the final rule. As stated previously, this final rule has been revised to specify the same compliance times recommended by the manufacturer in Revisions 2 and 3 of the service bulletin. The FAA finds that no further change to the final rule is necessary in this regard.

Request to Consider Additional Rulemaking

One commenter, the airplane manufacturer, states that it is

considering issuing a separate service bulletin to address fatigue cracking in Boeing Model 737 series airplanes having line numbers 2738 through 3071 inclusive. The commenter inquires whether the FAA is considering rulemaking activity for that service bulletin, but makes no specific request related to its comment.

Since receipt of the comment, Boeing has issued Service Bulletin 737–53A1208, dated May 6, 1999, which specifies inspections and modifications to address fatigue cracking in Boeing Model 737 series airplanes having line number 2738 through 3071 inclusive. The FAA may consider further rulemaking action to mandate the inspections and modifications defined in the service bulletin. No change to the final rule is necessary in this regard.

Conclusion

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

Cost Impact

There are approximately 2,580 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,130 airplanes of U.S. registry will be affected by this AD.

It will take approximately 380 work hours per airplane to accomplish the required inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspections required by this AD on U.S. operators is estimated to be $25,764,000, or $22,800 per airplane, per inspection cycle.

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

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–05–29 Boeing: Amendment 39–11639. Docket 98–NM–58–AD.

Applicability: Model 737–100, −200, −300, −400, and −500 series airplanes; having line numbers 1 through 2737 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 fatigue cracking of the forward pressure bulkhead, which could result in rapid decompression of the airplane fuselage, accomplish the following:

Initial and Repetitive Inspections

(a) Prior to the accumulation of 20,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, perform inspections of the center web, vertical chords, and side chord areas of the forward pressure bulkhead for fatigue cracking, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1173, Revision 2, dated January 15, 1998, or Revision 3, dated May 6, 1999. Thereafter, repeat the inspections at intervals not to exceed 6,000 flight cycles until the preventive modifications specified by paragraph (c) of this AD have been accomplished.

Repairs

(b) If any crack is found during any inspection required by paragraph (a) of this AD, prior to further flight, repair the area in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53A1173, Revision 1, dated April 25, 1996, or Boeing Alert Service Bulletin 737–53A1173, Revision 2, dated January 15, 1998, or Revision 3, dated May 6, 1999; in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings; except, where the alert service bulletin specifies that the manufacturer may be contacted for repair instructions, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Optional Terminating Action

(c) Accomplishment of the preventive modifications of the center web, vertical chords, and side chord areas, including the side chord areas at water line 207, of the forward pressure bulkhead, in accordance with Boeing Alert Service Bulletin 737–53A1173, Revision 3, dated May 6, 1999, constitutes terminating action for the repetitive inspections requirements of paragraph (a) of this AD for that area.

Note 2: Accomplishment of the preventive modification of the vertical chords and side chord areas at water line 195 in accordance with Boeing Alert Service Bulletin 737–53A1173, Revision 2, constitutes terminating action for the repetitive inspections requirements of paragraph (a) of this AD for the vertical chords and side chord at WL 195 only.

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

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

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 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) The inspections shall be done in accordance with Boeing Alert Service Bulletin 737–53A1173, Revision 2, dated January 15, 1998, or Boeing Alert Service Bulletin 737–53A1173, Revision 3, dated May 6, 1999. Except as provided by paragraph (b) of this AD, repairs shall be accomplished in accordance with Boeing Service Bulletin 737–53–1173, Revision 1, dated April 25, 1996, or Boeing Alert Service Bulletin 737–53A1173, Revision 2, dated January 15, 1998, or Boeing Alert Service Bulletin 737–53A1173, Revision 3, dated May 6, 1999. The preventive modifications, if accomplished, shall be done in accordance with Boeing Alert Service Bulletin 737–53A1173, Revision 3, dated May 6, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 24, 2000.

Issued in Renton, Washington, on March 10, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–6491 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–22–AD; Amendment 39–11640; AD 2000–05–30]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires repetitive inspections to detect discrepancies of the cables, fittings, and pulleys of the engine thrust control cable installation, and replacement, if necessary. This AD also requires certain preventative actions on the engine thrust control cable installation for certain airplanes. This amendment is prompted by reports of failure of engine thrust control cables. The actions specified by this AD are intended to prevent such failures, which could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane.

DATES: Effective April 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 24, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dionne M. Krebs, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2250; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes was published in the **Federal Register** on October 1, 1999 (64 FR 53275). That action proposed to require repetitive inspections to detect discrepancies of the cables, fittings, and pulleys of the engine thrust control cable installation, and replacement, if necessary. The action also proposed to require certain preventative actions on the engine thrust control cable installation for certain airplanes.

Comments

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

Support for the Proposal

One commenter supports the proposed rule.

Request for Clarification of Applicability

One commenter does not request a specific change to the proposal, but suggests that since Model 747–200B SUD and 747–200B SUD SF series airplanes are not specified in the applicability section of the proposed AD, those model airplanes are excluded from the proposal.

The FAA does not concur with the commenter's statement. Although Model 747–200B SUD and 747–200B SUD SF series airplanes are not specified in the applicability section of the proposal, the FAA stated the applicability according to the airplane models identified in the 747 type certificate data sheet (TCDS). All models of the airplane are encompassed by the identification in the TCDS. The FAA notes that the commenter previously modified its Model 747–200B series airplanes to stretched upper deck and special freighter configurations; however, since the Model 747–200B SUD and 747–200B SUD SF series airplanes are not specifically identified in the 747 TCDS, the FAA has determined that those modified airplanes are Model 747–200B series airplanes. Therefore the final rule does apply to the Model 747–200B SUD and 747–200B SUD SF series airplanes. No change to the final rule is necessary.

Request for Extension of Compliance Time

Two commenters request that the compliance time for the repetitive inspection intervals specified in paragraph (a) of the proposed AD be extended.

The first commenter suggests that the inspection intervals correspond to its current maintenance program, which specifies a thrust control cable system inspection for the cables and pulleys from the fuselage outboard at ''1C'' check intervals, and the cables and pulleys internal to the fuselage at ''3C'' check intervals. (This commenter considers a ''C'' check interval to be 18 months.) The commenter states that it has no reports of significant damage or wear to the cables on airplanes in service or in check. It estimates that the 18-month repetitive inspection interval specified in the proposal would necessitate approximately 20 additional work hours for unscheduled seat and sidewall removals.

The second commenter requests that the areas of the thrust control cable

system covered by the ceiling, sidewall, and floor panels located in the pressurized cabin area be inspected at its normal ''D'' check interval. (This commenter considers a ''D'' check interval to be 60 months.) The commenter states that, as specified in the maintenance planning document, it has implemented an inspection to verify the integrity of the thrust control cables from the cockpit to the pylon area. However, the majority of its airplanes have an extended 280-inch upper deck, which makes it difficult to perform the detailed visual inspections for the upper deck area in accordance with the proposal. The commenter suggests that the areas not covered by the ceiling, sidewall, and floor panels located in the pressurized cabin area, as well as the wing and pylon area, can be inspected in accordance with paragraph (a) of the proposed rule.

The FAA concurs with the first commenter's statement that the thrust control cable system inspection for the cables and pulleys from the fuselage outboard be accomplished at ''1C'' check intervals. The FAA chose an 18-month inspection interval in order to encompass the 747 operators' current maintenance program for accomplishment of the inspection at ''1C'' check intervals. The FAA infers that the 18-month interval is consistent with the commenter's current inspection maintenance schedule of the thrust control cables and pulleys from the fuselage outboard. The FAA also concurs with the second commenter that the inspection interval required by paragraph (a) of the final rule is appropriate for those areas not covered by the ceiling, sidewall, and floor panels located in the pressurized cabin area, as well as the wing and pylon area.

The FAA does not concur with the commenters' requests to extend the compliance time for the repetitive inspections of certain areas of the thrust control cable system to ''3C'' check or ''D'' check intervals per the commenters' current maintenance programs. When establishing the 18-month inspection interval for the thrust control cable inspections, the FAA was aware that unscheduled maintenance actions, in addition to the operator's existing maintenance program, may be necessary. Additionally, the FAA is aware of thrust control cable failures on airplanes that should have been previously inspected in accordance with the inspection intervals and procedures recommended in the manufacturer's maintenance planning document. The second commenter provides no substantiating data relevant to its request for extending the repetitive inspection interval for certain areas of the thrust control cable system. Based on a review of the service experience for airplanes that should be utilizing the manufacturer's maintenance planning document to perform the thrust control cable inspections, the FAA has determined that the current inspection intervals have not prevented failures of the thrust control cables.

In developing an appropriate compliance time for the repetitive inspections, the FAA considered not only the degree of urgency associated with addressing discrepancies of the thrust control cables, fittings, and pulleys, but other factors as well. Those factors include the recommendations of the manufacturer, and the practical aspect of accomplishing the repetitive inspections within an interval of time coinciding with normal scheduled maintenance for the majority of affected operators. Considering those factors, the FAA has determined that the compliance time of 18 months after the effective date of this AD represents the maximum interval in which the affected airlines can continue to operate without compromising safety. In view of those factors, and the amount of time that has already elapsed since issuance of the notice of proposed rulemaking, the FAA has determined that further delay of these inspections is, in general, not appropriate. The FAA may, however, approve a request for an adjustment of the compliance time under the provisions of paragraph (h) of this final rule if data are submitted to substantiate that such an adjustment would provide an equivalent level of safety. No change to the final rule is necessary.

Request to Allow Operator's Equivalent Procedures

One commenter states that it has modified the nacelle strut idler pulley in accordance with the instructions specified in Boeing Service Bulletin 747–76–2067, Revision 1, and is performing inspections through its maintenance program at an interval of ''1D'' checks and/or ''1C'' checks. Therefore, with this inspection in place, the commenter notes that there is no need to comply with the requirements in paragraph (d) of the proposed rule.

The FAA interprets this as a request that the commenter be allowed to use its own operator procedures to accomplish the actions required by paragraph (c)(2)(ii), as referenced in paragraph (d) of the final rule. Paragraph (d) of the final rule states, ''Where Boeing Service Bulletin 747–76–2067, Revision 1, dated November 19, 1987, specifies that the actions required by paragraph (c)(2)(ii) of this AD may be accomplished in accordance with an 'operator's comparable procedure,' the actions must be accomplished in accordance with the applicable chapters of the Boeing 747 Maintenance Manual, as specified in the service bulletin.'' Paragraph (c)(2)(ii) of the final rule requires a detailed visual inspection to detect wear of the engine thrust control cables in any area where an aluminum-type pulley is installed. The intent of paragraphs (c)(2)(ii) and (d) of the final rule is to require the use of the standard inspection procedures provided in the Boeing 747 Maintenance Manual when inspecting the thrust control cable after the replacement of an aluminum-type pulley. Since the commenter states that its airplanes have been modified in accordance with the instructions specified in the service bulletin, no further action is required by the commenter in this regard. However, the airplane manufacturer has determined that damaged components of a worn aluminum pulley could cause the thrust control cables to wear in any area where an aluminum-type pulley was installed; therefore, the FAA has determined that a one-time inspection of the thrust control cables as required by paragraph (c)(2)(ii) of this AD, in lieu of depending on the repetitive inspections required by paragraph (a) of the AD, is required to detect that wear. Therefore, no change to the final rule is necessary.

Proposed Repetitive Inspection Requirement

One commenter does not request a specific change to the proposal, but suggests that the repetitive inspections identified in paragraph (a) of the proposed AD do not appear to be justified. The commenter reiterates from the proposal the statements that the thrust control cable failures were found on Model 757 and 767 series airplanes and that because of similar design, the thrust control cables could fail on other airplane models. The commenter states that the proposed AD does not identify what caused the thrust control cable failures on the Model 757 and 767 series airplanes, where the thrust control cables failed, or how other airplane models could have a similar condition. The commenter also questions whether or not the thrust control cable failures could have been prevented with a modification or a one-time inspection. The commenter asks if the operators of the Model 757 and 767 series airplanes that experienced the failures had a maintenance program in place to inspect the cables, and if so, when was the last maintenance inspection before the failures occurred.

The commenter further notes that it inspects its thrust control cables and pulleys from the fuselage outboard at ''1C'' check intervals, and the cables internal to the fuselage at ''3C'' check intervals. (The commenter considers a ''C'' check interval to be 18 months.) The commenter states that it has had no reports of significant damage or wear to the cables.

In response to this commenter, the FAA is providing the following information, in general terms, to clarify the circumstances surrounding the thrust control cable failures on the Model 757 and 767 series airplanes. The first Model 757 failure event occurred on the right engine thrust control cable, which was severed by arcing with a cargo compartment light power wire. The failure condition was discovered while the airplane was at the gate, during engine start, when the flightcrew could not control the engine speed. The second Model 757 failure event was due to thrust cable chafing with a window heat power supply cable. The failure condition was detected when, at stable cruise, the right thrust lever ''jumped back'' and at the same time, the right engine began to accelerate towards N1 redline, despite attempts by the flightcrew to hold back the right thrust lever to idle power. The Model 767 thrust control cable failure occurred during the engine start; at airplane push-back from the gate, the number 2 engine accelerated without command. Investigation revealed that the cause of the failure was a broken thrust control cable at a location adjacent to the right-hand wing root.

In response to the commenter's question, there is no evidence in any of the aforementioned events that the operators were not following the manufacturer's maintenance planning document recommendation for thrust control cable inspections. The incident reports for those failure events did not provide data on how long it had been between thrust control cable inspections when the failures occurred. In AD's similar to this one, for Model 747 series airplanes, the FAA has required both modifications, as well as repetitive inspections, to address the hazard associated with failures of the thrust control cables on the Model 757 and 767 series airplanes.

The proposed AD did not identify specific details of the Model 757 or 767 series airplanes thrust control cable failures because the specific failure modes of the thrust control cables may not exist on the Model 747 series airplane. The unsafe condition addressed by this final rule relates to the effect of a thrust control cable failure on the controllability of the airplane. In that respect, certain Model 747, 757, and 767 series airplanes have similar design characteristics so that when the engine control thrust ''B'' cable fails during landing, it changes the position of the thrust reverser directional control valve, causing the thrust reverser to stow and the engine to accelerate. The other engine(s) are not affected by the thrust control cable failure, and remains in full reverse. This severe asymmetric thrust condition during landing is the unsafe condition. None of the modifications required by paragraphs (b) through (g) of the final rule, nor those modifications specified in the associated AD's applicable to Model 757 or 767 series airplanes, change the effects of a thrust control ''B'' cable failure. The repetitive inspections required by paragraph (a) of the final rule are intended to detect wear and corrosion prior to thrust control cable failure. Such wear and corrosion could be caused by numerous problems, not just those problems addressed by the actions specified in paragraphs (b) through (g) of the final rule.

Although modifications have been developed to address specifically identified failure modes of the thrust control cables, there is no available modification that will eliminate the unsafe condition. Therefore, the FAA has determined that repetitive inspections of the thrust control cable system are the only proactive method to alleviate the unsafe condition. Additionally, although the commenter reports that it has not yet identified areas of significant thrust control cable wear or damage during its regular maintenance intervals, the fact that wear and damage to the cables has been identified and addressed by the manufacturer supports the FAA's position that repetitive inspections are required to address the unsafe condition. No change to the final rule is necessary.

Explanation of Change Made to the Final Rule

The FAA has revised Figure 1 of Appendix 1 in the final rule to correct the percentage of wear of each outer wire of the thrust control cables as illustrated. The correct percentage (40%) was specified in Appendix 1, Paragraph 2.B.(1) of the proposal. Figure 1 of Appendix 1 in the proposal illustrated, ''Each outer wire worn less than 50%.'' Figure 1 of Appendix 1 in the final rule illustrates ''Each outer wire worn less than 40%.''

Conclusion

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

Cost Impact

There are approximately 624 airplanes of the affected design in the worldwide fleet. The FAA estimates that 182 airplanes of U.S. registry will be affected by this AD.

It will take approximately 3 work hours per airplane to accomplish the required inspection to verify the engine thrust control cable integrity, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $32,760, or $180 per airplane, per inspection cycle.

For airplanes identified in Boeing Service Bulletin 747–76–2019 (30 U.S.-registered airplanes), it will take approximately 4 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. No parts are required. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $7,200, or $240 per airplane.

For airplanes identified in Boeing Service Bulletin 747–76–2067, Revision 1 (12 U.S.-registered airplanes), it will take approximately 6 work hours per airplane to accomplish the required inspection of the nacelle strut idler pulleys, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the one-time inspection required by this AD on U.S. operators is estimated to be $4,320, or $360 per airplane.

For airplanes identified in Boeing Service Bulletin 747–76A2068, Revision 3 (4 U.S.-registered airplanes), it will take approximately 16 work hours per airplane to accomplish the required replacement, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,000 per airplane. Based on these figures, the cost impact of the replacement required by this AD on U.S. operators is estimated to be $11,840, or $2,960 per airplane.

For airplanes identified in Boeing Alert Service Bulletin 747–76A2073, Revision 1 (12 U.S.-registered airplanes), it will take approximately 4

work hours per airplane to accomplish the required action, at an average labor rate of $60 per work hour. The cost of required parts will be minimal. Based on these figures, the cost impact of this required action on U.S. operators is estimated to be $2,880, or $240 per airplane.

Currently, there are no airplanes identified in Boeing Service Bulletin 747–53–2327, Revision 2, and subject to this AD, on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish this required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this one-time inspection would be $60 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have 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:

2000–05–30 Boeing: Amendment 39–11640. Docket 99–NM–22–AD.

Applicability: Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, SR, and SP series airplanes; certificated in any category; equipped with Pratt & Whitney Model JT9D–3 or –7 series engines, General Electric Model CF6–45 or –50 series engines, or Rolls-Royce Model RB211–524B, C, or D series engines.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent engine thrust control cable failures, which could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane, accomplish the following:

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Repetitive Inspections

(a) For all airplanes: Within 18 months after the effective date of this AD, accomplish the ''Thrust Control Cable Inspection Procedure'' specified in Appendix 1 (including Figure 1) of this AD to verify the integrity of the engine thrust control cables. Prior to further flight, replace any discrepant component found, in accordance with the procedures described in the Boeing 747 Maintenance Manual. Repeat the detailed visual inspection thereafter at intervals not to exceed 18 months.

Modification

(b) For airplanes identified in Boeing Service Bulletin 747–76–2019, dated June 9, 1971: Within 18 months after the effective date of this AD, modify the strut bulkhead assembly to enlarge the holes (2 places in each strut) through which the engine thrust control cables pass, in accordance with the service bulletin.

Inspection/Replacement

(c) For airplanes equipped with General Electric Model CF6 series engines and identified in Boeing Service Bulletin 747–76–2067, Revision 1, dated November 19, 1987: Within 18 months after the effective date of this AD, perform a one-time inspection of each nacelle strut idler pulley to determine the type of pulley installed, in accordance with the service bulletin.

Note 3: This paragraph does not apply to airplanes equipped with Pratt & Whitney Model JT9D–70 engines.

(1) If no aluminum-type pulley is installed, no further action is required by this paragraph.

(2) If any aluminum-type pulley is installed, prior to further flight, accomplish paragraphs (c)(2)(i) and (c)(2)(ii) of this AD in accordance with the service bulletin.

(i) Replace any aluminum-type pulley with a phenolic-type pulley having Boeing part number BACP30F4.

(ii) Except as provided by paragraph (d) of this AD: Perform a detailed visual inspection of the engine thrust control cables in any area where an aluminum-type pulley was installed, to detect wear. If any wear outside the criteria contained in Chapter 20–21–03 of the Boeing 747 Maintenance Manual is found, prior to further flight, replace the cable with a new cable, in accordance with the service bulletin. If any wear within the criteria contained in the maintenance manual is found, no further action is required by this paragraph.

Note 4: Accomplishment of the actions specified in Boeing Service Bulletin 747–76–2067, dated September 26, 1986, is acceptable for compliance with the actions required by paragraph (c) of this AD.

(d) Where Boeing Service Bulletin 747–76–2067, Revision 1, dated November 19, 1987, specifies that the actions required by paragraph (c)(2)(ii) of this AD may be accomplished in accordance with an ''operator's comparable procedure,'' the actions must be accomplished in accordance with the applicable chapters of the Boeing 747 Maintenance Manual, as specified in the service bulletin.

Replacement

(e) For airplanes identified in Boeing Service Bulletin 747–76A2068, Revision 3, dated August 22, 1991; including Notice of Status Change 747–76A2068 NSC 2, dated December 12, 1991: Within 18 months after the effective date of this AD, replace aluminum idler pulley brackets with steel brackets, in accordance with paragraphs E., F., G., and H. of the Accomplishment Instructions of the service bulletin.

Inspection/Modification

(f) For airplanes identified in Boeing Alert Service Bulletin 747–76A2073, Revision 1, dated July 28, 1988: Within 18 months after the effective date of this AD, accomplish paragraphs (f)(1) and (f)(2) of this AD, in accordance with the alert service bulletin.

(1) Perform a detailed visual inspection of the engine thrust control cables and pulley mounting bracket screws in the area aft and above main entry door number 2 on the left and right sides of the airplane to detect damage. If any damage is found, prior to further flight, replace the cable with a new cable.

(2) Modify the pulley mounting bracket.

Note 5: Accomplishment of the actions specified in Boeing Alert Service Bulletin 747–76A2073, dated February 4, 1988, is acceptable for compliance with the actions required by paragraph (f) of this AD.

Inspection/Modification/Replacement

(g) For Model 747–100B SUD series airplanes identified in Boeing Service Bulletin 747–53–2327, Revision 2, dated September 24, 1998, with angle assemblies having Boeing part numbers 015U0454–63 and 015U0454–64 installed at body station 970: Within 18 months after the effective date of this AD, perform a detailed visual inspection to measure the clearance between the engine thrust control cables and the cable penetration holes, in accordance with the Cable Chafing Inspection of the Accomplishment Instructions of the service bulletin. If insufficient clearance exists, as specified in the service bulletin, prior to further flight, accomplish paragraphs (g)(1) and (g)(2) of this AD.

(1) Modify the cable penetration holes or replace the plate, as applicable, in accordance with Figure 7 of the service bulletin.

(2) Perform a detailed visual inspection of the engine thrust control cables in any area of the plate to detect wear, in accordance with Chapter 20–21–03 of the Boeing 747 Maintenance Manual. If any wear outside the criteria contained in the maintenance manual is found, prior to further flight, replace the cable with a new cable, in accordance with the procedures described in the Boeing 747 Maintenance Manual. If any wear within the criteria contained in the maintenance manual is found, no further action is required by this paragraph.

Alternative Methods of Compliance

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

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(j) Except as provided by paragraphs (a), (d), and (g)(2) of this AD, the actions shall be done in accordance with the following Boeing Service Bulletins, which contain the specified list of effective pages, as applicable:

Service bulletin referenced and date	Page No. shown on page	Revision level shown on page	Date shown on page
76–2019, June 9, 1971	1–6	Original	June 9, 1971.
747–76–2067, Revision 1, November 19, 1987	1–4	1	November 19, 1987.
	5–12	Original	September 26, 1986.
747–76A2068, Revision 3, August 22, 1991	1, 3–30	3	August 22, 1991.
	2	2	July 20, 1989.
Notice of Status Change 747–76A2068, NSC 2, December 12, 1991.	1	Original	December 12, 1991.
747–76A2073, Revision 1, July 28, 1988	1–4, 12	1	July 28, 1988.
	5–11, 13	Original	February 4, 1988.
747–53–2327, Revision 2, September 24, 1998	1–80	2	September 24, 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 Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(k) This amendment becomes effective on April 24, 2000.

Appendix 1

Thrust Control Cable Inspection Procedure

1. General

A. Clean the cables, if necessary, for the inspection, in accordance with Boeing 747 Maintenance Manual 12–21–05.

B. Use these procedures to verify the integrity of the thrust control cable system. The procedures must be performed along the entire cable run for each engine. To ensure verification of the portions of the cables which are in contact with pulleys and quadrants, the thrust control must be moved by operation of the thrust and/or the reverse thrust levers to expose those portions of the cables.

C. The first task is an inspection of the control cable wire rope. The second task is an inspection of the control cable fittings. The third task is an inspection of the pulleys.

Note: These three tasks may be performed concurrently at one location of the cable system on the airplane, if desired, for convenience.

2. Inspection of the Control Cable Wire Rope

A. Perform a detailed visual inspection to ensure that the cable does not contact parts other than pulleys, quadrants, cable seals, or grommets installed to control the cable routing. Look for evidence of contact with other parts. Correct the condition if evidence of contact is found.

B. Perform a detailed visual inspection of the cable runs to detect incorrect routing, kinks in the wire rope, or other damage. Replace the cable assembly if:

(1) One cable strand had worn wires where one wire cross section is decreased by more than 40 percent (see Figure 1),

(2) A kink is found, or

(3) Corrosion is found.

C. Perform a detailed visual inspection of the cable: To check for broken wires, rub a cloth along the length of the cable. The cloth catches on broken wires.

(1) Replace the 7x7 cable assembly if there are two or more broken wires in 12 continuous inches of cable or there are three or more broken wires anywhere in the total cable assembly.

(2) Replace the 7x19 cable assembly if there are four or more broken wires in 12 continuous inches of cable or there are six or more broken wires anywhere in the total cable assembly.

3. Inspection of the Control Cable Fittings

A. Perform a detailed visual inspection to ensure that the means of locking the joints are intact (wire locking, cotter pins, turnbuckle clips, etc.). Install any missing parts.

B. Perform a detailed visual inspection of the swaged portions of swaged end fitting to detect surface cracks or corrosion. Replace the cable assembly if cracks or corrosion are found.

C. Perform a detailed visual inspection of the unswaged portion of the end fitting. Replace the cable assembly if a crack is visible, if corrosion is present, or if the end fitting is bent more than 2 degrees.

D. Perform a detailed visual inspection of the turnbuckle. Replace the turnbuckle if a crack is visible or if corrosion is present.

4. Inspection of Pulleys

A. Perform a detailed visual inspection to ensure that pulleys are free to rotate. Replace pulleys which are not free to rotate.

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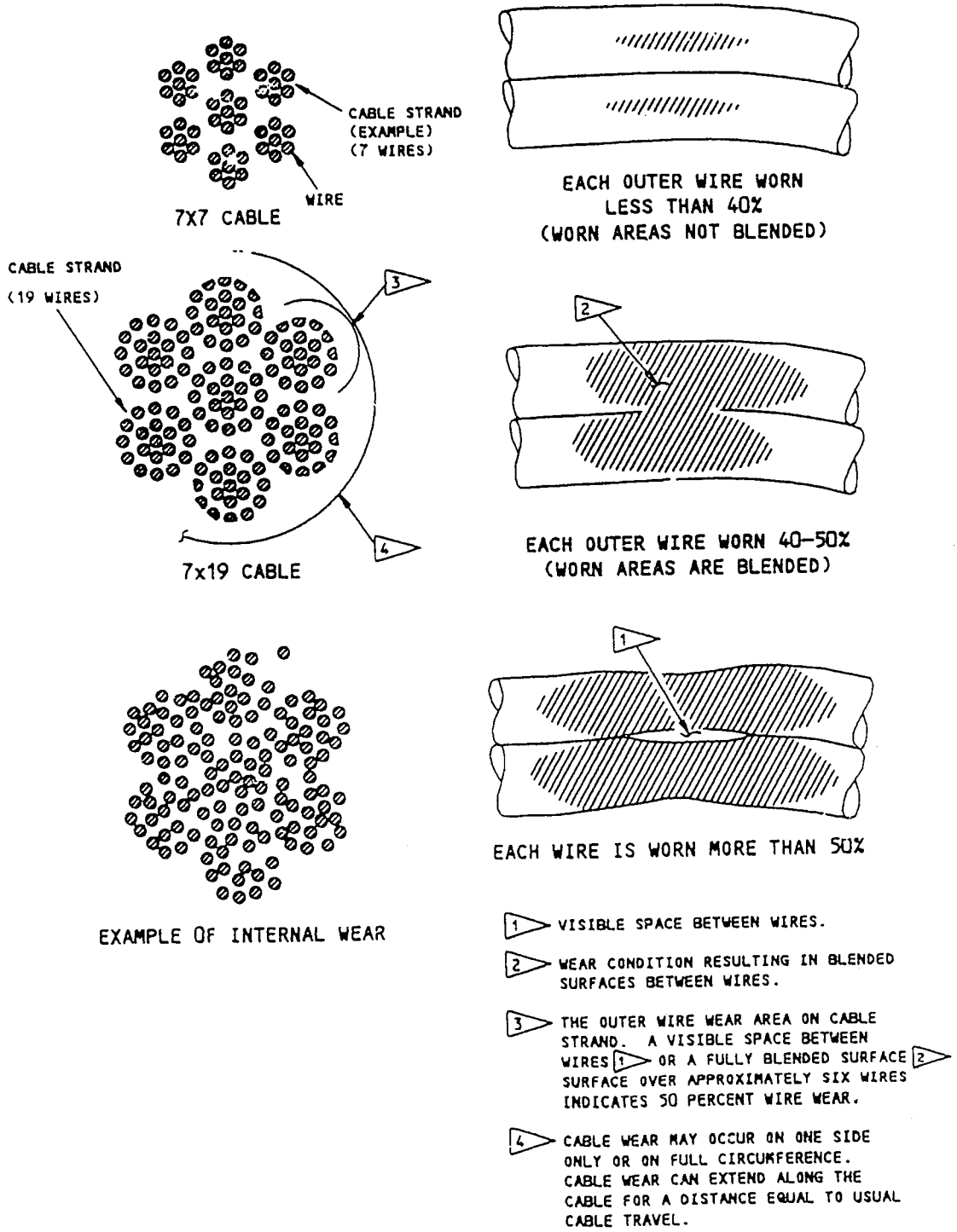
CABLE STRAND
(EXAMPLE)
(7 WIRES)
WIRE
7X7 CABLE
EACH OUTER WIRE WORN
LESS THAN 40%
(WORN AREAS NOT BLENDED)
CABLE STRAND
(19 WIRES)
3
4
7x19 CABLE
2
EACH OUTER WIRE WORN 40–50%
(WORN AREAS ARE BLENDED)
1
EACH WIRE IS WORN MORE THAN 50%
EXAMPLE OF INTERNAL WEAR
1 VISIBLE SPACE BETWEEN WIRES.
2 WEAR CONDITION RESULTING IN BLENDED SURFACES BETWEEN WIRES.
3 THE OUTER WIRE WEAR AREA ON CABLE STRAND. A VISIBLE SPACE BETWEEN WIRES 1 OR A FULLY BLENDED SURFACE 2 SURFACE OVER APPROXIMATELY SIX WIRES INDICATES 50 PERCENT WIRE WEAR.
4 CABLE WEAR MAY OCCUR ON ONE SIDE ONLY OR ON FULL CIRCUMFERENCE. CABLE WEAR CAN EXTEND ALONG THE CABLE FOR A DISTANCE EQUAL TO USUAL CABLE TRAVEL.

FIGURE 1

Issued in Renton, Washington, on March 10, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–6490 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–237–AD; Amendment 39–11637; AD 2000–05–27]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A, and –300A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes, that currently requires either a one-time non-destructive test (NDT) inspection or a detailed visual inspection for cracking of the fuselage skin in the vicinity of frame 29 between stringers 12 and 13, and repair, if necessary. This amendment requires that the current thresholds for these inspections be reduced and that repetitive inspections be performed. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct fatigue cracking of the fuselage skin in the specified area, which could result in reduced structural integrity of the airplane.

DATES: Effective April 24, 2000.

The incorporation by reference of British Aerospace Service Bulletin SB.53–144, Revision 1, dated May 21, 1999, as listed in the regulations, is approved by the Director of the Federal Register as of April 24, 2000.

The incorporation by reference of British Aerospace Service Bulletin SB.53–144, dated April 27, 1998, was approved previously by the Director of the Federal Register as of November 10, 1998 (63 FR 53550, October 6, 1998).

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–21–06, amendment 39–10814 (63 FR 53550, October 6, 1998), which is applicable to certain British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes, was published in the **Federal Register** on October 14, 1999 (64 FR 55636). The action proposed to require either a one-time non-destructive test (NDT) inspection or a detailed visual inspection for cracking of the fuselage skin in the vicinity of frame 29 between stringers 12 and 13, and repair, if necessary. The action also proposed to require that the current thresholds for these inspections be reduced and that repetitive inspections be performed.

Comments Received

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

Request to Cite Revision 1 of Service Bulletin

One commenter, the manufacturer, states that, although paragraph (a) of the proposed AD contains the statement ''* * * at the earlier of the applicable times specified in paragraphs (a)(1) and (a)(2) * * *,'' the commenter considers the paragraph's structure to be confusing. [Paragraphs (a)(1) and (a)(2) require compliance times as specified in British Aerospace Service Bulletin SB.53–144, dated April 27, 1998, and Revision 1, dated May 21, 1999, respectively]. The commenter requests that the main text of the proposed rule be revised to cite only Revision 1 of Service Bulletin SB.53–144 and its associated inspection periods, which are reduced from those specified in the original issue of the service bulletin. The commenter states that it has monitored results of inspections and has conducted metallurgical analysis on samples. From this effort, it has concluded that any uninspected airplanes should be inspected at the reduced compliance times specified in the later revision of the service bulletin.

The FAA acknowledges that clarification of the AD may be helpful. However, the FAA does not concur with the request to include only those compliance times recommended in Revision 1 of Service Bulletin SB.53–144. Omitting compliance thresholds of an existing AD could result in the inadvertent extension of the compliance time for certain airplanes in a superseding AD. If the compliance thresholds of the existing AD are not restated in the new AD, such that only the compliance times of the new AD are required, the new grace period can result in additional time allowed before the inspection must be accomplished. Therefore, when an AD is superseded specifically to reduce a compliance threshold, such an inadvertent extension of the compliance threshold would be contrary to the intent of requiring accomplishment of the existing requirements within an earlier timeframe.

In this case, the FAA's intent was to ensure that operators accomplish the inspection at the earliest time required by either the existing AD or this superseding AD. Consequently, this AD includes both the thresholds required by AD 98–21–06 and the reduced thresholds recommended in the service bulletin. An airplane subject to the requirements of the existing AD, and due to be inspected per the requirements of the existing AD, should still be inspected if the compliance time in the existing AD is earlier than that specified in the new AD.

Reference to Original Service Bulletin

The same commenter, in relation to the previous comment, suggests that the proposed AD be revised to reference the original issue of the service bulletin in a note to the AD. The commenter states that the note could identify that although the compliance times recommended in Revision 1 of the service bulletin are reduced, the inspection remains the same and, if the inspection has already been conducted, further inspections should continue in accordance with the Maintenance Review Board (MRB).

The FAA does not concur. Since ''NOTE 2'' of the AD already states that the actions defined in the original issue and Revision 1 of the service bulletin are identical, the FAA does not consider it necessary to add further information in regard to Service Bulletin SB.53–144. Additionally, since paragraph (b) of the

AD already requires repetitive inspections as specified in a certain task of the MRB, there is no need to state that further inspections should continue in accordance with the MRB. No change to the AD is necessary.

Conclusion

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

Cost Impact

The FAA estimates that 23 airplanes of U.S. registry will be affected by this AD.

For operators that elect to accomplish the visual inspection rather than the NDT inspection, it will take approximately 6 work hours per airplane to accomplish it, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the visual inspection on U.S. operators is estimated to be $360 per airplane, per inspection cycle.

For operators that elect to accomplish the NDT inspection rather than the visual inspection, it will take approximately 8 work hours per airplane to accomplish it, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the NDT inspection on U.S. operators is estimated to be $480 per airplane, per inspection cycle.

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

Regulatory Impact

The regulations adopted herein will not have 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 removing amendment 39–10814 (63 FR 53550, October 6, 1998), and by adding a new airworthiness directive (AD), amendment 39–11637, to read as follows:

2000–05–27 BRITISH AEROSPACE REGIONAL AIRCRAFT (FORMERLY BRITISH AEROSPACE REGIONAL AIRCRAFT LIMITED, AVRO INTERNATIONAL AEROSPACE DIVISION; BRITISH AEROSPACE, PLC; BRITISH AEROSPACE COMMERCIAL AIRCRAFT LIMITED): Amendment 39–11637. Docket 99–NM–237–AD. Supersedes AD 98–21–06, Amendment 39–10814.

Applicability: Model BAe 146–100A, –200A, and –300A series airplanes; as listed in British Aerospace Service Bulletin SB.53–144, dated April 27, 1998, or Revision 1, dated May 21, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the fuselage skin in the vicinity of frame 29 between stringers 12 and 13, which could result in reduced structural integrity of the airplane, accomplish the following:

Inspections

(a) Perform either a non-destructive test (NDT) inspection or a detailed visual inspection for cracking of the fuselage skin in the vicinity of frame 29 between stringers 12 and 13, in accordance with British Aerospace Service Bulletin SB.53–144, dated April 27, 1998, or Revision 1, dated May 21, 1999, at the earlier of the applicable times specified in paragraphs (a)(1) and (a)(2).

Note 2: The actions defined in the original issue and Revision 1 of the service bulletin are identical. However, the compliance times and effectivity groupings are different. Accomplishment of either revision level, at the earlier of the applicable compliance times of paragraphs (a)(1) and (a)(2) of this AD, is acceptable for compliance with the requirements of paragraph (a) of this AD.

Note 3: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) For airplanes identified in the specified paragraph of Service Bulletin SB.53–144, dated April 27, 1998:

(i) Paragraph 1.D.(1)(a): Inspect prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after November 10, 1998 (the effective date of AD 98–21–06, amendment 39–10814), whichever occurs later.

(ii) Paragraph 1.D.(1)(b): Inspect prior to the accumulation of 16,000 total flight cycles, or within 1,200 flight cycles after November 10, 1998, whichever occurs later.

(iii) Paragraph 1.D.(1)(c): Inspect prior to the accumulation of 13,500 total flight cycles, or within 1,000 flight cycles after November 10, 1998, whichever occurs later.

(iv) Paragraph 1.D.(1)(d): Inspect prior to the accumulation of 22,000 total flight cycles, or within 1,400 flight cycles after November 10, 1998, whichever occurs later.

(2) For airplanes in the applicable configuration specified in Table 1 of Service Bulletin SB.53–144, Revision 1, dated May 21, 1999:

(i) For Model BAe 146–100 airplanes on which Modification HCM00020P has not been accomplished: Inspect prior to the accumulation of 11,600 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later.

(ii) For Model BAe 146–100 airplanes on which Modification HCM00020P has been accomplished: Inspect prior to the accumulation of 14,500 total flight cycles, or within 1,200 flight cycles after the effective date of this AD, whichever occurs later.

(iii) For Model BAe 146–200 airplanes on which Modification HCM00021J has not been accomplished: Inspect prior to the accumulation of 12,600 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later.

(iv) For Model BAe 146–200 airplanes on which Modification HCM00021J has been

accomplished: Inspect prior to the accumulation of 11,600 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later.

(v) For Model BAe 146–300 airplanes on which Modification HCM01000B has not been accomplished: Inspect prior to the accumulation of 17,200 total flight cycles, or within 1,400 flight cycles after the effective date of this AD, whichever occurs later.

(b) Repeat the inspections required by paragraph (a) of this AD at the intervals defined in Significant Structural Item (SSI) Task No. 53–20–160 as detailed in Section 6 of the BAe 146 Maintenance Review Board Report, Revision 5, dated November 1998.

Corrective Action

(c) If any cracking is detected during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (or its delegated agent). For a repair method to be approved by the Manager, International Branch, ANM–116, as required by this paragraph, the manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 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) The inspections shall be done in accordance with British Aerospace Service Bulletin SB.53–144, dated April 27, 1998, or British Aerospace Service Bulletin SB.53–144, Revision 1, May 21, 1999. Revision 1 of British Aerospace Service Bulletin 53–144 contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1–3, 7	1	May 21, 1999.
4–6, 8–10	Original	April 27, 1998.

(1) The incorporation by reference of British Aerospace Service Bulletin SB.53–144, Revision 1, dated May 21, 1999, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of British Aerospace Service Bulletin SB.53–144, dated April 27, 1998, was approved previously by the Director of the Federal Register as of November 10, 1998 (63 FR 53550, October 6, 1998).

(3) Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in British airworthiness directive 005–04–98.

(g) This amendment becomes effective on April 24, 2000.

Issued in Renton, Washington, on March 9, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–6329 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–57–AD; Amendment 39–11633; AD 2000–05–23]

RIN 2120–AA64

Airworthiness Directives; Ayres Corporation S2R Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Ayres Corporation (Ayres) S2R series airplanes that are equipped with at least one main landing gear fuselage attach bolt with a grease fitting installed through the shank. This AD requires replacing the main landing gear fuselage attach bolts that are drilled with a grease fitting with undrilled (no grease access) attach bolts. This AD is the result of a report of cracks found in all four main landing gear fuselage attach bolts on one of the affected airplanes. The actions specified by this AD are intended to prevent collapse of the main landing gear caused by cracked main landing gear fuselage attach bolts, which could result in main landing gear collapse with possible wing fuel tank rupture and consequent fire.

DATES: Effective May 5, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 5, 2000.

ADDRESSES: Service information that applies to this AD may be obtained from Ayres Corporation, P.O. Box 3090, One Ayres Way, Albany, Georgia 31706–3090; telephone: (912) 883–1440; facsimile: (912) 439–9790. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–57–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

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:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Ayres S2R series airplanes of the same type design, that are equipped with at least one main landing gear fuselage attach bolt with a grease fitting installed through the shank, was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on November 24, 1999 (64 FR 66116). The NPRM proposed to require replacing the main landing gear fuselage attach bolts that are drilled with a grease fitting with undrilled (no grease access) attach bolts. Accomplishment of the proposed action as specified in the NPRM would be required in accordance with both Ayres Service Bulletin No. SB-AG-42, dated June 16, 1999, and the applicable maintenance manual.

The NPRM was the result of a report of cracks found in all four main landing gear fuselage attach bolts on one of the affected airplanes.

Interested persons have been 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.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor

editorial corrections. The FAA has 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.

Differences Between the Service Bulletin and this AD

Ayres Service Bulletin No. SB-AG–42, dated June 16, 1999, specifies repetitive inspections and repetitive replacements of the main landing gear fuselage attach bolts. The FAA does not have justification to mandate the repetitive inspections and repetitive replacements. Based on all available information, the FAA has determined that initially replacing the main landing gear fuselage attach bolts with attach bolts of improved design will correct the unsafe condition on the affected airplanes.

Cost Impact

The FAA estimates that 1,000 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish the replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $88 per airplane (4 bolts per airplane at $22 each). Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $328,000, or $328 per airplane.

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 copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–05–23 AYRES CORPORATION: Amendment 39–11633; Docket No. 99–CE–57–AD.

Applicability: The following airplane models, all serial numbers, certificated in any category, that have at least one main landing gear fuselage attach bolt (that is drilled with a grease fitting), part number 21418T001 or 21418T005 (or FAA-approved equivalent part number):

Models

S–2R, S2R–G1, S2R–G5, S2R–G6, S2R–G10, S2R–R3S, S2R–T11, S2R–T15, S2R–T34, S2R–T45, S2R–T65, S2R–R1340, S2R–R1820, S2RHG–T34, and S2RHG–T65.

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 in the body of this AD, unless already accomplished.

To prevent collapse of the main landing gear caused by cracked main landing gear fuselage attach bolts, which could result in main landing gear collapse with possible wing fuel tank rupture and consequent fire, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, replace each main landing gear fuselage attach bolt that is drilled with a grease fitting with an undrilled (no grease access) attach bolt, part number AN10–33 or NAS6610–42D (or FAA-approved equivalent part number). Accomplish this replacement in accordance with both Ayres Service Bulletin No. SB–AG–42, dated June 16, 1999, and the applicable maintenance manual.

(b) As of the effective date of this AD, no person may install, on any affected airplane, a main landing gear fuselage attach bolt (that is drilled with a grease fitting), part number 21418T001 or 21418T005 (or FAA-approved equivalent part number).

(c) Special flight permits may be issued in accordance with §§ 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.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA 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.

(e) The replacements required by this AD shall be done in accordance with Ayres Service Bulletin No. SB–AG–42, dated June 16, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Ayres Corporation, P.O. Box 3090, One Ayres Way, Albany, Georgia 31706–3090. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(f) This amendment becomes effective on May 5, 2000.

Issued in Kansas City, Missouri, on March 7, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate Aircraft Certification Service.

[FR Doc. 00–6162 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–73–AD; Amendment 39–11629; AD 2000–05–19]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, that requires a one-time detailed visual inspection of the fuselage skin and bonded doubler area above the forward entry doorway to detect fatigue cracking or the existence of certain repairs, and follow-on corrective actions, if necessary. This action also requires a preventive modification or full-sized repair doubler, as applicable. This amendment is prompted by reports of fatigue cracking in the fuselage skin and bonded doublers in the forward and aft corners above the forward entry doorway. The actions specified by this AD are intended to prevent such fatigue cracking of the fuselage skin and bonded doubler, which could result in reduced structural integrity and consequent loss of cabin pressurization.

DATES: Effective April 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 24, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2774; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 727 series airplanes was published in the **Federal Register** on December 7, 1999 (64 FR 68297). That action proposed to require a one-time detailed visual inspection of the fuselage skin and bonded doubler area above the forward entry doorway to detect fatigue cracking or the existence of certain repairs, and follow-on corrective actions, if necessary. That action also proposed to require a preventive modification or full-sized repair doubler, as applicable.

Comments

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

One commenter supports the proposed rule. Another commenter states that it is not affected by the proposed rule.

Conclusion

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

Cost Impact

There are approximately 1,429 airplanes of the affected design in the worldwide fleet. The FAA estimates that 887 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that it will take approximately 1 work hour per airplane to accomplish the inspection of the fuselage skin and bonded doubler area, 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 $53,220, or $60 per airplane.

The FAA estimates that it will take approximately 27 work hours per airplane to accomplish the preventive modification or full-sized repair doubler, and that the average labor rate is $60 per work hour. Required parts will cost approximately $979 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,305,313, or $2,599 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 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:

2000–05–19 BOEING: Amendment 39–11629. Docket 99-NM–73–AD.

Applicability: All Model 727 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the fuselage skin and bonded doubler area above the forward entry doorway, which could result in reduced structural integrity and consequent loss of cabin pressurization, accomplish the following:

Detailed Visual Inspection

(a) Prior to the accumulation of 60,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later: Perform a one-time detailed visual inspection of the fuselage skin and

bonded doubler area above the forward entry doorway to detect fatigue cracking or the existence of a previous repair, in accordance with Boeing Service Bulletin 727–53–0186, Revision 1, dated May 21, 1992.

Corrective Action

(1) If no crack or repair is detected, prior to further flight, perform the preventive modification in accordance with the service bulletin. No further action is required by this AD.

(2) If any crack but no repair is detected, prior to further flight, accomplish the actions required by paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii), as applicable.

(i) If any crack is less than or equal to 2.5 inches, perform the full-sized repair doubler in accordance with Boeing Service Bulletin 727–53–0186, Revision 1, dated May 21, 1992. Accomplishment of this action constitutes terminating action for the requirements of this AD.

(ii) If any crack exceeds 2.5 inches, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, or the Boeing DER, as required by this paragraph, the approval letter must specifically reference this AD.

(iii) If any crack in the bear strap is detected, repair in accordance with a method approved by the Manager, Seattle ACO; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, or the Boeing DER, as required by this paragraph, the approval letter must specifically reference this AD.

(3) If any repair is found, accomplish paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii), of this AD, as applicable.

(i) If a full-sized repair doubler is found, as specified by Boeing Service Bulletin 727–53–0186, dated April 27, 1989, or Revision 1, dated May 21, 1992, and any crack is less than or equal to 2.5 inches, no further action is required by this AD.

(ii) If a half-sized repair doubler is found, as specified by Boeing Service Bulletin 727–53–0186, dated April 27, 1989, or Revision 1, dated May 21, 1992, and any crack is less than or equal to 2.5 inches and is not in the bear strap: Prior to further flight, perform the full-sized repair doubler in accordance with Boeing Service Bulletin 727–53–0186, Revision 1, dated May 21, 1992. No further action is required by this AD.

(iii) If a half-sized or full-sized repair doubler is found, as specified by the service bulletin, and any crack exceeds 2.5 inches or is located in the bear strap: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle ACO or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, or the Boeing DER, as required by this paragraph, the approval letter must specifically reference this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Terminating Action for AD 94–05–04

(b) Accomplishment of the requirements of this AD constitutes terminating action for the requirements of paragraph (a) of AD 94–05–04, amendment 39–8842 (which are required to be accomplished in accordance with Appendices A.3, B.3, and C.3 of Boeing Document Number D6–54860, ''Aging Airplane Service Bulletin Structural Modification and Inspection Program—Model 727,'' Revision G, dated March 5, 1993), with respect to the modification specified in Boeing Service Bulletin 727–53–0186, dated April 27, 1989. All other service bulletins referenced in Boeing Document Number D6–54860 still apply.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) Except as provided by paragraphs (a)(2)(ii), (a)(2)(iii), and (a)(3)(iii) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 727–53–0186, Revision 1, dated May 21, 1992. 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 Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on April 24, 2000.

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–6157 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–174–AD; Amendment 39–11635; AD 2000–05–25]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A, and –300A Series Airplanes Equipped With AlliedSignal ALF502R-Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes, that currently requires installation of a placard prescribing special procedures to be followed when operating at certain flight levels with the engine and airframe anti-ice switch ON; modification of the air brake auto-retract function; and a revision to the Airplane Flight Manual (AFM) relative to altitude and operating limitations associated with flight in icing conditions above 26,000 feet. This amendment requires installation/replacement of new placards. This amendment also provides for a terminating modification for the AFM revision and installation/replacement of placards. This amendment is prompted by reports of uncommanded engine thrust reductions (rollback) when operating in certain icing conditions that exist in the vicinity of thunderstorms. The actions specified by this AD are intended to prevent engine power rollback during flight in icing conditions, a condition that could result in insufficient power to sustain flight.

DATES: Effective April 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 24, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–14–09, amendment 39–9694 (61 FR 37199, July 17, 1996), which is applicable to all British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes, was published in the **Federal Register** on December 9, 1999 (64 FR 68956). The action proposed to continue to require installation of a placard prescribing special procedures to be followed when operating at certain flight levels with the engine and airframe anti-ice switch ON; modification of the air brake auto-retract function; and a revision to the Airplane Flight Manual (AFM) relative to altitude and operating limitations associated with flight in icing conditions above 26,000 feet. The action also proposed to add a requirement for installation/replacement of new placards. The action also proposed to provide for a terminating modification for the AFM revision and installation/replacement of placards.

Comments Received

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

Request To Revise Applicability

One commenter requests that the proposed AD be revised to include only airplanes with ALF502R-series engines installed. The commenter states that AlliedSignal has provided substantiation to the FAA's Engine and Propeller Directorate to demonstrate that the ALF507–1H engine is not subject to the engine rollback phenomenon; therefore, airplanes with these engines installed should be excluded from the applicability of the AD.

The FAA concurs. The FAA has determined that British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes equipped with ALF502R-series engines are those that should be subject to the requirements of this AD. The FAA has revised the applicability of the final rule accordingly.

Request To Revise Reference to Terminating Modification

The same commenter requests that the proposed AD be revised to eliminate references to an ''optional terminating modification.'' The proposed AD provides for accomplishment of the actions described in British Aerospace Service Bulletin SB.71–72–30473A, dated July 8, 1998, or Revision 1, dated November 2, 1998, as terminating action for the requirements of this AD. This service bulletin defines various modifications necessary to implement the rollback prevention package, including an engine modification, which is described in AlliedSignal Engines Service Bulletin ALF/LF72–1020. The commenter states that referral to these modifications as optional is misleading, because the engine modification is actually required via separate rulemaking action [FAA AD 99–15–06, amendment 39–11225 (64 FR 38557, July 19, 1999)]. The commenter suggests that the Summary of the proposed AD be revised to state that ''the proposed AD would also provide terminating action by incorporation of the engine modification.'' For the same reasons, the commenter also suggests that the wording in the paragraph titled ''Actions Since Issuance of Previous Rule'' in the proposed AD be revised.

The FAA concurs that reference to the modifications as optional in this AD may be misleading, since the engine modification is already required by FAA AD 99–15–06. The FAA's intent was to allow for accomplishment of the modifications prior to the compliance threshold required by AD 99–15–06, and to provide for removal of the AFM revision and placards required by this AD following accomplishment of the modifications. The FAA has revised the appropriate sections of this final rule to remove the word ''optional'' in reference to the terminating modification. The FAA also has removed the associated cost estimates from the Cost Impact information, below. However, since the paragraph titled ''Actions Since Issuance of Previous Rule'' in the proposed AD is not restated in the final rule, no change is made to that paragraph of the AD.

Conclusion

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

Cost Impact

There are approximately 40 airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 96–14–09 take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the previously required actions on U.S. operators is estimated to be $9,600, or $240 per airplane.

The new actions that are required by this new AD will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $2,400, or $60 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have 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 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9694 (61 FR 37199, July 17, 1996), and by adding a new airworthiness directive (AD), amendment 39–11635, to read as follows:

2000–05–25 British Aerospace Regional Aircraft (Formerly British Aerospace Regional Aircraft Limited, Avro International Aerospace Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited): Amendment 39–11635. Docket 98–NM–174–AD. Supersedes AD 96–14–09, Amendment 39–9694.

Applicability: Model BAe 146–100A, –200A, and –300A series airplanes, certificated in any category; equipped with AlliedSignal ALF502R-series engines.

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 (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 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 engine power rollback during flight in icing conditions, a condition that could result in insufficient power to sustain flight, accomplish the following:

Restatement of Requirements of AD 96–14–09, Amendment 39–9694

Placard Installation

(a) For airplanes listed in British Aerospace Service Bulletin SB.11–97–01285A, Revision 1, dated April 3, 1992: Within 30 days after December 17, 1992 (the effective date of AD 92–24–09, amendment 39–8415), install a placard below the ice protection switches on the flight deck overhead panel to include additional procedures to be followed when operating at certain flight levels with the engine and airframe anti-ice switch ON, in accordance with British Aerospace Service Bulletin SB.11–97–01285A, Revision 1, dated April 3, 1992.

Modification

(b) For airplanes listed in British Aerospace Service Bulletin SB.11–97–01285A, Revision 1, dated April 3, 1992: Within 30 days after December 17, 1992 (the effective date of AD 92–24–09, amendment 39–8415), modify the air brake auto-retract function, in accordance with British Aerospace Service Bulletin SB.11–97–01285A, Revision 1, dated April 3, 1992.

Airplane Flight Manual Revision

(c) Within 6 days after July 22, 1996 (the effective date of AD 96–14–09, amendment 39–9694), amend the FAA-approved Airplane Flight Manual (AFM) as required by paragraphs (c)(1) and (c)(2) of this AD.

(1) Remove the following Temporary Revisions (TR) from the Limitations Section and Normal/Abnormal Procedures Section, as applicable:

(i) For Model BAe 146–100A series airplanes: TR 30, Issue No. 2 (Document No. BAe 3.3), dated February 1994.

(ii) For Model BAe 146–200A series airplanes: TR 41, Issue No. 2 (Document No. BAe 3.3), dated February 1994, or TR 42, Issue No. 2 (Document No. BAe 3.3), dated February 1994, as applicable.

(iii) For Model BAe 146–300A series airplanes: TR 23, Issue No. 2 (Document No. BAe 3.3), dated February 1994.

(2) Insert the following TR's into the Limitations Section and the Normal/Abnormal Procedures/Handling Section, as applicable.

(i) For Model BAe 146–100A series airplanes: TR 32, Issue No. 2 (Document BAe 3.3), dated July 1996.

(ii) For Model BAe 146–200A series airplanes: TR 44, Issue No. 2 (Document BAe 3.6), dated July 1996.

(iii) For Model BAe 146–300A series airplanes: TR 25, Issue No. 2 (Document BAe 3.11), dated July 1996.

(d) When the TR's specified in paragraph (c)(2) have been incorporated into an AFM General Revision, the applicable AFM General Revision may be inserted into the corresponding FAA-approved AFM, provided the information contained in the AFM General Revision corresponds identically to that specified in TR 32, TR 44, or TR 25.

New Requirements of This AD

Placard Installation

(e) Within 30 days after the effective date of this AD, install a placard on the flight deck to indicate that a 26,000 feet altitude limitation in icing is applicable, and replace the ice protection panel placard with a new placard for N2 limitations, in accordance with British Aerospace Service Bulletin SB.11–137–30405A, dated March 26, 1998. Upon accomplishment of this placard installation, the placard required by paragraph (a) of this AD may be removed.

Terminating Modification (Including Modification Required by AD 99–15–06)

(f) Modification of all four engines [i.e., reduction of the length core-flow/fan-flow splitter (cut-back splitter); modification of the splitter lip insulating baffle; installation of a heated exit guide vane (EGV); relocation of the engine anti-ice air source to the combustor bleed plenum; installation of a new anti-ice valve with improved couplings; and installation of improved insulated connections], and insertions of AFM revisions, in accordance with British Aerospace Service Bulletin SB.71–72–30473A, dated July 8, 1998, or Revision 1, dated November 2, 1998; constitutes terminating action for the requirements of this AD. After the modification is accomplished, the AFM revisions and placards required by paragraphs (c), (d), and (e) of this AD may be removed.

Note 2: British Aerospace Service Bulletin SB.71–72–30473A, dated July 8, 1998, and Revision 1, dated November 2, 1998, only describe procedures for installation of engines that have been modified in accordance with the requirements of AD 99–15–06, amendment 39–11225.

Alternative Methods of Compliance

(g)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(2) Alternative methods of compliance, approved previously in accordance with AD 96–14–09, amendment 39–9694, are approved as alternative methods of compliance with this AD.

Special Flight Permits

(h) Special flight permits may be issued in accordance with §§ 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

(i) The actions shall be done in accordance with British Aerospace Service Bulletin SB.11–97–01285A, Revision 1, dated April 3, 1992; Airplane Flight Manual Temporary Revision 32, Issue No. 2 (Document BAe 3.3), dated July 1996; Airplane Flight Manual Temporary Revision 44, Issue No. 2 (Document BAe 3.6), dated July 1996; Airplane Flight Manual Temporary Revision 25, Issue No. 2 (Document BAe 3.11), dated July 1996; and British Aerospace Service

Bulletin SB.11–137–30405A, dated March 26, 1998; as applicable.

(1) The incorporation by reference of British Aerospace Service Bulletin SB.11–137–30405A, dated March 26, 1998, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of British Aerospace Service Bulletin SB.11–97–01285A, Revision 1, dated April 3, 1992, was approved previously by the Director of the Federal Register as of December 17, 1992 (57 FR 53548, November 12, 1992).

(3) The incorporation by reference of Airplane Flight Manual Temporary Revision 32, Issue No. 2 (Document BAe 3.3), dated July 1996; Airplane Flight Manual Temporary Revision 44, Issue No. 2 (Document BAe 3.6), dated July 1996; and Airplane Flight Manual Temporary Revision 25, Issue No. 2 (Document BAe 3.11), dated July 1996; was approved previously by the Director of the Federal Register as of July 22, 1996 (61 FR 37199, July 17, 1996).

(4) Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directives 004–03–98 and 003–06–96, Revision 1.

(j) This amendment becomes effective on April 24, 2000.

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

Franklin Tiangsing,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–6158 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–211–AD; Amendment 39–11628; AD 2000–05–18]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300, A310, and A300–600 series airplanes, that requires repetitive eddy current inspections to detect cracking on the door edge frames of the fuselage bulk cargo compartment, and repair, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct cracks in the door edge frames of the fuselage bulk cargo compartment, which could result in reduced structural integrity of the airframe.

DATES: Effective April 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of April 24, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300, A310, and A300–600 series airplanes was published in the **Federal Register** on January 4, 2000 (65 FR 254). That action proposed to require repetitive eddy current inspections to detect cracking on the door edge frames of the fuselage bulk cargo compartment, and repair, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Changes Made to the Final Rule

Since the issuance of the proposed rule, the FAA has reviewed and approved Revision 01 of Airbus Service Bulletins A310–53–2106, including Appendix 01; and A300–53–6114, including Appendix 01; both dated July 28, 1998. These revisions are essentially identical to the original issues, which were cited in the proposed AD as the appropriate source of service information for accomplishment of the specified actions. This final rule has been revised to include these revisions as additional sources of service information.

Conclusion

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

Interim Action

This is considered to be interim action. The inspection reports that are required by this AD will enable the manufacturer to obtain better insight into the nature, cause, and extent of the cracking, and eventually to develop final action to address the unsafe condition. Once final action has been identified, the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 126 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 inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $15,120, 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 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:

2000–05–18 Airbus Industrie: Amendment 39–11628. Docket 98–NM–211–AD.

Applicability: Model A300 series airplanes on which Airbus Modification 2140 (reference Airbus Service Bulletin A300–53–109) has been accomplished; and Model A310 and A300–600 series airplanes, except those airplanes on which Airbus Modification 5438 was accomplished during production; 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 (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 cracks in the door edge frames of the bulk cargo compartment, which could result in reduced structural integrity of the airframe, accomplish the following:

Repetitive Inspections

(a) Perform an eddy current inspection to detect cracking in the inner and outer flanges on the door edge frames of the fuselage bulk cargo compartment, in accordance with Airbus Service Bulletins A300–53–0339, Revision 01, including Appendix 01, dated July 28, 1998 (for Model A300 series airplanes); A310–53–2106, including Appendix 01, dated October 2, 1997; or A310–53–2106, Revision 01, including Appendix 01, dated July 28, 1998 (for Model A310 series airplanes); A300–53–6114, including Appendix 01, dated October 2, 1997; or A300–53–6114, Revision 01, including Appendix 01, dated July 28, 1998 (for Model A300–600 series airplanes); as applicable; at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD. Thereafter, repeat the inspection at intervals not to exceed 5 years.

(1) For airplanes with less than 15 years since date of manufacture as of the effective date of this AD: Inspect within 10 years since date of manufacture, or within 12 months after the effective date of this AD, whichever occurs later.

(2) For airplanes with 15 or more years since date of manufacture as of the effective date of this AD: Inspect within 6 months after the effective date of this AD.

Note 2: For Model A300 series airplanes, accomplishment of an eddy current inspection prior to the effective date of this AD in accordance with Airbus Service Bulletin A300–53–0339, dated October 2, 1997, is considered acceptable for compliance with the initial eddy current inspection required by paragraph (a) of this AD.

Corrective Actions

(b) If any crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, repair the door edge frame in accordance with Airbus Service Bulletins A300–53–0339, Revision 01, including Appendix 01, dated July 28, 1998 (for Model A300 series airplanes); 310–53–2106, including Appendix 01, dated October 2, 1997; or A310–53–2106, Revision 01, including Appendix 01, dated July 28, 1998, (for Model A310 series airplanes); A300–53–6114, including Appendix 01, dated October 2, 1997; or A300–53–6114, Revision 01, including Appendix 01, dated July 28, 1998 (for Model A300–600 series airplanes); as applicable. Complete replacement of a door edge frame with a new door frame in accordance with the service bulletin constitutes terminating action for the repetitive inspections required by this AD for that door frame only.

Report Requirements

(c) Submit a report of the inspection results (both positive and negative findings) to Airbus Industrie, Customer Services Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, at the applicable time specified in paragraph (e)(1) or (e)(2) of this AD. 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.

(1) For airplanes on which any inspection is accomplished after the effective date of this AD: Submit the report within 30 days after performing any inspection required by paragraph (a) or (b) of this AD.

(2) For airplanes on which the inspection has been accomplished prior to the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

Alternative Methods of Compliance

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(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) The actions shall be done in accordance with Airbus Service Bulletin A300–53–0339, Revision 01, including Appendix 01, dated July 28, 1998; Airbus Service Bulletin A310–53–2106, including Appendix 01, dated October 2, 1997; Airbus Service Bulletin A310–53–2106, Revision 01, including Appendix 01, dated July 28, 1998; Airbus Service Bulletin A300–53–6114, including Appendix 01, dated October 2, 1997; or Airbus Service Bulletin A300–53–6114, Revision 01, including Appendix 01, dated July 28, 1998; as applicable. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 98–123–245(B), dated March 11, 1998.

(g) This amendment becomes effective on April 24, 2000.

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–6159 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASW–34]

Revision of Class E Airspace; Bonham, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at Bonham, TX.

EFFECTIVE DATE: The direct final rule published at 65 FR 700, incorporating the correction published at 65 FR 8046, is effective 0901 UTC, April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 6, 2000, (65 FR 700).

Subsequently, the FAA discovered an error in the legal description and published a direct final rule correction in the **Federal Register** on February 17, 2000 (65 FR 8046). The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 20, 2000. No adverse comments were received, and, thus, this action confirms that this direct final rule incorporating the subsequent correction to the legal description will be effective on that date.

Issued in Fort Worth, TX, on March 3, 2000.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 00–6556 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2000–ASW–09]

Revision of Class E Airspace; Fort Stockton, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises the Class E airspace at Fort Stockton, TX. The development of a VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Standard Instrument Approach Procedure (SIAP), at Fort Stockton-Pecos County Airport, Fort Stockton, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations to Fort Stockton-Pecos County Airport, Fort Stockton, TX.

DATES: Effective 0901 UTC, August 10, 2000.

Comments must be received on or before May 4, 2000.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 2000–ASW–09, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revises the Class E airspace at Fort Stockton, TX. The development of a VOR/DME SIAP, at Fort Stockton-Pecos County Airport, Fort Stockton, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations to Fort Stockton-Pecos County Airport, Fort Stockton, TX.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided in the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to other 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 or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining additional rulemaking action is 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 action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–ASW–09.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule will not have federalism implications under Executive Order 13132.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, *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.

* * * * *

ASW TX E5 Fort Stockton, TX [Revised]

Fort Stockton-Pecos County Airport, TX
(Lat. 30°54′56″N., long. 102°54′58″W.)
Fort Stockton VORTAC
(Lat. 30°57′08″ N., long. 102°58′33″ W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of Fort Stockton-Pecos County Airport and within 4 miles north and 8 miles south of the 307° radial of the Fort Stockton VORTAC extending from the airport to 12 miles northwest of the airport and within 8 miles north and 4 miles south of the 127° radial of the Fort Stockton VORTAC extending from the airport to 12.3 miles southeast of the airport.

* * * * *

Issued in Fort Worth, TX, on March 3, 2000.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 00–6555 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2000–ASW–08]

Revision of Class E Airspace; Waco, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises the Class E airspace at Waco, TX. The development of a VHF Omnidirectional Range/Distance Measuring Equipment (VOR/CME) Standard Instrument Approach Procedure (SIAP), at Marlin Airport, Marlin, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations to Marlin Airport, Marlin, TX.

DATES: Effective 0901 UTC, August 10, 2000. Comments must be received on or before May 4, 2000.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 2000–ASW–08, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revises the Class E airspace at Waco, TX. The development of NDB SIAP, at Marlin Airport, Marlin, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations to Marlin Airport, Marlin, TX.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment,

or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to this 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 or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is 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 action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–ASW—08.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule will not have federalism implication under Executive Order 13132.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 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. 1085; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, *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.

* * * * *

ASW TX E5 Waco, TX [Revised]

Waco, Regional Airport, TX

(Lat. 31°36′41″ N., long. 97°13′50″ W.)

Waco VORTAC

(Lat. 31°39′44″ N., long. 97°16′09″ W.)

Waco, TSTC-Waco Airport, TX

(Lat. 31°38′16″ N., long. 97°04′27″ W.)

McGregor Muncipal Airport, TX

(Lat. 31°29′06″ N., long. 97°19′00″ W.)

Waco, Marlin Airport, TX

(Lat. 31°20′26″ N., long. 96°51′07″ W.)

Leroi NDB

(Lat. 31°44′27″ N., long. 97°04′41″ W.)

That airspace extending upward from 700 feet above the surface within a 11.5-mile radius of Waco Regional Airport and within 4 miles east and 8 miles west of the 014° radial of the Waco VORTAC extending from the 11.5-mile radius to 16 miles north of the VORTAC and within a 7.9-mile radius of TSTC-Waco Airport and within 2.3 miles each side of the 358° bearing from the Leroi NDB extending from the 7.9-mile radius to 13.1 miles north of the airport and within a 6.6-mile radius of McGregor Municipal Airport and within a 6.3-mile radius of Marlin Airport and within 2.2 miles each side of the 132° radial of the Waco VORTAC extending from the 6.3-mile radius to 14 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX, on March 3, 2000.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 00–6554 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–54]

Amendment to Class E Airspace; Estherville, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Estherville, IA.

DATE: The direct final rule published at 65 FR 348 is effective on 0901 UTC, April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106, telephone (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal**

Register on January 5, 2000 (65 FR 348). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 20, 2000. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 8, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–6699 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 736, 738, 740, 742, 756, 762, 770, and 774

[Docket No. 000207028–0028–01]

RIN 0694–AC02

Editorial Clarifications and Revisions to the Export Administration Regulations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to make certain editorial revisions and clarifications.

DATES: This rule is effective March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Kirsten Mortimer, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to make certain editorial revisions and clarifications. Specifically, this rule makes the following corrections and clarifications:

(1) In paragraph 736.2(b)(5)—General Prohibition Five, a typographical error is corrected by changing the word ''of'' to ''or'.

(2) In paragraph 736.2(b)(8)(i)—General Prohibition Eight (Unlading and shipping in transit), a clarification is made to the scope of this prohibition by adding the phrase ''or unless such an export or reexport is eligible to such a country of transit without a license''.

(3) In paragraph 738.3(a)(2)(ii), ECCNs 0A989, 1C355, and 1C995 are added to the list of unique entries, while ECCNs 0A986 and 1A005 are removed from the list of unique entries. These entries do not require you to consult the Country Chart to determine whether a license is required.

(4) In paragraph 740.7(d)(5)(iii), the reference to the Arms Control and Disarmament Agency (ACDA) is removed. This reflects the merging of the ACDA with the State Department effective April 1, 1999.

(5) In Supplement No. 1 to part 740, Country Group B, an error is corrected in the spelling of Antigua.

(6) Supplement No. 3 to part 740 is removed and reserved. This change conforms with the January 14, 2000 rule amending the EAR with respect to encryption items.

(7) In paragraph 742.7(a)(1), ECCN 0A987 is added to the list describing the ECCNs controlled under CC Column 1. This change conforms with the April 13, 1999 rule amending the EAR with respect to firearms exports.

(8) In paragraph 742.10(b)(1), a description of the denial policy for Sudan of technology for the production of Chemical Weapons Convention (CWC) Schedules 2 and 3 chemicals controlled under ECCN 1E355 is added. This change conforms with May 18, 1999 rule amending the EAR to implement the CWC.

(9)–(10) In paragraph 756.2(b)(1) (Appeals), a correction is made to the room number where appeals are filed.

(11) In paragraph 762.2(b) (Recordkeeping), additional record retention references are added to reflect new annual report and end-use certificate requirements under the CWC. This change conforms with the May 18, 1999 rule amending the EAR to implement the CWC.

(12) In paragraph 770.3(b) (Interpretations), references to section 740.8 are corrected to refer to the appropriate references to section 740.13.

(13) In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms,'' and Toxins, the reference to MT controls (Missile Technology) in the Reason for Control section is removed from Export Control Classification Number (ECCN) 1C216. This ECCN is only controlled for NP (Nuclear Nonproliferation) and AT (Anti-terrorism) reasons.

(14) In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms,'' and Toxins, corrections are made to the heading and License Requirements sections of ECCN 1E001. Specifically, ECCN 1A102 is removed from the ECCN heading. ECCN 1A005 is added to the ECCN heading and the NS (National Security) controls section. This change conforms with the Wassenaar Arrangement. In addition, ECCNs 1B225, 1C230, 1C231, 1C233, and 1C234 are removed from the NS controls section. These ECCNs are appropriately referenced in the NP controls section of ECCN 1E001.

(15) In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, ECCN 3A002 is amended by revising ''3A202'' in Related Controls and N.B. to read ''3A292''. This correction reflects the August 5, 1997 removal of ECCN 3A202 and creation of ECCN 3A292 on the Commerce Control List.

(16) In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, ECCN 6A002 is amended by adding the phrase ''Equipment in Number'' to the ''Unit'' paragraph in the List of Items Controlled section. This corrects an inadvertent omission from the March 25, 1996 rule simplifying the EAR.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA, as amended, in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121) and August 13, 1999 (64 FR 44101).

Rule Making Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a current valid OMB Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0088, 0694–0114,

and 0694–0117. There are neither additions nor subtractions to these collections due to this rule.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Kirsten Mortimer, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

List of Subjects

15 CFR Part 736, 738, 742, 770, and 774

Exports, Foreign trade.

15 CFR Part 740

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 756

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements, Penalties.

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, parts 736, 738, 740, 742, 748, 756, 762, 770, and 774 of the Export Administration Regulations (15 CFR Parts 730–774) are amended as follows:

1. The authority citations for 15 CFR Parts 736, 748 and 770 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999);

2. The authority citation for 15 CFR Part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999);

3. The authority citation for 15 CFR Part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

4. The authority citation for 15 CFR Part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of November 12, 1998, 63 FR 63589, 3 CFR, 1998 Comp., p. 305; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

5. The authority citation for 15 CFR parts 756 and 762 are revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

6. The authority citation for 15 CFR Part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

PART 736—[AMENDED]

7. Section 736.2 is amended:

a. By revising the phrase ''end-user of end-use'' in paragraph (b)(5) to read ''end-user or end-use'; and

b. By revising paragraph (b)(8)(i) to read as follows:

§ 736.2 General prohibitions and determination of applicability.

* * * * *

(b) * * *

(8) * * *

(i) *Unlading and shipping in transit.* You may not export or reexport an item through or transit through a country listed in paragraph (b)(8)(ii) of this section unless a License Exception or license authorizes such an export or reexport directly to such a country of transit, or unless such an export or reexport is eligible to such a country of transit without a license.

* * * * *

PART 738—[AMENDED]

§ 738.3 [Amended]

8. Section 738.3 is amended by revising the phrase *''ECCNs 0A986, 0A988, 0B986, 1A005, 2A994, 2D994, and 2E994.''* in paragraph (a)(2)(ii) to read *''ECCNs 0A988, 0A989, 0B986, 1C355, 1C995, 2A994, 2D994, and 2E994.''*

PART 740—[AMENDED]

§ 740.7 [Amended]

9. Section 740.7 is amended by revising the phrase ''Departments of Defense, Energy, State, and the Arms Control and Disarmament Agency (ACDA)'' in paragraph (d)(5)(iii) to read ''Departments of Defense, Energy, and State''.

10. Supplement No. 1 to part 740, Country Group B, is amended by revising ''Antiqua'' to read ''Antigua''.

11. Supplement No. 3 to part 740 is removed and reserved.

PART 742—[AMENDED]

§ 742.7 [Amended]

12. Section 742.7 is amended by revising the phrase ''0A985, 0E984'' in paragraph (a)(1) to read ''0A985, 0A987, 0E984''.

§ 742.10 [Amended]

13. Section 742.10 is amended by adding paragraph (b)(1)(viii) to read as follows:

742.10 Anti-terrorism: Sudan.

* * * * *

(b) * * *

(1) * * *

(viii) Technology for the production of Chemical Weapons Convention

(CWC) Schedule 2 and 3 chemicals controlled under ECCN 1E355.

* * * * *

PART 756—[AMENDED]

§ 756.2 [Amended]

14.–15. Section 756.2 is amended by revising ''Room H–3886C'' in paragraph (b)(1) to read ''Room 3898''.

PART 762—[AMENDED]

§ 762.2 [Amended]

16. Section 762.2 is amended by revising paragraphs (b)(37) and (b)(38) and adding paragraphs (b)(39) and (b)(40) to read as follows:

§ 762.2 Records to be retained.

* * * * *

(b) * * *

(37) § 743.1, Wassenaar reports;
(38) § 748.14, Exports of firearms;
(39) § 745.1, Annual reports; and
(40) § 745.2, End-use certificates.

PART 770—[AMENDED]

§ 770.3 [Amended]

17. § 770.3 is amended by revising the phrase ''operating technology and software described in § 740.8(a) of the EAR; sales technology described in § 740.8(b) of the EAR; and software updates described in § 740.8(c)'' in paragraph (b) to read ''operating technology and software described in § 740.13(a) of the EAR; sales technology described in § 740.13(b) of the EAR; and software updates described in § 740.13(c)''.

PART 774—[AMENDED]

Supplement No. 1 to Part 774—The Commerce Control List

18. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, ''Microorganisms,'' and Toxins, is amended:

a. By revising the License Requirements section for ECCN 1C216; and

b. By revising the entry heading and License Requirements section for ECCN 1E001, as follows:

1C216 Maraging Steel, Other Than That Controlled by 1C116, Capable of an Ultimate Tensile Strength of 2,050 MPa or More, at 293 K (20° C), Except Forms in Which no Linear Dimension Exceeds 75 mm

License Requirements

Reason for Control: NP, AT.

Control(s)	Country chart
NP applies to entire entry.	NP Column 1.
AT applies to entire entry.	AT Column 1.

* * * * *

1E001 ''Technology'' According to the General Technology Note for the ''Development'' or ''Production'' of Items Controlled by 1A001.b, 1A001.c, 1A002, 1A003, 1A005, 1B or 1C (Except 1C355, 1C980 to 1C984, 1C988, 1C990, 1C991, 1C992, and 1C995)

License Requirements

Reason for Control: NS, MT, NP, CB, AT.

Control(s)	Country chart
NS applies to ''technology'' for items controlled by 1A001.b and .c, 1A002, 1A003, 1A005, 1B001 to 1B003, 1B018, 1C001 to 1C010, or 1C018.	NS Column 1.
MT applies to ''technology'' for items controlled by 1B001, 1B101, 1B115, 1B116, 1B117, 1C001, 1C007, 1C101, 1C107, 1C011, 1C111, 1C116, 1C117, or 1C118 for MT reasons.	MT Column 1.
NP applies to ''technology'' for items controlled by 1A002, 1B001, 1B101, 1B201, 1B225 to 1B232, 1C001, 1C010, 1C202, 1C210, 1C216, 1C225 to 1C234, 1C236 to 1C238 for NP reasons.	NP Column 1.
CB applies to ''technology'' for items controlled by 1C351, 1C352, 1C353, or 1C354	CB Column 1.
CB applies to ''technology'' for materials controlled by 1C350	CB Column 2.
AT applies to entire entry	AT Column 1.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

* * * * *

19. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A002 is amended by revising the List of Items Controlled section, to read as follows:

3A002 General Purpose Electronic Equipment, as Follows (See List of Items Controlled)

* * * * *

List of Items Controlled

Unit: Number.

Related Controls: See also 3A292 and 3A992.

Related Definitions: N/A.

Items:

a. Recording equipment, as follows, and specially designed test tape therefor:

a.1. Analog instrumentation magnetic tape recorders, including those permitting the recording of digital signals (e.g., using a high density digital recording (HDDR) module), having any of the following:

a.1.a. A bandwidth exceeding 4 MHz per electronic channel or track;

a.1.b. A bandwidth exceeding 2 MHz per electronic channel or track and having more than 42 tracks; *or*

a.1.c. A time displacement (base) error, measured in accordance with applicable IRIG or EIA documents, of less than ± 0.1 μs;

Note: Analog magnetic tape recorders specially designed for civilian video purposes are not considered to be instrumentation tape recorders.

a.2. Digital video magnetic tape recorders having a maximum digital interface transfer rate exceeding 360 Mbit/s;

Note: 3A002.a.2 does not control digital video magnetic tape recorders specially designed for television recording using a signal format, which may include a compressed signal format, standardized or recommended by the ITU, the IEC, the SMPTE, the EBU or the IEEE for civil television applications.

a.3. Digital instrumentation magnetic tape data recorders employing helical scan techniques or fixed head techniques, having any of the following:

a.3.a. A maximum digital interface transfer rate exceeding 175 Mbit/s; *or*

a.3.b. Being ''space qualified'';

Note: 3A002.a.3 does not control analog magnetic tape recorders equipped with HDDR conversion electronics and configured to record only digital data.

a.4. Equipment, having a maximum digital interface transfer rate exceeding 175 Mbit/s, designed to convert digital

video magnetic tape recorders for use as digital instrumentation data recorders;

a.5. Waveform digitizers and transient recorders having all of the following:

N.B.: See also 3A292.

a.5.a. Digitizing rates equal to or more than 200 million samples per second and a resolution of 10 bits or more; *and*

a.5.b. A continuous throughput of 2 Gbit/s or more;

Technical Note: For those instruments with a parallel bus architecture, the continuous throughput rate is the highest word rate multiplied by the number of bits in a word. Continuous throughput is the fastest data rate the instrument can output to mass storage without the loss of any information while sustaining the sampling rate and analog-to-digital conversion.

b. ''Frequency synthesizer'', ''assemblies'' having a ''frequency switching time'' from one selected frequency to another of less than 1 ms;

c. ''Signal analyzers'', as follows:

c.1. ''Signal analyzers'' capable of analyzing frequencies exceeding 31 GHz;

c.2. ''Dynamic signal analyzers'' having a ''real-time bandwidth'' exceeding 25.6 kHz;

Note: 3A002.c.2 does not control those ''dynamic signal analyzers'' using only constant percentage bandwidth filters (also known as octave or fractional octave filters).

Technical Note: Constant percentage bandwidth filters are also known as octave or fractional octave filters.

d. Frequency synthesized signal generators producing output frequencies, the accuracy and short term and long term stability of which are controlled, derived from or disciplined by the internal master frequency, and having any of the following:

d.1. A maximum synthesized frequency exceeding 31 GHz;

d.2. A ''frequency switching time'' from one selected frequency to another of less than 1 ms; *or*

d.3. A single sideband (SSB) phase noise better than -(126 + 20 $\log_{10}$F—20 $\log_{10}$f) in dBc/Hz, where F is the off-set from the operating frequency in Hz and f is the operating frequency in MHz;

Note: 3A002.d does not control equipment in which the output frequency is either produced by the addition or subtraction of two or more crystal oscillator frequencies, or by an addition or subtraction followed by a multiplication of the result.

e. Network analyzers with a maximum operating frequency exceeding 40 GHz;

f. Microwave test receivers having all of the following:

f.1. A maximum operating frequency exceeding 40 GHz; *and*

f.2. Being capable of measuring amplitude and phase simultaneously;

g. Atomic frequency standards having any of the following:

g.1. Long-term stability (aging) less (better) than 1 x 10^{-11}/month; *or*

g.2. Being ''space qualified''.

Note: 3A002.g.1 does not control non-''space qualified'' rubidium standards.

20. In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, Export Control Classification Number (ECCN) 6A002 is amended by revising the List of Items Controlled section, to read as follows:

6A002 Optical Sensors

* * * * *

List of Items Controlled

Unit: Equipment in number; parts and accessories in $ value.

Related Controls: See also 6A102, 6A202, and 6A992.

Related Definitions: 1.) ''Image intensifiers'' defined in 6A002.a.2 and ''focal plane arrays'' defined in 6A002.a.3 specially designed, modified, or configured for military use and not part of civil equipment are subject to the export licensing authority of U.S. Department of State, Office of Defense Trade Controls (22 CFR part 121). 2.) ''Space qualified'' ''monospectral imaging sensors'', and ''multispectral imaging sensors'' defined in 6A002.b, and ''space-qualified'' ''focal plane arrays'' defined in 6A002.e, specially designed or modified for items on the U.S. Munitions List are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121).

Items:

a. Optical detectors, as follows:

Note: 6A002.a does not control germanium or silicon photodevices.

a.1. ''Space-qualified'' solid-state detectors, as follows:

a.1.a. ''Space-qualified'' solid-state detectors, having all of the following:

a.1.a.1. A peak response in the wavelength range exceeding 10 nm but not exceeding 300 nm; *and*

a.1.a.2. A response of less than 0.1% relative to the peak response at a wavelength exceeding 400 nm;

a.1.b. ''Space-qualified'' solid-state detectors, having all of the following:

a.1.b.1. A peak response in the wavelength range exceeding 900 nm but not exceeding 1,200 nm; *and*

a.1.b.2. A response ''time constant'' of 95 ns or less;

a.1.c. ''Space-qualified'' solid-state detectors having a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

a.2. Image intensifier tubes and specially designed components therefor, as follows:

a.2.a. Image intensifier tubes having all of the following:

a.2.a.1. A peak response in the wavelength range exceeding 400 nm but not exceeding 1,050 nm;

a.2.a.2. A microchannel plate for electron image amplification with a hole pitch (center-to-center spacing) of 15 μm or less; *and*

a.2.a.3. Photocathodes, as follows:

a.2.a.3.a. S–20, S–25 or multialkali photocathodes with a luminous sensitivity exceeding 240 μA/lm;

a.2.a.3.b. GaAs or GaInAs photocathodes; *or*

a.2.a.3.c. Other III-V compound semiconductor photocathodes;

Note: 6A002.a.2.a.3.c does not control compound semiconductor photocathodes with a maximum radiant sensitivity of 10 mA/W or less.

a.2.b. Specially designed components, as follows:

a.2.b.1. Microchannel plates having a hole pitch (center-to-center spacing) of 15 μm or less;

a.2.b.2. GaAs or GaInAs photocathodes;

a.2.b.3. Other III–V compound semiconductor photocathodes;

Note: 6A002.a.2.b.3 does not control compound semiconductor photocathodes with a maximum radiant sensitivity of 10 mA/W or less.

a.3. Non-''space-qualified'' ''focal plane arrays'', as follows:

Technical Note: Linear or two-dimensional multi-element detector arrays are referred to as ''focal plane arrays''.

Notes: 1. 6A002.a.3 includes photoconductive arrays and photovoltaic arrays.

2. 6A002.a.3 does not control silicon ''focal plane arrays'', multi-element (not to exceed 16 elements) encapsulated photoconductive cells or pyroelectric detectors using any of the following:

a. Lead sulphide;

b. Triglycine sulphate and variants;

c. Lead-lanthanum-zirconium titanate and variants;

d. Lithium tantalate;

e. Polyvinylidene fluoride and variants;

f. Strontium barium niobate and variants; *or*

g. Lead selenide.

a.3.a. Non-''space-qualified'' ''focal plane arrays'', having all of the following:

a.3.a.1. Individual elements with a peak response within the wavelength range exceeding 900 nm but not exceeding 1,050 nm; *and*

a.3.a.2. A response ''time constant'' of less than 0.5 ns;

a.3.b. Non-''space-qualified'' ''focal plane arrays'', having all of the following:

a.3.b.1. Individual elements with a peak response in the wavelength range

exceeding 1,050 nm but not exceeding 1,200 nm; *and*

a.3.b.2. A response ''time constant'' of 95 ns or less;

a.3.c. Non-''space-qualified'' ''focal plane arrays'', having individual elements with a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm.

b. ''Monospectral imaging sensors'' and ''multispectral imaging sensors'' designed for remote sensing applications, having any of the following:

b.1. An Instantaneous-Field-Of-View (IFOV) of less than 200 μr (microradians); *or*

b.2. Being specified for operation in the wavelength range exceeding 400 nm but not exceeding 30,000 nm and having all the following;

b.2.a. Providing output imaging data in digital format; *and*

b.2.b. Being any of the following:

b.2.b.1. ''Space-qualified''; *or*

b.2.b.2. Designed for airborne operation, using other than silicon detectors, and having an IFOV of less than 2.5 mr (milliradians).

c. Direct view imaging equipment operating in the visible or infrared spectrum, incorporating any of the following:

c.1. Image intensifier tubes having the characteristics listed in 6A002.a.2.a; *or*

c.2. ''Focal plane arrays'' having the characteristics listed in 6A002.a.3.

Technical Note: ''Direct view'' refers to imaging equipment, operating in the visible or infrared spectrum, that presents a visual image to a human observer without converting the image into an electronic signal for television display, and that cannot record or store the image photographically, electronically or by any other means.

Note: 6A002.c does not control the following equipment incorporating other than GaAs or GaInAs photocathodes:

a. Industrial or civilian intrusion alarm, traffic or industrial movement control or counting systems;

b. Medical equipment;

c. Industrial equipment used for inspection, sorting or analysis of the properties of materials;

d. Flame detectors for industrial furnaces;

e. Equipment specially designed for laboratory use.

d. Special support components for optical sensors, as follows:

d.1. ''Space-qualified'' cryocoolers;

d.2. Non-''space-qualified'' cryocoolers, having a cooling source temperature below 218 K (−55° C), as follows:

d.2.a. Closed cycle type with a specified Mean-Time-To-Failure (MTTF), or Mean-Time-Between-Failures (MTBF), exceeding 2,500 hours;

d.2.b. Joule-Thomson (JT) self-regulating minicoolers having bore (outside) diameters of less than 8 mm;

d.3. Optical sensing fibers specially fabricated either compositionally or structurally, or modified by coating, to be acoustically, thermally, inertially, electromagnetically or nuclear radiation sensitive.

e. ''Space qualified'' ''focal plane arrays'' having more than 2,048 elements per array and having a peak response in the wavelength range exceeding 300 nm but not exceeding 900 nm.

Dated: March 9, 2000.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 00–6678 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 756 and 766

[Docket No. 000306060–0060–01

RIN 0694–AC16

Revision to the Export Administration Regulations; Administrative Enforcement Proceedings

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by amending its regulations on administrative enforcement proceedings. Specifically, this rule amends the EAR by providing that, notwithstanding certain circumstances, when determining whether to deny the export privileges of a person convicted of violating certain laws, BXA will give prior notice of this administrative action and an opportunity for that person to make written comments to BXA stating why a denial is not appropriate. This rule further clarifies the scope of the export privileges which may be denied. In addition, it clarifies in part 756 of the EAR that these administrative procedures are subject to the appeals procedures described in that part.

DATES: This rule is effective March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Kirsten Mortimer, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION: In 1985, the Export Administration Act (EAA) was amended to add subsection 11(h), which provided that, at the discretion of the Secretary of Commerce, no person who has been convicted of a violation of certain designated statutes shall be eligible to apply for or use any export license for a period of up to 10 years from the date of the conviction. The designated statutes include the EAA or any regulation, license, authorization or order issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act; section 4(b) of the Internal Security Act of 1950; 18 U.S.C. sections 793, 794 or 798, and section 38 of the Arms Export Control Act. The Secretary may also revoke any export license under this Act in which such person has an interest at the time of the conviction. BXA uses this denial authority to protect U.S. national security and foreign policy interests.

Section 766.25(a) provides that ''the Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny permission to apply for or use any license, including any License Exception, to any person who has been convicted of a violation of the'' aforementioned designated statutes. This rule amends section 766.25(b) of the EAR by providing that, unless exceptional circumstances exist, BXA will notify a person convicted of one of the designated statutes that BXA is going to issue an order denying that person's export privileges and giving that person an opportunity to make written submission to BXA regarding BXA's proposed denial. This rule further clarifies that the export privileges that may be denied in any such order, include, but are not limited, to applying for, obtaining, or using any license, License Exception, or export control document; or participating in or benefiting in any way from any export or export-related transaction subject to the EAR.

Section 756.1(a) states, in pertinent part, that actions taken under part 766 of the EAR are not subject to the appeals procedures described in part 756. This rule amends section 756.1(a)(2) to provide that an appeal from an action taken under section 766.25 shall be subject to the appeals procedures in part 756.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA, as amended, in Executive

Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121) and August 13, 1999 (64 FR 44101).

Rule Making Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a current valid OMB Control Number. This regulation does not involve any paperwork collections.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Kirsten Mortimer, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 756

Administrative practice and procedures, Exports, Foreign trade, Penalties.

15 CFR Part 766

Administrative practice and procedures, Business and industry, Confidential business information, Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, parts 756 and 766 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

1. The authority citation for parts 756 and 766 are revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

PART 756—[AMENDED]

2. Section 756.1 is amended by revising paragraph (a)(2) to read as follows:

§ 756.1 Introduction.

(a) * * *

(2) Denial or probation orders, civil penalties, sanctions, or other actions under parts 764 and 766 of the EAR, except that, an appeal from an action taken under § 766.25 shall be subject to the appeals procedures described in this part 756.

* * * * *

PART 766—[AMENDED]

3. Section 766.25 is amended by revising the section heading and paragraphs (a), (b), (d), (e) and (f) to read as follows:

§ 766.25 Administrative action denying export privileges.

* * * * *

(a) *General.* The Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA, the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(b) *Procedure.* Upon notification that a person has been convicted of a violation of one or more of the provisions specified in paragraph (a) of this section, the Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, will determine whether to deny such person export privileges, including but not limited to applying for, obtaining, or using any license, License Exception, or export control document; or participating in or benefiting in any way from any export or export-related transaction subject to the EAR. Before taking action to deny a person export privileges under this section, the Director of the Office of Exporter Services will provide the person written notice of the proposed action and an opportunity to comment through a written submission, unless exceptional circumstances exist. In reviewing the response, the Director of the Office of Exporter Services will consider any relevant or mitigating evidence why these privileges should not be denied. Upon final determination, the Director of the Office of Exporter Services will notify by letter each person denied export privileges under this section.

* * * * *

(d) *Duration.* Any denial of export privileges under this section shall not exceed 10 years from the date of the conviction of the person who is subject to the denial.

(e) *Effect.* Any person denied export privileges under this section will be considered a ''person denied export privileges'' for purposes of § 736.2(b)(4) (General Prohibition 4—Engage in actions prohibited by a denial order) and § 764.2(k) of the EAR.

(f) *Publication.* The name and address(es) of any person denied export privileges under this section will be published as described in Supplement No. 2 to part 764 of the EAR, noting that such action was taken pursuant to this section and section 11(h) of the EAA.

* * * * *

Dated: March 9, 2000.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 00–6679 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 26 and 161

[USCG–1999–6141]

RIN 2115–AF92

Puget Sound Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On December 14, 1999, the Coast Guard published a direct final rule (64 FR 69633; USCG–1999–6141). this direct final rule notified the public of the Coast Guard's intent to amend the designated monitoring areas of the Puget

Sound Vessel Traffic Service (VTS). This amendment enhances safe navigation by moving a frequency-monitoring boundary so that mariners are no longer required to change designated frequencies and report to the VTS while attempting to negotiate a bend in the navigational channel. We have not received an adverse comment, or notice of intent to submit an adverse comment, objecting to this rule. Therefore, this rule will go into effect as scheduled.

DATES: The effective date of the direct final rule is confirmed as March 15, 2000.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, call Mr. Jorge Arroyo, Project Manager, Office of Vessel Traffic Management (G–MWV), Coast Guard, telephone 202–267–6277 or E-mail jarroyo@comdt.uscg.mil.

Dated: March 3, 2000.

R.C. North,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–6703 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Juan 00–013]

RIN 2115–AA97

Safety Zone Regulations; San Juan Harbor, San Juan, Puerto Rico

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary fixed safety zone in a 500 yard radius surrounding the cement carrier M/V SERGO ZAKARIADZE which is grounded at the entrance of San Juan Harbor in Puerto Rico. The zone will be placed into effect and terminated at different times by a broadcast notice to mariners during salvage operations to protect vessels in the vicinity. Entry into this zone is prohibited, unless authorized by the Captain of the Port.

DATES: The rule becomes effective at 7 a.m. on March 1, 2000, and terminates at 7 a.m. on March 22, 2000

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Lefevers at Coast Guard Marine Safety Office San Juan, Puerto Rico, tel: (787) 706–2444.

SUPPLEMENTARY INFORMATION:

Background and Purpose

These regulations are needed to provide for the safety of life on navigable waters from hazards associated with the salvage of the vessel SERGO ZAKARIADZE which is grounded at the entrance to San Juan Harbor.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this rule and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public safety since immediate action is needed to minimize potential danger to the public, as the recent offloading of cement has increased the danger to vessels in the area.

Regulatory Evaluation

This 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 section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it 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). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The safety zone will only be placed into effect for short periods when the salvage operations temporarily block the entrance to San Juan Harbor.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this rule will have a significant economic effect upon a substantial number of small entities. ''Small entities'' include small business, 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a substantial economic impact on a substantial number of small entities as the regulations will only be in effect for a short period during salvage operations in the San Juan Channel.

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

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 unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will 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 rule meets applicable standards in section 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 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 safety that may disproportionately affect children.

Environmental

The Coastal Guard has considered the environmental impact of this action and has determined under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Safety measures, Waterways.

Temporary Regulations

In consideration of the foregoing, the Coast Guard amends Subpart C of Part 165 of title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231: 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. Temporary 165.T07–013 is added to read as follows:

165.T07–013 Safety Zone; San Juan, Puerto Rico.

(a) *Regulated Area.* A temporary fixed safety zone is established within a 500 yard radius surrounding the M/V SERGO ZAKARIADZE which is grounded at the entrance to San Juan Harbor in position 18°28′3″N, 066°07′5″W.

(b) *Regulations.* In accordance with the general regulations in 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port.

(c) *Dates.* These regulations become effective and terminate upon a broadcast notice to mariners issued by the Captain of the Port San Juan during the period from 7 a.m. on March 1, 2000, to 7 a.m. on March 22, 2000.

Dated: February 29, 2000.

J. Servidio,

Commander, U.S. Coast Guard, Captain of the Port, San Juan, Puerto Rico.

[FR Doc. 00–6684 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 000301056–0056–01]

RIN 0651–AB13

Changes to Application Examination and Provisional Application Practice

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Interim rule.

SUMMARY: The United States Patent and Trademark Office (Office) is revising the rules of practice in patent cases to implement certain provisions of the ''American Inventors Protection Act of 1999.'' These provisions of the ''American Inventors Protection Act of 1999'' provide for continued examination of an application for a fee, extend the pendency of a provisional application if the date that is twelve months after the filing date of the provisional application falls on a Saturday, Sunday, or a Federal holiday within the District of Columbia, eliminate the copendency requirement for a nonprovisional application to claim the benefit of a provisional application, provide for the conversion of a provisional application to a nonprovisional application, and to provide a prior art exclusion for certain commonly assigned patents.

DATES: Effective Date: May 29, 2000.

COMMENTS: To be ensured of consideration, written comments must be received on or before May 19, 2000. No public hearing will be held.

ADDRESSES: Comments should be sent by electronic mail message over the Internet addressed to: rce.comments@uspto.gov. Comments may also be submitted by mail addressed to: Box Comments—Patents, Assistant Commissioner for Patents, Washington, D.C. 20231, or by facsimile to (703) 872–9411, marked to the attention of Robert W. Bahr. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet. If comments are submitted by mail, the Office would prefer that the comments be submitted on a DOS formatted 3½ inch disk accompanied by a paper copy.

The comments will be available for public inspection at the Special Program Law Office, Office of the Deputy Assistant Commissioner for Patent Policy and Projects, located at Room 3-C23 of Crystal Plaza 4, 2201 South Clark Place, Arlington, Virginia, and will be available through anonymous file transfer protocol (ftp) via the Internet (address: http://www.uspto.gov). Since comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Robert W. Bahr, Karin L. Tyson, or Robert A. Clarke by telephone at (703) 308–6906, or by mail addressed to: Box Comments—Patents, Assistant Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 872–9411, marked to the attention of Robert W. Bahr.

SUPPLEMENTARY INFORMATION: The ''American Inventors Protection Act of 1999'' (Title IV of the ''Intellectual Property and Communications Omnibus Reform Act of 1999'' (S. 1948) as introduced in the 106th Congress on November 17, 1999) was incorporated and enacted into law on November 29, 1999, by § 1000(a)(9), Division B, of Public Law 106–113, 113 Stat. 1501 (1999). The ''American Inventors Protection Act of 1999'' contains a number of changes to title 35, United States Code. This interim rule changes the rules of practice to implement the provisions of §§ 4403, 4801, and 4807 of the ''American Inventors Protection Act of 1999.''

Section 4403 of the ''American Inventors Protection Act of 1999'' is effective on the date six months after the date of enactment of the ''American Inventors Protection Act of 1999'' (May 29, 2000), and applies to applications (other than for a design patent) filed on or after June 8, 1995. Section 4801 of the ''American Inventors Protection Act of 1999'' is effective on the date of enactment of the ''American Inventors Protection Act of 1999'' (November 29, 1999) and applies to all provisional applications (with limited exception) filed on or after June 8, 1995. Section 4807 of the ''American Inventors Protection Act of 1999'' is effective on the date of enactment of the ''American Inventors Protection Act of 1999'' (November 29, 1999) and applies to all applications filed on or after November 29, 1999.

Section 4403 (Continued Examination of Patent Applications): Section 4403 of the ''American Inventors Protection Act of 1999'' amends 35 U.S.C. 132 to state that the Office ''shall prescribe regulations to provide for the continued examination of applications for patent at the request of the applicant,'' and that the Office ''may establish appropriate fees for such continued examinations and shall provide a 50 percent reduction in such fees for small entities that qualify for reduced fees under [35 U.S.C. 41(h)(1)].'' Currently, an applicant must file a continuing application (a continuing application under § 1.53(b) or a continued prosecution application under § 1.53(d)) to obtain continued examination of an application for a fee (the application filing fee). Section 4403 of the ''American Inventors Protection Act of 1999'' will provide statutory authority for the continued examination of an application for a fee (to which the small entity reduction will be applicable) without requiring the applicant to file a continuing application.

Section 4801 (Provisional Applications): Section 4801(a) of the ''American Inventors Protection Act of 1999'' amends 35 U.S.C. 111(b)(5) to provide that ''[n]otwithstanding the absence of a claim, upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under [35 U.S.C. 111(a)]'' but that if ''no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival

thereafter.'' Section 1.53(c), which currently provides for the conversion of a nonprovisional application (35 U.S.C. 111(a) and § 1.53(b)) to a provisional application (35 U.S.C. 111(b) and § 1.53(c)), is thus being amended to also provide for the conversion of a provisional application (35 U.S.C. 111(b) and § 1.53(c)) to a nonprovisional application (35 U.S.C. 111(a) and § 1.53(b)).

Section 4801 of the ''American Inventors Protection Act of 1999'' contains no provision for according the resulting nonprovisional application a filing date other than the original filing date of the provisional application. Thus, under 35 U.S.C. 154(b), the term of a nonprovisional application resulting from the conversion of a provisional application pursuant to 35 U.S.C. 111(b)(5) will be measured from the original filing date of the provisional application (which is the filing date accorded the nonprovisional application resulting from conversion under § 4801 of the ''American Inventors Protection Act of 1999''). Applicants are strongly cautioned to consider the patent term implications of converting a provisional application into a nonprovisional application pursuant to 35 U.S.C. 111(b)(5), rather than simply filing a nonprovisional application within twelve months of the filing date of the provisional application and claiming the benefit of that provisional application under 35 U.S.C. 119(e).

Section 4801(b) of the ''American Inventors Protection Act of 1999'' also amends 35 U.S.C. 119(e) to provide that ''[i]f the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day.''

Section 4801(c) of the ''American Inventors Protection Act of 1999'' also amends 35 U.S.C. 119(e) to eliminate the requirement that a provisional application be pending on the filing date of the nonprovisional application for the nonprovisional application to claim the benefit of the provisional application.

Section 4807 (Prior Art Exclusion): 35 U.S.C. 103 was amended in 1984 to exclude subject matter developed by another person which qualifies as prior art only under 35 U.S.C. 102(f) or (g) as prior art under 35 U.S.C. 103 against a claimed invention, provided that the subject matter and the claimed invention were commonly owned by the same person or organization or subject to an obligation of assignment to the same person or organization at the time the claimed invention was made. *See* Public Law 98–622, § 103, 98 Stat. 3384 (1984). Section 4807 of the ''American Inventors Protection Act of 1999'' amends 35 U.S.C. 103(c) to exclude subject matter developed by another person which qualifies as prior art only under one or more of 35 U.S.C. 102(e), (f), or (g) as prior art under 35 U.S.C. 103 against a claimed invention, again provided that the subject matter and the claimed invention were commonly owned by the same person or organization or subject to an obligation of assignment to the same person or organization at the time the claimed invention was made. The Office is in the process of developing guidelines concerning the implementation of this change to 35 U.S.C. 103(c).

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, Part 1, is amended as follows:

Section 1.7 is amended by designating the current text as paragraph (a) and adding a new paragraph (b) to provide that if the day that is twelve months after the filing date of a provisional application under 35 U.S.C. 111(b) and § 1.53(c) falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the period of pendency shall be extended to the next succeeding secular or business day which is not a Saturday, Sunday, or a Federal holiday.

Section 1.17(e) sets forth the fee to request continued examination pursuant to new § 1.114, which is set at an amount equal to the basic filing fee for a utility application. Therefore, the fee for considering a submission pursuant to § 1.114 is $690.00 ($345.00 for a small entity).

Section 1.17(i) is amended to include a reference to the fee to convert a provisional application filed under § 1.53(c) to a nonprovisional application under § 1.53(b), and to eliminate the reference to § 1.312.

Section 1.53 is amended by redesignating paragraph (c)(3) as paragraph (c)(4) and adding a new paragraph (c)(3) to provide for the conversion of a provisional application to a nonprovisional application. Section 1.53(c)(3) provides that a request to convert a provisional application filed under § 1.53(c) to a nonprovisional application under § 1.53(b) must be accompanied by the fee set forth in § 1.17(i) and an amendment including at least one claim as prescribed by the second paragraph of 35 U.S.C. 112, unless the provisional application otherwise contains at least one claim. Section 1.53(c)(3) also provides that such a request must be filed prior to the earliest of: (1) abandonment of the provisional application; or (2) expiration of twelve months after the filing date of the provisional application. Section 1.53(c)(3) also provides that the conversion of a provisional application to a nonprovisional application will not result in either the refund of any fee properly paid in the provisional application or the application of any such fee to the filing fee, or any other fee, for the nonprovisional application.

The conversion of a provisional application to a nonprovisional application will not result in any savings in filing fees over the filing of a nonprovisional application claiming the benefit under 35 U.S.C. 119(e) and § 1.78 of the earlier provisional application. Thus, an applicant may simply file a nonprovisional application claiming the benefit under 35 U.S.C. 119(e) and § 1.78 of the earlier provisional application and avoid the fee set forth in § 1.17(i) required to convert a provisional application to a nonprovisional application (as well as the adverse patent term effects discussed above).

Section 1.53(d)(1)(i) is amended to provide that continued prosecution application (CPA) practice under § 1.53(d) does not apply to applications (other than design) if the prior application has a filing date on or after May 29, 2000. Thus, an application (except for a design application) must have an actual filing date before May 29, 2000, for the applicant to be able to file a CPA of that application. While the Office uses the filing date (and application number) of the prior application of a CPA for identification purposes, the filing date of a CPA under § 1.53(d) is the date the request for a CPA is filed. *See* § 1.53(d)(2). Thus, if a CPA of an application (other than for a design patent) is filed on or after May 29, 2000, § 1.53(d)(1)(i) does not permit the filing of a further CPA, regardless of the filing date of the prior application as to the first CPA (*i.e.,* the filing date used for identification purposes for the CPA).

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new § 1.114. If an applicant files a request for a CPA of an application to which CPA practice no longer applies and does not want the request for a CPA to be treated as a request for continued examination

under § 1.114 (*e.g.,* the CPA is a divisional CPA), the applicant may file a petition under § 1.53(e) requesting that the improper CPA be converted to an application under § 1.53(b). The requirements for such a petition under § 1.53(e) are identical to those set forth in section 201.06(b) of the Manual of Patent Examining Procedure (7th ed.1998) (MPEP) for converting an improper file wrapper continuing (FWC) application under former § 1.62 to an application under § 1.53(b). The Office will not grant such a petition unless it is before the appropriate deciding official before an Office action has been mailed in response to the request for continued examination under § 1.114 (as the improper CPA is being treated). If an Office action has been mailed in response to the request for continued examination under § 1.114, the applicant should simply file an application under § 1.53(b) within the period for reply to such Office action.

Section 1.53(d)(1)(ii)(A) is amended to refer to ''§ 1.313(c)'' rather than ''§ 1.313(b)(5)'' for consistency with the change to § 1.313.

Section 1.78 is amended to eliminate the requirement that a nonprovisional application be ''copending'' with a provisional application for the nonprovisional application to claim the benefit under 35 U.S.C. 119(e) of a provisional application. Section 1.78 is also amended to require that, for a nonprovisional application to claim the benefit of a provisional application, the provisional application must be entitled to a filing date as set forth in § 1.53(c), and have paid therein the basic filing fee set forth in § 1.16(k) within the time period set forth in § 1.53(g), and have any required English-language translation filed therein within the time period set forth in § 1.52(d).

Section 1.97(b) is amended to indicate that an information disclosure statement will also be considered if it is filed before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.

Section 1.104(c)(4) is revised to replace ''35 U.S.C. 102(f) or (g)'' with ''35 U.S.C. 102(e), (f) or (g)'' for consistency with 35 U.S.C. 103(c) as amended by § 4807 of the ''American Inventors Protection Act of 1999.''

Section 1.113 is amended to take into account that an applicant's after final reply options include filing a request for continued examination under § 1.114. Section 1.113 is also amended to locate the last two sentences of paragraph (a) in a new paragraph (c).

Section 1.114 is added to implement § 4403 of the ''American Inventors Protection Act of 1999.'' The Office is providing a procedure under which an applicant may obtain continued examination of an application by filing a submission and paying a specified fee, even if the application is under a final rejection, appeal, or a notice of allowance. If a subsequent rejection or action is made final (or if the application is subsequently allowed), the applicant may again obtain continued examination of an application (consideration of a submission) upon the filing of a submission and an additional payment of the specified fee prior to abandonment of the application. This procedure will not be available for: (1) a provisional application (which is not examined under 35 U.S.C. chapter 12); (2) an application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995; (3) an international application filed under 35 U.S.C. 363 before June 8, 1995; (4) an application for a design patent; or (5) a patent under reexamination.

Under this procedure, the filing of a request for continued examination after the filing of a Notice of Appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal, will be considered a request to withdraw the appeal and to reopen prosecution of the application before the examiner. The filing of a request for continued examination (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit (Federal Circuit) or the commencement of a civil action, will also result in the finality of the rejection or action being withdrawn and the submission being considered.

In addition to the *res judicata* effect of a Board of Patent Appeals and Interferences decision in an application (*see* MPEP 706.03(w)), a Board of Patent Appeals and Interferences decision in an application is the ''law of the case,'' and is thus controlling in that application and any subsequent related application. *See* MPEP 1214.01 (where a new ground of rejection is entered by the Board of Patent Appeals and Interferences pursuant to § 1.196(b), argument without either amendment of the claims so rejected or the submission of a showing of facts can only result in a final rejection of the claims, since the examiner is without authority to allow the claims unless amended or unless the rejection is overcome by a showing of facts not before the Board of Patent Appeals and Interferences). As such, a submission containing arguments without either amendment of the rejected claims or the submission of a showing of facts will not be effective to remove such rejection.

The procedure set forth in § 1.114 will not be available in an application after the filing of a Notice of Appeal to the Federal Circuit or the commencement of a civil action, unless the appeal or civil action is terminated and the application is still pending. Unless an application contains allowed claims (or the court's mandate clearly indicates that further action is to be taken in the Office), the termination of an unsuccessful court appeal or civil action results in the abandonment of the application. *See* MPEP 1216.01.

If the application is under final rejection, the fee acts only to withdraw the finality of an Office action. If reply to a final or non-final Office action is outstanding, a submission meeting the reply requirements of § 1.111 must be timely received to continue prosecution of an application. Put simply, the mere payment of the fee for continued examination will not operate to toll the running of any time period set in the previous Office action for reply to avoid abandonment of the application. Likewise, payment of the fee (and a submission) in an allowed application without a petition under § 1.313 to withdraw the application from issue will not operate to toll the period for payment of the issue fee (if running) or avoid issuance of the application as a patent (if the issue fee has been paid).

To avoid confusion as to whether an applicant desires to amend the application prior to receiving continued examination of the application, an appeal brief under § 1.192 or a reply brief under § 1.193(b), or related submissions, are expressly excluded as a submission for the purposes of § 1.114. The submission, however, may consist of the arguments in a previously filed appeal brief or reply brief submitted as a reply to the final rejection, or may simply consist of a submission that incorporates by reference the arguments in a previously filed appeal brief or reply brief.

35 U.S.C. 132 provides that ''[n]o amendment shall introduce new matter into the disclosure of the invention.'' Any amendment entered pursuant to § 1.114 that is determined to contain new matter will be treated in the same manner that a reply under § 1.111 determined to contain new matter is currently treated. In those instances in which an applicant seeks to add new matter to the disclosure of an application, the procedure in § 1.114 is not available, and the applicant must file a continuation-in-part application under § 1.53(b) containing such new matter. In addition, as 35 U.S.C. 132(b)

and § 1.114 provide continued examination of an application (and not examination of a continuing application), the Office will not permit an applicant to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined (*see* § 1.145).

The request for continued examination procedure in § 1.114 should not be confused with the transitional procedure for the further limited examination of patent applications set forth in § 1.129(a) (*see Changes to Implement 20-Year Patent Term and Provisional Applications*, Final Rule Notice, 60 FR 20195 (April 25, 1995), 1174 *Off. Gaz. Pat. Office* 15 (May 2, 1995)) or the continued prosecution application (CPA) procedure set forth in § 1.53(d) (*see Changes to Patent Practice and Procedure;* Final Rule Notice, 62 FR 53131 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* 63 (October 21, 1997)).

Comparison of the request for continued examination procedure in § 1.114 with the transitional procedure for the further limited examination of patent application set forth in § 1.129(a): The procedure set forth in this notice does not apply to any application that was filed prior to June 8, 1995. The transitional procedure set forth in § 1.129(a) applies only to applications, other than for reissue or design patent, that have been pending for at least two years as of June 8, 1995, taking into account any references in such applications to any earlier filed application under 35 U.S.C. 120, 121, or 365(c), and is not applicable to any application filed after June 8, 1995. Therefore, an application eligible for the transitional procedure set forth in § 1.129(a) (unless filed on June 8, 1995), or any application filed before June 8, 1995, is not eligible for the procedure for continued examination set forth in this notice.

In addition, an applicant in an application eligible for the procedure for continued examination set forth in this notice is not limited in the number of times the fee for continued examination may be submitted. An applicant in an application eligible for the transitional procedure set forth in § 1.129(a), however, is limited to two opportunities to pay the fee for further examination of the application.

Moreover, under the transitional procedure set forth in § 1.129(a), a submission after final rejection or action will be considered if the submission and the requisite fee are filed prior to abandonment of the application and prior to the filing of an appeal brief. Under the request for continued examination procedure set forth in this notice, a submission will be considered if the submission and the requisite fee is filed prior to abandonment of the application. That is, under the request for continued examination procedure, a submission (and requisite fee) need not be filed prior to the filing of an appeal brief. In addition, under the request for continued examination procedure, a submission will be considered in an allowed application if the submission and the requisite fee are filed prior to payment of the issue fee (or later if a petition under § 1.313(c) to withdraw the application from issue is granted).

Comparison of the request for continued examination procedure in § 1.114 with the CPA procedure set forth in § 1.53(d): Section 1.53(d) is amended to make CPA practice inapplicable to applications (other than for a design patent) filed under 35 U.S.C. 111(a) on or after May 29, 2000, or resulting from international applications filed under 35 U.S.C. 363 on or after May 29, 2000. CPA practice was adopted to permit applicants to obtain continued examination of an application (for a fee) via the filing of a continuing application. 35 U.S.C. 132(b), however, provides statutory authority for the Office to prescribe regulations to permit applicants to obtain continued examination of an application (for a fee) without the need for a continuing application. The Office is not completely abolishing CPA practice in favor of the request for continued examination practice in § 1.114 because the request for continued examination practice in § 1.114 is not applicable to applications filed before June 8, 1995 (or design applications), and the patent term adjustment provisions of Public Law 106–113 do not apply to applications filed before May 29, 2000. The Office, however, is restricting CPA practice to utility and plant applications filed before May 29, 2000, and design applications because maintaining two practices (as to applications eligible for the continued examination procedure of § 1.114) designed for the same purpose (obtaining continued examination of an application) is unnecessary and will result in confusion.

Since the request for continued examination practice in § 1.114 is applicable to utility and plant applications filed on or after June 8, 1995, and continued prosecution application (CPA) practice in § 1.53(d) is applicable to utility and plant applications filed before May 29, 2000 (and design applications), an applicant in a utility or plant application filed on or after June 8, 1995, but before May 29, 2000, may obtain further examination either by filing a request for continued examination under § 1.114 or by filing a CPA under § 1.53(d). Since the patent term adjustment provisions of Public Law 106–113 do not apply to applications filed before May 29, 2000, and a request for continued examination practice under § 1.114 (unlike a CPA under § 1.53(d)) is not the filing of a new application, whether further examination of such an application is sought by a request for continued examination under § 1.114 or a CPA under § 1.53(d) has an impact on whether any resulting patent is entitled to the patent term adjustment provisions of Public Law 106–113. Specifically, if an applicant in a utility or plant application filed before May 29, 2000 files a CPA under § 1.53(d) after May 29, 2000, the application being prosecuted (now a CPA) is an application filed on or after May 29, 2000 and is entitled to the patent term adjustment provisions of Public Law 106–113. If, however, an applicant in a utility or plant application filed before May 29, 2000 (but on or after June 8, 1995) files a request for continued examination under § 1.114, the application being prosecuted is not an application filed on or after May 29, 2000, and is not entitled to the patent term adjustment provisions of Public Law 106–113.

In addition, there are a number of additional differences between request for continued examination procedure set forth in this notice with the CPA procedure set forth in § 1.53(d) resulting from the fact that a CPA is the filing of a new application whereas continued examination under § 1.114 merely continues the examination of the same application: (1) the fee for continued examination under § 1.114 (§ 1.17(e)) does not include additional claims fees (*cf.* 1.53(d)(3)(ii)); (2) the fee for continued examination under § 1.114 may not be deferred (*cf.* § 1.53(f)); (3) a request for continued examination under § 1.114 is entitled to the benefit of a certificate of mailing under § 1.8 (*cf.* 1.8(a)(2)(i)(A)); (4) an applicant may not obtain examination of a different or non-elected invention (*e.g.,* a divisional) in a request for continued examination under § 1.114; and (5) any change of inventors must be via the procedure set forth in § 1.48 (*cf.* 1.53(d)(4)).

Discussion of the specific provisions of new § 1.114: Section 1.114 is added to provide for continued examination of an application under 35 U.S.C. 132(b).

Section 1.114(a) provides that an applicant may obtain continued examination of an application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of: (1)

payment of the issue fee, unless a petition under § 1.313 is granted; (2) abandonment of the application; or (3) the filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated. The action immediately subsequent to the filing of a submission and fee under § 1.114 may be made final only if the conditions set forth in MPEP 706.07(b) for making a first action final in a continuing application are met.

Section 1.114(b) provides that a submission as used in § 1.114 includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. This definition in § 1.114 for ''submission'' is taken from § 1.129(a). Section 1.114(b) also provides that if reply to a final or non-final Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111. This will permit applicants to file a submission under § 1.114 containing only an information disclosure statement (§§ 1.97 and 1.98) in an application subject to a notice of allowance under 35 U.S.C. 151.

Section 1.114(c) provides that if an applicant timely files the fee set forth in § 1.17(e) and a submission, the Office will withdraw the finality of any Office action to which a reply is outstanding and the submission will be entered and considered. The phrase ''withdraw the finality of any Office action'' includes the withdrawal of the finality of a final rejection, as well as the closing of prosecution by an Office action under *Ex parte Quayle*, 1935 Comm'r Dec. 11 (1935), or notice of allowance under 35 U.S.C. 151 (or notice of allowability). Section 1.114(c) also provides that if an applicant files a request for continued examination under § 1.114 after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. Thus, the filing of a request for continued examination under § 1.114 in an application containing an appeal awaiting decision after appeal will be treated as a withdrawal of the appeal by the applicant, regardless of whether the request for continued examination under § 1.114 includes the appropriate fee (§ 1.17(e)) or a submission (§ 1.114(b)). Applicants should advise the Board of Patent Appeals and Interferences when a request for continued examination under § 1.114 is filed in an application containing an appeal awaiting decision. Otherwise, the Board of Patent Appeals and Interferences may refuse to vacate a decision rendered after the filing (but before recognition by the Office) of a request for continued examination under § 1.114. Section 1.114(c) also provides that an appeal brief or a reply brief (or related papers) will not be considered submission under § 1.114 (discussed above).

Section 1.114(d) provides that an applicant cannot request continued examination of an application until after the Office acts on the application by mailing at least one of an Office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. Section 1.114(d) also provides that the request for continued examination provisions of § 1.114 do not apply to: (1) a provisional application; (2) an application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995; (3) an international application filed under 35 U.S.C. 363 before June 8, 1995; (4) an application for a design patent; or (5) a patent under reexamination.

Section 1.116 is amended to add a paragraph (a) that takes into account that an applicant's after final amendment options include filing a request for continued examination under § 1.114, and to redesignate existing paragraphs (a), (b), and (c) as paragraphs (b), (c), and (d), respectively.

Section 1.198 is amended to take into account that an application in which an appeal has been decided by the Board of Patent Appeals and Interferences may also be reopened under the request for continued examination provisions of § 1.114.

Section 1.312 is amended based upon previously proposed changes to that section. *See Changes to Implement the Patent Business Goals,* Notice of Proposed Rulemaking, 64 FR 53772, 53810, 53838 (October 4, 1999), 1228 *Off. Gaz. Pat. Office* 15, 49, 76 (November 2, 1999). These changes are being adopted in this interim rule because of the overlap between the continued examination provisions of new § 1.114 and the withdrawal from issue provisions of § 1.313 (which in turn overlaps with the provisions of § 1.312).

The Office proposed changing § 1.312 to provide that any amendment filed after the date the issue fee is paid must be accompanied by: (1) A petition under § 1.313(c)(1) to withdraw the application from issue; (2) an unequivocal statement that one or more claims are unpatentable; and (3) an explanation as to how the amendment is necessary to render such claim or claims patentable. The Office is adopting this change to § 1.312 by clarifying that an amendment under § 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminating § 1.312(b) (since the provisions of proposed § 1.312(b) are duplicative of the provisions of proposed and adopted § 1.313(c)(1)).

Section 1.313 is amended to provide that an application may also be withdrawn from issue after payment of the issue fee on petition by the applicant for consideration of a submission pursuant to § 1.114. Section 1.313, as amended, also adopts previously proposed changes to that section. *See Changes to Implement the Patent Business Goals,* 64 FR at 53810–11, 53838–39, 1228 *Off. Gaz. Pat. Office* at 49–50, 76–77.

Of the comments submitted in response to that notice of proposed rulemaking, three comments addressed the proposed changes to §§ 1.312 and 1.313.

Comment (1): One comment addressing the proposed change to § 1.313 favored the proposed change to § 1.313, but suggested that § 1.313(c) and § 1.53(d) be amended to clarify that an application may be withdrawn from issue after payment of the issue fee for express abandonment in favor of a continued prosecution application (CPA) under § 1.53(d). The comment also suggested that the Office provide a notice of rule change to accompany the notice of allowance for some time after adoption of the change to provide further notice to the public of the rule change.

Response: Section 1.53(d)(1)(ii)(A) as amended provides that a CPA under § 1.53(d) must be filed prior to payment of the issue fee on the prior application unless a petition under § 1.313(c) is granted in the prior application. Since a CPA under § 1.53(d) is a continuing application, there is no need to amend § 1.313(c) to specifically refer to a CPA. Specifically referring to a CPA under § 1.53(d) in § 1.313(c) may result in confusion because: (1) An application may be withdrawn from issue after payment of the issue fee for express abandonment (without the filing of any type of continuing application); (2) an application may also be withdrawn from issue after payment of the issue fee for express abandonment in favor of a continuing application under § 1.53(b); and (3) an application may be withdrawn from issue after payment of the issue fee for continued examination under § 1.114 (if eligible for that practice). The suggestion concerning the notice of rule change will be taken into account in preparing training materials

related to the implementation of the rule changes related to the Patent Business Goals and the ''American Inventors Protection Act of 1999.''

Comment (2): Two comments addressing the proposed change to § 1.313 suggested that the conditions under which an applicant could withdraw an application from issue after payment of the issue fee was too limited, and that § 1.313 should not preclude a request to withdraw an application from issue when reasonably efficient processing could prevent the patent from issuing without having some important matter considered.

Response: The Office must limit withdrawal from issue after payment of the issue fee (at applicant's initiative) to those conditions specified in § 1.313(c) due to changes to the patent printing process, which will dramatically reduce the period between the date of issue fee payment and the date a patent is issued. An applicant who must have an important matter considered by the Office before a patent is issued must file a petition under § 1.313(c) to withdraw the application from issue to have such matter considered during continued examination under § 1.114 (if eligible) or in a continuing application, unless the applicant can meet the conditions specified in § 1.313(c)(1).

The Office cannot ensure that any petition under § 1.313(c) will be acted upon prior to the date of patent grant. *See Filing of Continuing Applications, Amendments, or Petitions after Payment of Issue Fee,* Notice, 1221 *Off. Gaz. Pat. Office* 14 (April 6, 1999). Since a request for continued examination under § 1.114 (unlike a CPA under § 1.53(d)) is not any type of new application filing, the Office cannot grant a petition to convert an untimely request for continued examination under § 1.114 to a continuing application under § 1.53(b). Therefore, applicants are strongly cautioned to file any desired request for continued examination under § 1.114 prior to payment of the issue fee. In addition, applicants considering filing a request for continued examination under § 1.114 after payment of the issue fee are strongly cautioned to call the Office of Petitions to determine whether sufficient time remains before the patent issue date to consider (and grant) a petition under § 1.313(c) and what steps are needed to ensure that a grantable petition under § 1.313(c) is before an appropriate official in the Office of Petitions in sufficient time to grant the petition before the patent is issued. Finally, applicants filing a request for continued examination under § 1.114 after allowance but prior to payment of the issue fee are cautioned against subsequently paying the issue fee because doing so may result in the prompt issuance of a patent.

Classification

Administrative Procedure Act

The changes in this interim rule concern only the manner by which an applicant obtains continued examination of a nonprovisional application, requests conversion of a provisional application into a nonprovisional application, or claims the benefit of a provisional application, as provided for in §§ 4403 and 4801 of the ''American Inventors Protection Act of 1999'' (Title IV of S. 1948, incorporated into Pub. L. 106–113). Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(A), or any other law.

Regulatory Flexibility Act

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable.

Executive Order 13132

This interim rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

Executive Order 12866

This interim rule has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993).

Paperwork Reduction Act

This interim rule involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this interim rule have been reviewed and previously approved by OMB under the following control numbers: 0651–0031, 0651–0032, and 0651–0033. The United States Patent and Trademark Office is not resubmitting information collection packages to OMB for its review and approval because the changes in this interim rule do not affect the information collection requirements associated with the information collections under these OMB control numbers.

The title, description and respondent description of each of the information collections are shown below with an estimate of each of the annual reporting burdens. Included in each estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The principal impact of the changes in this interim rule is to implement the changes to Office practice necessitated by sections 4403, 4801, and 4807 of the ''American Inventors Protection Act of 1999.''

OMB Number: 0651–0031.

Title: Patent Processing (Updating).

Form Numbers: PTO/SB/08/21–27/31/42/43/61/62/63/64/67/68/91/92/96/97.

Type of Review: Approved through October of 2002.

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 2,040,630.

Estimated Time Per Response: 0.39 hours.

Estimated Total Annual Burden Hours: 788,421 hours.

Needs and Uses: During the processing for an application for a patent, the applicant/agent may be required or desire to submit additional information to the United States Patent and Trademark Office concerning the examination of a specific application.

The specific information required or which may be submitted includes: Information Disclosure Statements; Terminal Disclaimers; Petitions to Revive; Express Abandonments; Appeal Notices; Petitions for Access; Powers to Inspect; Certificates of Mailing or Transmission; Statements under § 3.73(b); Amendments, Petitions and their Transmittal Letters; and Deposit Account Order Forms.

OMB Number: 0651–0032.

Title: Initial Patent Application.

Form Number: PTO/SB/01–07/13PCT/17–19/29/101–110.

Type of Review: Approved through October of 2002.

Affected Public: Individuals or Households, Business or Other For-Profit, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 344,100.

Estimated Time Per Response: 8.7 hours.

Estimated Total Annual Burden Hours: 2,994,160 hours.

Needs and Uses: The purpose of this information collection is to permit the United States Patent and Trademark Office to determine whether an application meets the criteria set forth in the patent statute and regulations.

The standard Fee Transmittal form, New Utility Patent Application Transmittal form, New Design Patent Application Transmittal form, New Plant Patent Application Transmittal form, Declaration, and Plant Patent Application Declaration will assist applicants in complying with the requirements of the patent statute and regulations, and will further assist the United States Patent and Trademark Office in processing and examination of the application.

OMB Number: 0651–0033.

Title: Post Allowance and Refiling.

Form Numbers: PTO/SB/13/14/44/50–57; PTOL–85b.

Type of Review: Approved through September of 2000.

Affected Public: Individuals or Households, Business or Other For-Profit, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 135,250.

Estimated Time Per Response: 0.325 hour.

Estimated Total Annual Burden Hours: 43,893 hours.

Needs and Uses: This collection of information is required to administer the patent laws pursuant to title 35, U.S.C., concerning the issuance of patents and related actions including correcting errors in printed patents, refiling of patent applications, requesting reexamination of a patent, and requesting a reissue patent to correct an error in a patent. The affected public includes any individual or institution whose application for a patent has been allowed or who takes action as covered by the applicable rules.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (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 to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Special Program Law Office, United States Patent and Trademark Office, Washington, D.C. 20231, or to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, N.W., Washington, D.C. 20503, (Attn: PTO Desk Officer).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 is revised to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

2. Section 1.7 is revised to read as follows:

§ 1.7 Times for taking action; Expiration on Saturday, Sunday or Federal holiday.

(a) Whenever periods of time are specified in this part in days, calendar days are intended. When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday. See § 1.304 for time for appeal or for commencing civil action.

(b) If the day that is twelve months after the filing date of a provisional application under 35 U.S.C. 111(b) and § 1.53(c) falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the period of pendency shall be extended to the next succeeding secular or business day which is not a Saturday, Sunday, or a Federal holiday.

3. Section 1.17 is amended by adding paragraph (e) and revising paragraph (i) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(e) To request continued examination pursuant to § 1.114:

By a small entity 345.00

By other than a small entity 690.00

* * * * *

(i) For filing a petition to the Commissioner under one of the following sections which refers to this paragraph 130.00

§ 1.12—for access to an assignment record.

§ 1.14—for access to an application.

§ 1.41—to supply the name or names of the inventor or inventors after the filing date without an oath or declaration as prescribed by § 1.63, except in provisional applications.

§ 1.47—for filing by other than all the inventors or a person not the inventor.

§ 1.48—for correction of inventorship, except in provisional applications.

§ 1.53—to accord a filing date, except in provisional applications.

§ 1.53(c)—to convert a provisional application filed under § 1.53(c) to a nonprovisional application under § 1.53(b).

§ 1.55—for entry of late priority papers.

§ 1.59—for expungement and return of information.

§ 1.84—for accepting color drawings or photographs.

§ 1.91—for entry of a model or exhibit.

§ 1.97(d)—to consider an information disclosure statement.

§ 1.102—to make an application special.

§ 1.103—to suspend action in application.

§ 1.177—for divisional reissues to issue separately.

§ 1.313—to withdraw an application from issue.

§ 1.314—to defer issuance of a patent.

§ 1.666(b)—for access to an interference settlement agreement.

§ 3.81—for a patent to issue to assignee, assignment submitted after payment of the issue fee.

* * * * *

4. Section 1.53 is amended by redesignating paragraph (c)(3) as paragraph (c)(4), adding a new paragraph (c)(3), and revising paragraph (d)(1) to read as follows:

§ 1.53 Application number, filing date, and completion of application.

* * * * *

(c) * * *

(3) A provisional application filed under paragraph (c) of this section may be converted to a nonprovisional application filed under paragraph (b) of this section and accorded the original filing date of the provisional application. The conversion of a provisional application to a nonprovisional application will not result in either the refund of any fee properly paid in the provisional application or the application of any such fee to the filing fee, or any other fee, for the nonprovisional application. A request to convert a provisional application to a nonprovisional application must be accompanied by the fee set forth in § 1.17(i) and an

amendment including at least one claim as prescribed by the second paragraph of 35 U.S.C. 112, unless the provisional application under paragraph (c) of this section otherwise contains at least one claim as prescribed by the second paragraph of 35 U.S.C. 112. A request to convert a provisional application to a nonprovisional application must also be filed prior to the earliest of:

(i) Abandonment of the provisional application filed under paragraph (c) of this section; or

(ii) Expiration of twelve months after the filing date of the provisional application filed under paragraph (c) of this section.

* * * * *

(d) * * *

(1) A continuation or divisional application (but not a continuation-in-part) of a prior nonprovisional application may be filed as a continued prosecution application under this paragraph, provided that:

(i) The prior nonprovisional application is:

(A) A utility or plant application that was filed under 35 U.S.C. 111(a) before May 29, 2000, and is complete as defined by § 1.51(b);

(B) A design application that is complete as defined by § 1.51(b); or

(C) The national stage of an international application that was filed under 35 U.S.C. 363 before May 29, 2000, and is in compliance with 35 U.S.C. 371; and

(ii) The application under this paragraph is filed before the earliest of:

(A) Payment of the issue fee on the prior application, unless a petition under § 1.313(c) is granted in the prior application;

(B) Abandonment of the prior application; or

(C) Termination of proceedings on the prior application.

* * * * *

Section 1.78 is amended by revising paragraph (a)(3) to read as follows:

§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(a) * * *

(3) A nonprovisional application other than for a design patent may claim an invention disclosed in one or more prior filed provisional applications. In order for a nonprovisional application to claim the benefit of one or more prior filed provisional applications, each prior provisional application must name as an inventor at least one inventor named in the later filed nonprovisional application and disclose the named inventor's invention claimed in at least one claim of the later filed nonprovisional application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior provisional application must be entitled to a filing date as set forth in § 1.53(c), have any required English-language translation filed therein within the time period set forth in § 1.52(d), and have paid therein the basic filing fee set forth in § 1.16(k) within the time period set forth in § 1.53(g).

* * * * *

5. Section 1.97 is amended by revising paragraph (b) to read as follows:

§ 1.97 Filing of information disclosure statement.

* * * * *

(b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

(1) Within three months of the filing date of a national application;

(2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;

(3) Before the mailing of a first Office action on the merits; or

(4) Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.

* * * * *

6. Section 1.104 is amended by revising paragraph (c)(4) to read as follows:

§ 1.104 Nature of examination.

* * * * *

(c) * * *

(4) Subject matter which is developed by another person which qualifies as prior art only under 35 U.S.C. 102(e), (f) or (g) may be used as prior art under 35 U.S.C. 103 against a claimed invention unless the entire rights to the subject matter and the claimed invention were commonly owned by the same person or organization or subject to an obligation of assignment to the same person or organization at the time the claimed invention was made.

* * * * *

7. Section 1.113 is revised to read as follows:

§ 1.113 Final rejection or action.

(a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's or patent owner's reply is limited to appeal in the case of rejection of any claim (§ 1.191), or to amendment as specified in § 1.114 or § 1.116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Reply to a final rejection or action must comply with § 1.114 or paragraph (c) of this section.

(b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof.

(c) Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form.

8. Section 1.114 is added immediately following § 1.113 to read as follows:

§ 1.114 Request for continued examination.

(a) An applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111.

(c) If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination under this section after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. An appeal brief under § 1.192 or a reply brief under § 1.193(b), or related papers, will not be considered a submission under this section.

(d) The provisions of this section do not apply in any application in which the Office has not mailed at least one of an Office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. The provisions of this section also do not apply to:

(1) A provisional application;

(2) An application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995;

(3) An international application filed under 35 U.S.C. 363 before June 8, 1995;

(4) An application for a design patent; or

(5) A patent under reexamination.

9. Section 1.116 is revised to read as follows:

§ 1.116 Amendments after final action or appeal.

(a) An amendment after final action or appeal must comply with § 1.114 or this section.

(b) After a final rejection or other final action (§ 1.113), amendments may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after final rejection, and any related proceedings, will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135.

(c) If amendments touching the merits of the application or patent under reexamination are presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented.

(d) No amendment can be made as a matter of right in appealed cases. After decision on appeal, amendments can only be made as provided in § 1.198, or to carry into effect a recommendation under § 1.196.

10. Section 1.198 is revised to read as follows:

§ 1.198 Reopening after decision.

Cases which have been decided by the Board of Patent Appeals and Interferences will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 1.196 without the written authority of the Commissioner, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

11. Section 1.312 is revised to read as follows:

§ 1.312 Amendments after allowance.

No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment filed pursuant to this section must be filed before or with the payment of the issue fee, and may be entered on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the application from issue.

12. Section 1.313 is revised to read as follows:

§ 1.313 Withdrawal from issue.

(a) Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(i) and a showing of good and sufficient reasons why withdrawal of the application is necessary. If the Office withdraws the application from issue, the Office will issue a new notice of allowance if the Office again allows the application.

(b) Once the issue fee has been paid, the Office will not withdraw the application from issue at its own initiative for any reason except:

(1) A mistake on the part of the Office;

(2) A violation of § 1.56 or illegality in the application;

(3) Unpatentability of one or more claims; or

(4) For interference.

(c) Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to § 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

(d) A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue. Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

Dated: March 10, 2000.

Q. Todd Dickinson,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 00–6514 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM–26–1–6944a; FRL–6561–6]

Approval and Promulgation of Implementation Plan for New Mexico: Transportation Conformity Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to the New Mexico State Implementation Plan (SIP) that contains the transportation conformity rule. The conformity rules assure that in air quality nonattainment or maintenance areas, projected emissions from transportation plans and projects stay within the motor vehicle emissions ceiling in the SIP. The transportation conformity SIP revision enables the State to implement and enforce the Federal transportation conformity requirements in regulations on Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. The EPA's approval action streamlines the conformity process and allows direct consultation among agencies at the local levels. The final approval action is limited to regulations on Transportation Conformity. We approved the SIP revision on conformity of general Federal actions on September 9, 1998 (61 FR 48407).

The EPA approves this SIP revision under sections 110(k) and 176 of the Federal Clean Air Act (Act). We have given our rationale for approving this SIP revision in this action.

DATES: This rule is effective on May 19, 2000 without further notice, unless EPA receives adverse comment by April 19, 2000. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: You should send your written comments to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PDL) at the address given below. You may inspect copies of the State's SIP revision and other relevant information during normal business hours at the following locations. If you wish to examine these documents, you should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air Planning Section (6PDL), Multimedia Planning and Permitting

Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202.

New Mexico Environment Department (NMED), Harold Runnels Building, 1190 St. Francis Drive, P.O. Drawer 226110, Santa Fe, New Mexico 87502–0110.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P. E. or Mr. Ken Boyce; Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone (214) 665–7247 or (214) 665–7259, *behnam.jahanbakhsh@epamail.epa.gov or boyce.kenneth@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION: We have outlined the contents of this document below for your reading convenience:

I. Background

A. What is a SIP?

B. What is the Federal approval process for a SIP?

C. What is transportation conformity?

D. Why must the State send a transportation conformity SIP?

E. How does transportation conformity work?

II. Approval of the State Transportation Conformity Rule

A. What did the State send?

B. What is EPA approving today and why?

C. How did the NMED satisfy the interagency consultation process?

D. Why did the NMED exclude the grace period for new nonattainment areas (93.102(d))?

E. What parts of the rule are excluded?

III. Opportunity for Public Comments

IV. Administrative Requirements

I. Background

A. What is a SIP?

The states under section 110 of the Act must develop air pollution regulations and control strategies to ensure that state air quality meets the National Ambient Air Quality Standards (NAAQS) established by EPA. The Act under section 109 established these ambient standards which currently includes six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must send these regulations and control strategies to us, for approval and incorporation into the federally enforceable SIP. Currently, each state has a federally approved SIP which protects air quality and has emission control plans for nonattainment areas. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

B. What is the Federal approval process for a SIP?

The states must formally adopt the regulations and control strategies consistent with state and Federal laws for incorporating the state regulations into the federally enforceable SIP. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state will send these provisions to us for inclusion in the federally enforceable SIP. We must then decide on an appropriate Federal action, provide public notice, and request additional public comment on the action. If anyone sends adverse comments, we must consider the comments before a final action.

We incorporate all state regulations and supporting information (sent under section 110 of the Act) into the federally approved SIP after our approval action. We maintain records of such SIP actions in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans. The Government does not reproduce the text of the federally approved state regulations in the CFR. They are ''incorporated by reference,'' which means that the specific state regulation is cited in the CFR and is considered a part of the CFR the same as if the text were fully printed in the CFR.

C. What is transportation conformity?

Conformity first appeared in the Act's 1977 amendments (Public Law 95–95). Although the Act did not define conformity, it stated that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP which has been approved or promulgated.

The Act's 1990 Amendments expanded the scope and content of the conformity concept by defining conformity in relation to an implementation plan. Section 176(c) of the Act defines conformity as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. Also, the Act states that no Federal activity will: (1) cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

D. Why must the State send a transportation conformity SIP?

We were required to issue criteria and procedures for determining conformity of transportation plans, programs, and projects to a SIP by section 176(c) of the Act. The Act also required the procedure to include a requirement that each State submit a revision to its SIP including conformity criteria and procedures. We published the first transportation conformity rule in the November 24, 1993, **Federal Register**, and it was codified at 40 CFR part 51, subpart T and 40 CFR part 93, subpart A. We required the States and local agencies to adopt and submit a transportation conformity SIP revision to us by November 25, 1994. The State Governor sent a transportation conformity SIP on December 19, 1994. However, this SIP was not approvable. We revised the transportation conformity rule on August 7, 1995 (60 FR 40098), November 14, 1995 (60 FR 57179), and August 15, 1997 (62 FR 43780), and it was codified under 40 CFR part 51, subpart T and 40 CFR part 93, subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws (62 FR 43780). Our action of August 15, 1997, required the States to change their rules and send a SIP revision by August 15, 1998.

E. How Does Transportation Conformity Work?

The Federal or State transportation conformity rule applies to all nonattainment and maintenance areas in the State. The Metropolitan Planning organizations (MPO), the State Departments of Transportation (in absence of a MPO), and U.S. Department of Transportation make conformity determinations. These agencies make conformity determinations on programs and plans such as transportation improvement programs, transportation plans, and projects. The MPOs calculate the projected emissions for the transportation plans and programs and compare those calculated emissions to the motor vehicle emissions ceiling established in the SIP. The calculated emissions must be smaller than the motor vehicle emissions ceiling for showing a positive conformity with the SIP.

II. Approval of the Transportation Conformity Rule

A. What Did the State Send?

The State of New Mexico initially submitted a SIP revision on November 17, 1994, however, this SIP was not approvable. On November 20, 1998, the Governor of New Mexico sent a SIP revision that includes the transportation conformity and consultation rule. The NMED adopted this SIP revision on November 9, 1998, after appropriate public participation and interagency consultation. In addition, this SIP was revised to correct a typographical error in section 124. The Governor submitted this revision on August 27, 1999. Today's approval action is solely based on the November 20, 1998, and August 27, 1999, submissions.

B. What is EPA Approving Today and Why?

We are approving the transportation conformity rule that the Governor of New Mexico sent us on November 20, 1998, and August 27, 1999, except for New Mexico Administrative Code (NMAC) Title 20, Chapter 2, Part 99, sections 109. C.1, 114, 128.C–F, 137.E, 139.A.2, 140.A.1, and 147.B. The rationale for exclusion of these sections is discussed in section II–E of this action. The NMED has adopted the Federal rules in verbatim form except for the interagency consultation section (40 CFR 93.105) and the grace period for new nonattainment areas (40 CFR 93.102(d)). We will discuss the reasons for exclusion of these two sections later in this document.

The Federal Transportation Conformity Rule required the states to adopt a majority of the Federal rules in verbatim form with a few exceptions. The States can not make their rules more stringent than the Federal rules unless the state's rules apply equally to nonfederal as well as Federal entities. The NMED's transportation conformity rule is the same as the Federal rule and the State has made no additional changes or modifications, with the exception of those sections mentioned above.

We have evaluated this SIP revision and have determined that the NMED has fully adopted the Federal Transportation Conformity Rules as described in 40 CFR part 51, subpart T and 40 CFR part 93, subpart A. Also, the NMED has completed and satisfied the public participation and comprehensive interagency consultations during development and adoption of these rules at the local level. Therefore, we are approving this SIP revision.

Our approval action does not include general conformity (40 CFR part 51, subpart W). We approved the general conformity SIP on September 9, 1998 (63 FR 48106).

C. How Did the NMED Satisfy the Interagency Consultation Process?

Our rule requires the states to develop their own processes and procedures for interagency consultation among the Federal, State, and local agencies and resolution of conflicts by meeting the criteria in 40 CFR 93.105. The SIP revisions must include processes and procedures to be followed by the MPO, State Department of Transportation (DOT), and the U.S. Department of Transportation (USDOT) in consulting with the State and local air quality agencies and EPA before making conformity determinations. Also, the transportation conformity SIP revision must have processes and procedures for the State and local air quality agencies and EPA in coordinating development of applicable SIPs with MPOs, State DOT, and USDOT.

The NMED developed its own consultation rule based on the elements in 40 CFR 93.105. As a first step, the NMED established an *ad hoc* multi-agency committee that included representatives from the State air quality agency, State DOT, USDOT, MPOs, EPA, the local air quality agency, local transportation agencies, and local transit operators. The NMED served as the lead agency in coordinating the multi-agency efforts for developing the consultation rule. The committee met periodically and drafted consultation rules by considering the elements in 40 CFR 93.105 and 23 CFR part 450, and by integrating the local procedures and processes into the final consultation rule. The consultation rule developed through this process is codified under 20 NMAC 2.99.119 and 2.99.120. We have determined that the NMED adequately included all elements of 40 CFR 93.105 in their rule and it meets the EPA SIP requirements.

D. Why Did the NMED Exclude the Grace Period for New Nonattainment Areas (40 CFR 93.102(d))?

The NMED excluded 40 CFR 93.102(d) from its rule. This section allows up to 12 months for newly designated nonattainment areas to complete their conformity determination. However, Sierra Club challenged this section of the rule arguing that allowing a 12 month grace period was unlawful under the Act. On November 4, 1997, the United Sates Court of Appeals for the District of Columbia Circuit held in *Sierra Club* v. *Environmental Protection Agency*, 129 F.3d 137 (D.C. Cir. 1997), that EPA's grace period violates the plain terms of the Act and, therefore, is unlawful. Based on this court action, the NMED has excluded this section from its rule. We agree with the NMED's action, and exclusion of 40 CFR 93.102(d) will not prevent us from approving the State transportation conformity SIP.

E. What Parts of the Rule Are Excluded?

We promulgated the transportation conformity rule on August 15, 1997. On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in *Environmental Defense Fund* v. *Environmental Protection Agency*, 167 F.3d 641 (D.C. Cir. 1999). The Court granted the environmental group's petition for review and ruled that 40 CFR 93.102(c)(1), 40 CFR 93.121(a)(1), and 40 CFR 93.124(b) are unlawful and remanded 40 CFR 93.118(e) and 40 CFR 93.120(a)(2) to EPA for revision to harmonize these provisions with the requirements of the Act for an affirmative determination the federal actions will not cause or increase violations or delay attainment. The sections that were included in this decision were:

(a) 40 CFR 93.102(c)(1) which allowed certain projects for which the NEPA process has been completed by the DOT to proceed toward implementation without further conformity determinations during a conformity lapse,

(b) 40 CFR 93.118(e) which allowed use of motor vehicle emissions budgets (MVEB) in the submitted SIPs after 45 days if EPA had not declared them inadequate,

(c) 40 CFR 93.120(a)(2) which allowed use of the MVEB in a disapproved SIP for 120 days after disapproval,

(d) 40 CFR 93.121(a)(1) which allowed the nonfederally funded projects to be approved if included in the first three years of the most recently conforming transportation plan and transportation improvement programs, even if conformity status is currently lapsed, and

(e) 40 CFR 93.124(b) which allowed areas to use a submitted SIP that allocated portions of a safety margin to transportation activities for conformity purposes before EPA approval.

Since the States were required to submit transportation conformity SIPs not later than August 15, 1998, and include those provisions in verbatim form, the State's SIP revision includes all those sections which the Court ruled unlawful or remanded for consistency

with the Act. The EPA cannot approve these sections.

We believe that the NMED has complied with the SIP requirements and has adopted the Federal rules which were in effect at the time that the transportation conformity SIP was due to EPA. If the court had issued its ruling before adoption and SIP submittal by the NMED, we believe the NMED would have removed these unlawful sections from its SIP. The NMED has expended its resources and time in preparing this SIP and meeting the Act's statutory deadline, and EPA acknowledges the agency's good faith effort in submitting the transportation conformity SIP on time.

The NMED will be required to submit a SIP revision in the future when EPA revises its rule to comply with the court decision. Because the court decision has invalidated these provisions, we believe that it would be reasonable to exclude the corresponding sections of the NMED rules from this SIP approval action. As a result, we are not taking any action on 20 NMAC, Chapter 2, Part 99, sections 109. C.1, 114, 128.C–F, 137.E, 139.A.2, 140.A.1, and 147.B under the State Transportation Conformity Rules. The conformity determinations affected by these sections must comply with the relevant requirements of the statutory provisions of the Clear Air Act underlying the court's decision on these issues. The EPA has already issued guidance on how to implement these provisions in the interim prior to EPA's amendment of the Federal transportation conformity rules. Once these Federal rules have been revised, conformity determinations should comply with the requirements of the revised Federal rule until corresponding provisions of the State's conformity SIP have been approved by EPA.

III. Opportunity for Public Comments

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve this SIP revision if adverse comments are filed. This rule will be effective on May 19, 2000 without further notice unless we receive adverse comment by April 19, 2000. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation. This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled ''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.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it approves a State program.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant

economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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**. A major rule can not take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major'' rule as defined by 5 U.S.C. 804(2). This rule will be effective May 19, 2000.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 19, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Transportation conformity, Transportation-air quality planning, Volatile organic compounds.

Dated: March 6, 2000.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart GG—New Mexico

2. Section 52.1620(c) is amended by adding to the end of the first table to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

State citation	Title/subject	State approval/effective date	EPA approval date	Explanation
New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality				
*	*	*	*	*
Part 98 * * *				
New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2				
Part 99 ...	Transportation Conformity	11/23/98 and 09/08/99	3/20/00 [FR volume and page number].	(1) No action is taken on sections 109. C.1, 114, 128.C–F, 137.E, 139.A.2, 140.A.1, and 147.B

[FR Doc. 00–6563 Filed 3–17–00; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE76

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for *Chlorogalum purpureum* (Purple Amole), a Plant From the South Coast Ranges of California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, determine threatened status pursuant to the Endangered Species Act of 1973, as amended (Act), for the California plant, *Chlorogalum purpureum* (purple amole). This species comprises two varieties, *C. p. var. purpureum* and *C. p.* var. *reductum. Chlorogalum purpureum* var. *purpureum* is known only from the south coast ranges in Monterey County, on lands managed by the Department of the Army at Fort Hunter Liggett. It is threatened by loss and alteration of habitat, direct loss of plants from construction and use of military training facilities and from military field training activities, displacement by nonnative annual grasses, and potentially by alteration of fire cycles due to military training. Livestock grazing is a potential threat, as grazing may be reinstated in occupied habitat in the future. The other variety, *C. p.* var. *reductum,* is known only from two sites in the La Panza region of the coast ranges in San Luis Obispo County, on U.S. Forest Service and private lands. It is threatened by illegal vehicle trespass into the population on Forest Service land, road maintenance, displacement by nonnative annual grasses, and by livestock grazing depending upon the intensity of grazing use within the population area. This final rule implements the Federal protection and recovery provisions afforded by the Act. Although this rule lists *Chlorogalum purpureum* at the species level, each variety should be treated as a separate taxonomic unit for the purposes of applying the section 7 jeopardy standard and identifying recovery units, if applicable.

DATES: This rule is effective April 19, 2000.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Carl Benz, Assistant Field Supervisor, Listing and Recovery, at the address above (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Chlorogalum purpureum was first described by Brandegee in 1893 from specimens collected in the Santa Lucia Mountains by William Vortriede a year earlier (Brandegee 1893). In 1904, E.L. Greene (1904) published the new combination *Laothoe purpurea* when he discovered that the genus name *Laothoe* had been published earlier than *Chlorogalum.* However, R.F. Hoover (1940) reinstated use of the name *Chlorogalum* through the rule of *nomen conservandum.* Hoover (1964) described the variety *reductum* (Camatta Canyon amole), first collected in the late 1940s, based on its shorter stature compared to the nominative variety. This nomenclature was retained in the most recent treatment of the genus (Jernstedt 1993). These two varieties comprise the entire species.

Chlorogalum purpureum is a bulb-forming perennial herb in the lily family (Liliaceae). It has a basal rosette of linear leaves 2 to 5 millimeters (mm) (0.1 to 0.2 inches (in)) wide with wavy margins. A widely branching stem supports bluish-purple flowers with six recurved tepals (petals and sepals that have a similar appearance). The stems of *C. p.* var. *purpureum* are 25 to 40 centimeters (cm) (10 to 16 in) high, whereas those of *C. p.* var. *reductum* are only 10 to 20 cm (4 to 8 in) high (Hoover 1964, Jernstedt 1993). Chlorogalum purpureum is the only member of the genus with bluish-purple flowers that open during the day (Jernstedt 1993).

Reproduction in *Chlorogalum purpureum* is primarily by seed. Each flower contains six ovules, although not all develop into seeds in the wild (Hoover 1964). The species is reported to be self-compatible, and insect pollination appears to result in increased seed set (D. Wilken, Santa Barbara Botanic Garden, *in litt.* 1998; M. Elvin, U.S. Fish and Wildlife Service, pers. com. 1998). Hoover (1940) reports that clonal reproduction by longitudinal splitting of the bulbs is rare; some splitting has been noted in one population of *C. p.* var. *reductum* (Alice Koch, California Department of Fish and Game (CDFG), pers. comm. 1997b).

Chlorogalum purpureum occurs in grassland, oak woodland, and oak savannah between 300 and 620 meters (m) (1,000 and 2,050 feet (ft)) in elevation in the south coast ranges of California. Like other members of the lily family, *C. purpureum* is probably mycorrhizal (develops root-hyphae relationships with a fungus).

Mycorrhizal relationships can aid in nutrient and water uptake by a host plant and can alter growth and competitive interactions between species (Allen 1991).

Chlorogalum purpureum var. *purpureum* is known from oak woodlands and grasslands at three sites near Jolon in Monterey County on lands owned and managed by the Department of the Army (Fort Hunter Liggett). Historically, appropriate habitat may have existed east of the base, in Jolon Valley, but most of the flat areas in that valley have been converted to cropland, pasture, or vineyards. At Fort Hunter Liggett, the plant occurs on flat or gently sloping terrain with a gravelly surface underlain by clay soils, often where other herbaceous vegetation is sparse.

Of the three localities of *Chlorogalum purpureum* var. *purpureum,* one comprises discontinuous and fragmented patches of plants scattered over an area 7 to 9 kilometers (km) (4 to 6 miles (mi)) long and about 5 km (3 mi) wide in the cantonment (housing and administration area), the Ammunition Supply Point, adjacent Training Area 13, and the boundary of Training Area 10 (U.S. Army Reserve Command 1996; map provided by D. Hines, *in litt.* 1998; Painter and Neese 1998). While some of the discontinuities in distribution are due to unsuitable intervening habitat, other patches have been fragmented by roads, the historical settlement of Jolon, and military training facilities. No population counts have been made at this site, but estimates of some areas within it suggest that it supports several thousand plants (U.S. Department of the Army 1997, Painter and Neese 1998). The second locality is about 4 km (2.5 mi) to the southeast in Training Area 25. The taxon is patchily distributed in an area of about 6 square km (2 square mi) that is laced with vehicle tracks and dirt roads. At one location there, 400 to 500 plants have been recorded (Painter and Neese 1998), but the entire site may support several thousand individuals. The third and southernmost locality is at the boundaries of Training Areas 23, 24, and 27. This is the largest known site and contains plants in high densities. Following a fire that may have

promoted flowering, this site was estimated to support up to 10,000 plants (Painter and Neese 1998).

The primary threats to *Chlorogalum purpureum* var. *purpureum* are the loss, fragmentation, and alteration of habitat and direct elimination of plants from construction and use of military training facilities, military field training activities, displacement by nonnative annual grasses, and potentially by alteration of fire cycles due to military training. Livestock grazing and associated habitat changes may threaten this taxon if grazing is resumed in occupied habitat in the future.

About 110 km (70 mi) to the south, *Chlorogalum purpureum* var. *reductum* occurs in one region in the La Panza Range of San Luis Obispo County. It is currently known from only two sites. The larger site is located adjacent to a two-lane State highway; a smaller site is located approximately 5 to 8 km (3 to 5 mi) farther to the south. The larger locality is located on a narrow, flat-topped ridge or plateau supporting blue oak (*Quercus douglasii*) savannah. This plateau, bisected by a highway, is probably the remains of an ancient elevated alluvial terrace (a terrace consisting of material deposited by running water), most of which has been eroded away by surrounding drainages that are now 90 to 120 m (300 to 400 ft) below the plateau (H. Ehrenspeck, *in litt.* 1994). The soils have been described as well-drained red clays with a large component of gravel and pebbles (Hoover 1964, Lopez 1992). North of the highway, the population occurs on private lands. South of the highway, it grows on public lands managed by the U.S. Forest Service (USFS) on Los Padres National Forest (LPNF). A few plants may extend into the California Department of Transportation (Caltrans) right-of-way along the highway. Caltrans has designated both sides of the highway right-of-way in this area as Botanical Management Areas. These areas are to be managed for their special resource values (D. Magney, consulting biologist, pers. comm. 1999).

This population is patchily distributed over the plateau and has been estimated to occupy just 2 to 3 hectares (ha) (fewer than 8 acres (ac)) south of the highway and probably somewhat less on the highway's north side (Gaskin 1990; Lopez 1992; M. Borchert and K. Danielsen, USFS, pers. comm. 1997). A graded dirt road about 10 m (30 ft) wide bisects the portion of the population on public land. The road leads to private inholdings and residences on the LPNF and is bounded on either side by a pipe barrier that was installed in 1989 or 1990 to prevent off-highway vehicles (OHVs) from using the site (David Magney, biological consultant, pers. comm. 1997). A removable portion of the barrier and a barbed wire section of fence have been routinely breached by OHVs. Such illegal use was noted to be increasing from 1995 through 1997 (A. Koch, California Department of Fish and Game (CDFG), *in litt.* 1997a). In 1998, after publication of the proposed rule to list the species (63 FR 15142), the Forest Service replaced the broken section of barbed wire fence with a single post barrier and rewelded sections of broken pipe barrier elsewhere.

Because the site north of the highway is on private land, estimates of abundance or recent information on habitat conditions are not currently available. Population size estimates south of the highway, on public lands, have ranged from 1,000 individuals to several hundred thousand individuals (Borchert 1981, Warner 1991, Borchert *et al.* 1997). Some of this variability reflects changes in the above-ground presence of plants, since bulbs may remain dormant during years with unfavorable growing conditions. Monitoring along a 100 m (330 ft) transect showed that plant numbers were relatively stable within the transect between 1991 and 1997 (Borchert *et al.* 1997). This transect is not located in an area where vehicle trespass has continued to occur and is, therefore, not representative of the status of the population in areas subject to OHV activity. That portion of the population where the transect is located is accessible to livestock.

The second known locality of *Chlorogalum purpureum* var. reductum was first documented by botanists in the mid 1990s. It is located 5 to 8 km (3 to 5 mi) south of the LPNF population in an area with similar soils and topography (David Chipping, California Polytechnic State University, *in litt.* 1997). The taxon has been estimated to occupy less than 0.1 ha (0.25 ac) and consists of several hundred plants in two or more patches on private land. The landowner has expressed an interest in the plant and its protection (D. Chipping, *in litt.* 1997).

Chlorogalum purpureum var. *reductum* is threatened by illegal vehicle trespass into the larger locality on LPNF.

Livestock use may be detrimental to this taxon depending upon the intensity of livestock use and the extent to which livestock congregate in the population area. The effects of livestock grazing on this taxon need further evaluation.

Previous Federal Action

Federal Government actions on this species began as a result of section 12 of the Act, 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 (House Doc. No. 94–51) was presented to Congress on January 9, 1975, and included *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum* as endangered. On July 1, 1975, we published a notice in the **Federal Register** (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 of our intention to review the status of the plant taxa named therein.

On June 16, 1976, we published a proposed rule in the **Federal Register** (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 included *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum,* was assembled on the basis of comments and data received by us and by the Smithsonian Institution in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Endangered Species Act required that all proposals over 2 years old be withdrawn.

A 1-year grace period was given to those proposals already more than 2 years old. Subsequently, on December 10, 1979, we published a notice (44 FR 70796) of the withdrawal of the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum* were included in that withdrawal notice.

On December 15, 1980, we published an updated Candidate Notice of Review (NOR) for plants (45 FR 82480). This notice included *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum* as ''category 2 candidates.'' Category 2 candidates were defined as taxa for which we had data on biological vulnerability and threats indicating that listing was possibly appropriate, but the data were not sufficient to support proposed rules. The two *Chlorogalum* taxa were

included as category 1 candidates in the revised plant NOR is published in the **Federal Register** on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144). Category 1 candidates were defined as those taxa for which we had on file sufficient information on biological vulnerability and threats to support the preparation of listing proposals, but issuance of proposed rules was precluded by other pending listing proposals of higher priority. The two *Chlorogalum* taxa were included as candidates in the NOR published on February 28, 1996 (61 FR 7596), as well as in the NOR published on September 19, 1997 (62 FR 49398). The definition formerly applied to category 1 candidates now applies to candidates as a whole. On March 30, 1998, we published a proposed rule in the **Federal Register** (63 FR 15142) to list *Chlorogalum purpureum* as threatened.

The processing of this final rule conforms with our fiscal year 2000 listing priority guidance, published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance establishes the order in which we will process rulemakings. The guidance calls for giving highest priority to handling emergency situations (Priority 1). With the exception of emergency actions, all other listing activities may be undertaken simultaneously; however, relative priorities for non-emergency listing actions may be based on the following priority levels. Processing final decisions on pending proposed listings are priority 2 actions. Priority 3 actions are the resolution of the conservation status of species identified as candidates (resulting in a new proposed rule or a candidate removal). Priority 4 actions are the processing of 90-day or 12-month administrative findings on petitions. 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.** This final rule is a priority 2 action and is being completed in accordance with the current listing priority guidance.

Summary of Comments and Recommendations

In the March 30, 1998, proposed rule (63 FR 15142), all interested parties were requested to submit factual reports or information that might contribute to development of a final rule. Appropriate Federal agencies, State agencies, county and city governments, scientific organizations, and other interested parties were contacted and requested to provide comments. Newspaper notices inviting public comment were published in the San Luis Obispo County *Telegram-Tribune* on April 2, 1998, and in the *Monterey Herald* on April 10, 1998. The comment period closed on May 29, 1998.

Nine comments were provided by individuals, organizations, and agencies on the proposed rule. Six of the commenters supported the listing, and two commenters opposed it. Several commenters provided additional technical information that, along with other clarifications, has been incorporated into the ''Background'' or ''Summary of Factors Affecting the Species'' sections of this final rule. Issues raised by commenters, and our response to each, are summarized as follows:

Issue 1: Two commenters noted that *Chlorogalum purpureum* var. *purpureum* is present in old roadbeds and areas that have been used or disturbed by vehicles. They speculated that disturbance may be beneficial to the plant; one commenter noted that we did not address this possibility in the proposed rule.

Our response: Observations of flowering *Chlorogalum purpureum* in vehicle tracks and scraped areas do exist (Gaskin 1990, Koch 1997). Because *C. purpureum* grows from an underground bulb, some mature plants may be able to survive situations when the above-ground portions are crushed by vehicles. The reduction in other vegetation may make the flowering *C. purpureum* more visible, as even a light cover by annual grasses can obscure the flowers of this species due to its short stature. It is also possible that the removal or suppression of competing vegetation that may occur due to multiple passes of a vehicle may temporarily make available greater light, water, or nutrient resources to the surviving *C. purpureum* plants. Mature *C. purpureum* plants may respond to this temporary increase in available resources by flowering. However, it would be inappropriate to therefore conclude that the species responds ''favorably'' to disturbance. The type of ''disturbance'' and its effects on all life history stages of the plant must be considered. For instance, increased flowering has been observed in many bulb-forming plants following fires (Gill 1977, Zedler and Zammit 1989). While scraping or vehicle use may mimic the removal of vegetation that occurs following fires, these activities do not mimic the other effects of fire (*e.g.,* conversion of thatch and other plant biomass to ash, alteration of nutrient availability, and soil chemistry (Gill 1977, Zedler and Zammit 1989)). In addition to crushing or removal of competing vegetation, vehicle-use in grassland habitats is also likely to cause soil compaction, loss of cryptogamic crusts, and introduction and spread of nonnative plant species; damage mycorrhizae; and crush seedlings, adult rosettes, and flowering stalks. Seedling establishment of *C. purpureum* var. reductum in compacted soils is reduced in comparison to establishment in loosened soils (Koch 1997). While *C. purpureum* has evolved in systems that are periodically ''disturbed'' by events such as wildfire, the human-caused ''disturbances'' addressed here do not mimic those with which the plant has evolved, have many unfavorable effects (as mentioned above), and take place in an environment where nonnative invasive plants are now established. We are not aware of any evidence to suggest that vehicle use, soil surface scraping, and excessive trampling in populations of *C. purpureum* would be other than detrimental to their long-term persistence.

Issue 2: One commenter suggested that quantitative data is inadequate to support listing *Chlorogalum purpureum* var. *purpureum* and that threats to this taxon discussed in the proposed rule should be considered only ''potential'' threats. The commenter stated that the number of documented locations of *C. p.* var. *purpureum* has increased, since 1994, from 5 to about 100, with few documented losses.

Our response: The Act requires that we use the best available scientific information as the basis for our listing decisions. In addition to published papers in peer-reviewed journals, scientific reports, letters, and personal correspondence, we consider professional judgment and expert opinion by knowledgeable biologists in making decisions. We have assessed the best available information provided by the Army at Fort Hunter Liggett and by other parties on the activities occurring in the locations supporting *C. p.* var. *purpureum.* While the Army has been responsive and shown initiative in implementing their environmental review process and while this may benefit *C. p.* var. *purpureum* and other sensitive plant species, we conclude that the activities occurring in the populations of *C. p.* var. *purpureum*, and the damage to associated soils and vegetation, are of sufficient magnitude that the taxon is imperiled and meets the definition of ''threatened'' under the Act. To assess the comment on the number of locations of *C. p.* var. *purpureum*, we compared the data on

known locations of *C. p.* var. *purpureum* submitted by this commenter with data we had received previously from this commenter and others on the locations of *C. p.* var. *purpureum* and found no substantial difference, other than how the locations are described. For instance, in the proposed rule, we described the northern site of *C. p.* var. *purpureum* as patches of plants occurring over an area 7 to 9 km (4 to 6 mi) long, while the commenter has this area mapped as about 60 individual locations. Because many of the patches of *C. p.* var. *purpureum* in this area grow within 100 meters of one another, gene flow may be occurring between them, and they may function as one or multiple populations. Therefore, we concluded that it is most appropriate to describe the distribution of plants in this area as a single discontinuous locality. Plants had been documented in this locality by 1994.

Issue 3: One commenter stated that the effects of military training activities on *Chlorogalum purpureum* var. *purpureum* are not known and that no evidence exists that foot traffic resulting from use of the obstacle course will degrade the *C. p.* var. *purpureum* sites. In response to our observation that no areas where this taxon occurs are off-limits to training, the commenter stated that eliminating military training from *C. p.* var. *purpureum* localities may not be needed because the plant is doing well at Fort Hunter Liggett under current conditions.

Our response: We disagree that the plant is doing well at Fort Hunter Liggett under current conditions. Military training activities, including field maneuvers, occur in the populations of *Chlorogalum purpureum* var. *purpureum.* Their effects are most evident in the locality in Training Area 25. Field maneuvers typically involve tracked and wheeled vehicles, placement of temporary housing (tents) for troops, digging of latrines, protection berms or bunkers, and use by hundreds of troops (U.S. Army Reserve Command 1996). Field maneuvers and bivouacking (temporary encampments) have resulted in soil compaction, ruts in the soil that alter microhabitat characteristics (Painter and Neese 1998; D. Steeck, pers. obs. 1998; J. Chesnut, consulting biologist, *in litt.* 1998), and loss of most herbaceous vegetation in areas where troop use is heavy (D. Steeck, pers. obs. 1997, 1998) and may result in direct crushing or trampling of vegetative or reproductive parts of purple amole. Such activity may also increase the spread or abundance of nonnative plant species. Other training activities involve the use of developed facilities, such as obstacle courses. According to their records (Hormann 1996), the Army at Fort Hunter Liggett avoided placing individual obstacles for the obstacle course directly on plants, however the obstacles were placed within the population. Use of the obstacle course is likely to reduce seedling establishment through crushing and soil compaction, and the construction of the course and its use may increase the abundance of nonnative grasses and weedy species on the site. We conclude that adequate evidence exists that military training activities, including field maneuvers and development and use of training facilities such as the obstacle course, are detrimental to *C. p.* var. *purpureum* at Fort Hunter Liggett.

Issue 4: One commenter stated that, because the historical distribution of *Chlorogalum purpureum* var. *purpureum* is not known, the extent of fragmentation cannot be known.

Our response: We agree that the extent of fragmentation of *Chlorogalum purpureum* var. *purpureum* populations is not known. Patches of plants may be discontinuous due to differences in soils and microhabitat conditions, even without human-induced changes to the landscape. However, in numerous places at Fort Hunter Liggett, plants occur up to, and on both sides of, a road or other human structure, strongly suggesting that they were once continuous (for instance, plants within the ''triangle'' of roads at the entrance gate, those on both sides of Mission Creek Road and on both sides of the dirt road leading to the rifle range and conditioning course). In these cases, depending on pollinator type and amount and type of converted habitat, gene flow from seed and pollen dispersal between the isolated or fragmented patches of plants will be reduced. We conclude that the historical settlement of Jolon on Fort Hunter Liggett and the construction and use of training areas, roads, and buildings have fragmented and isolated patches of *C. p.* var. *purpureum.*

Issue 5: One commenter suggested that we should not have included *Chlorogalum purpureum* var. *purpureum* in the proposed rule because it had a candidate listing priority number of 9, suggesting less threat than that for *C. p.* var. *reductum*, which had a candidate listing priority number of 3.

Our response: Assigning listing priority numbers to candidates, based on immediacy and degree of threat, is simply a method to help us prioritize the order in which candidates will be proposed for listing. By definition, a candidate species is one for which we have determined that we have adequate information on file to propose listing. When candidate species occur together in the same habitat or have close taxonomic affinities, we often include them together in a listing package to increase efficiency. The two taxa addressed in this listing make up the entire species *Chlorogalum purpureum*, so it is appropriate to address the entire species in one rule.

Issue 6: One commenter stated that a new road was not constructed at Fort Hunter Liggett as had been reported in 1988 by an observer. The commenter stated that Fort Hunter Liggett simply repaved an abandoned road that had fallen into disrepair. An aerial photograph from 1950 was presented to document the statement.

Our response: We have reviewed the photo and agree that it appears that the road in question was in place by 1950. The area where the plants are located (the commenter has illustrated their location on the photo) does not appear to have been surrounded by roads in 1950, however, suggesting that additional road construction since 1950 has occurred and has resulted in their being left in a triangular-shaped area, bounded on all sides by roads.

Issue 7: One commenter clarified that, since 1995, under the Army's environmental review procedures, projects have been modified in all cases where it was necessary to protect the *Chlorogalum purpureum* var. *purpureum*, not in just some cases, as the proposed rule described.

Our response: We are pleased to learn that, during the environmental review process, projects have been modified in all cases where needed to reduce impacts to this taxon. Our assessment is that these modifications have not always been sufficient. The wording in this final rule has been altered to reflect this determination. We also recognize that some activities that threaten this plant, such as bivouacking, are not addressed through the environmental review process but cause substantial modification of habitat for *Chlorogalum purpureum*, particularly in Training Area 25.

Issue 8: One commenter stated that *Chlorogalum purpureum*, particularly var. *reductum*, should be listed as endangered, due to the combined effects of livestock grazing and OHV trespass, which are degrading a significant portion of this taxon's range.

Our response: Although *Chlorogalum purpureum* var. *reductum* occupies a very limited area, the taxon is abundant within that area. The species is long-lived, and the threat of OHV trespass has been partially addressed by the

USFS through fencing, although more rigorous monitoring and maintenance of the barriers are needed. Transect data have shown that recruitment is occurring in the transect area where numbers of *C. p.* var. *reductum* have been relatively stable over the last 7 years (Borchert *et al.* 1997). The transect is in an area accessible to cattle, but is not in an area where OHV trespass has continued to occur and cannot be considered representative of the population. We have concluded that, while not currently in danger of extinction, *C. p.* var. *reductum* is ''* * * likely to become endangered in the foreseeable future throughout all or a significant portion of its range'' (the definition of ''threatened'') if impacts from increasing OHV trespass, road use and maintenance, livestock grazing, and potential displacement by nonnative species continue or increase.

Issue 9: One commenter stated that the Service, in the proposed rule, failed to address means, other than grazing, of reducing the impacts of invasive nonnative species on *Chlorogalum purpureum* var. *reductum.* The commenter also requested that the final rule include measures the USFS will take to reduce vehicle trespass into the population area.

Our response: We do not typically make management recommendations in proposed or final rules. Therefore, in this rule we have not included a discussion of methods to reduce the impacts of nonnative plants on *Chlorogalum purpureum* populations or the measures by which the USFS will address vehicle trespass. The latter will be addressed in the consultation process under section 7 of the Act, and both issues will be addressed through the recovery planning process after the species is listed. In the proposed rule, we noted that previous reports had suggested that *C. purpureum* might benefit from grazing if it reduced the abundance of nonnative annual grasses that occur in the population area and which may displace *C. purpureum.* These reports were not based on monitoring data, as none is available that address the effects of livestock on nonnative grasses at this site. In the proposed rule, we did not advocate or oppose livestock grazing as a means to reduce the effects of nonnative plants on *C. purpureum;* we believe studies investigating the effects of livestock grazing on *C. purpureum* are necessary should cattle continue to have access to the habitat of this taxon on Federal lands.

Issue 10: One commenter stated that our argument for not designating critical habitat was not well justified and that a designation of critical habitat would provide additional benefit to *Chlorogalum purpureum* var. *reductum* through the section 7 process.

Our response: We are deferring a critical habitat determination for *Chlorogalum purpureum* in accordance with the Final Listing Priority Guidance for FY 2000 (64 FR 57114). The Critical Habitat section in this rule contains further discussion of this issue.

Issue 11: One commenter stated that we lack jurisdiction to enact the proposed rule and that the rule should be withdrawn since there is no connection between regulation of these plants and a substantial effect on ''interstate commerce.''

Our response: Congress does have the authority pursuant to the Commerce Clause of the U.S. Constitution, to extend the regulatory protection of the Act to species that occur in a single site, such as the one in this final rule. A recent federal court case has upheld this authority (*National Association of Home Builders* v. *Babbitt, 130 F. 3d 1041 (D.C. Cir. 1997). cert. denied 118 S.Ct. 1998*).

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited the expert opinions of three peer reviewers regarding pertinent scientific or commercial data and assumptions relating to population status and biological and ecological information for *Chlorogalum purpureum.* Two of the three peer reviewers provided responses. Both respondents supported the listing of the species and described the information included in the rule as factually correct to the best of their knowledge. Both provided technical corrections. One reviewer also provided additional detailed technical information and references pertaining to threats to the species which the reviewer suggested needed more thorough discussion than that provided in the proposed rule.

Summary of Factors Affecting the Species

Section 4 of the Act and the regulations (50 CFR part 424) that implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Chlorogalum purpureum* Brandegee (purple amole) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range.

Chlorogalum purpureum var. *purpureum* is known only from three localities on Fort Hunter Liggett, Monterey County. The northern site comprises discontinuous and fragmented patches over a 7 to 9-km (4 to 6-mi) area in the cantonment (housing and command center), several training areas, the Ammunition Supply point, and near the Jolon entrance gate. Habitat for *C. p.* var. *purpureum* has been destroyed, and patches of plants have been isolated and fragmented by the historical settlement of Jolon, roads, and the construction and use of training facilities over the past several decades. In the last 50 years, a large group of plants near the Jolon entrance gate was isolated by the addition of a new road (aerial photos from Hines *in litt.* 1998). Bounded on all sides by roads, this area was used as a vehicle parking area in the 1980s. Representatives from Fort Hunter Liggett and the Monterey Chapter of the California Native Plant Society (CNPS) cooperated in constructing barriers to reduce impacts to the area (Matthews and Branson 1988). Although the military has committed to maintaining these protective barriers, this site remains vulnerable due to its proximity to roads and isolation from surrounding patches of plants. For example, in 1996 a vehicle mishap resulted in a large piece of earth-moving machinery entering the site; its tracks through the population were still evident in September 1997 (Painter and Neese 1998; D. Steeck, U.S. Fish and Wildlife Service, pers. obs. 1997).

In another portion of this northern locality, the Army recently expanded training facilities (Hormann 1996). Since 1996, a new obstacle course and two small parking areas have been placed in habitat occupied by *Chlorogalum purpureum* var. purpureum. Although the obstacles and parking areas themselves were placed to avoid individual patches of plants (Hormann 1996; Hines *in litt.* 1998), foot traffic and use of the training facilities will likely degrade the habitat and eliminate a portion of the population. In addition to the obstacle course and parking areas, the Army has in the past 3 years constructed a confidence course and upgraded a firing range along the stretch of dirt road adjacent to the locality. The existence of some training facilities made this area more attractive for additional construction because the facilities could be located within walking distance of one another (Hormann 1996). For the same reason, this area is likely to be attractive for the siting of future training facilities,

although the Army recently stated that they do not intend to develop the area further and are willing to enter into an agreement stating this decision (Hines *in litt.* 1998).

The second locality is in Training Area 25, which is used for field training maneuvers and is crossed by numerous dirt roads and tracks. Field maneuvers at Fort Hunter Ligget involve setting up temporary camps (bivouac sites), which may include excavations for latrines and washing facilities, bunkers, and protective berms. Field maneuvers routinely involve hundreds of troops and support staff as well as both tracked and wheeled vehicles (U.S. Army Reserve Command 1996). Large areas where substantial bivouacking occurred in 1997 were denuded, with much of the herbaceous vegetation among the oaks destroyed (D. Steeck, pers. obs. 1997). Vehicle tracks were evident throughout the site (D. Steeck, pers. obs. 1997, 1998) and had been reported by other observers (Painter and Neese 1998). Bivouacking typically occurs in these areas in summer (U.S. Army Reserve Command 1996). Although soils are not as susceptible to compaction at that time, fruiting stalks are destroyed and the loss of vegetation may lead to erosion and consequent loss of existing seeds and bulbs in the soil, as well as an increase in the abundance of nonnative plants. Soil compaction may damage soil mycorhizzae, and the loss of cryptobiotic crusts may hinder seedling establishment of native species (Belnap 1994), thereby intensifying displacement of native species by nonnative grasses. Cryptobiotic crusts have been observed in at least one locality where *Chlorogalum purpureum* var. *purpureum* is found (Painter *in litt.* 1998). Vehicle tracks have also been reported in the third locality of *C. p.* var. *purpureum* at the boundaries of Training Areas 23, 24, and 27 (Painter and Neese 1998, J. Chesnut, *in litt.* 1998). In 1997, the vegetation of this area appeared to be the least affected by training activities, although military training the previous year had caused a spring fire that burned the site and destroyed most of the year's seed crop (Painter and Neese 1998).

The larger site of *Chlorogalum purpureum* var. *reductum*, located on LPNF and on private land, is estimated to occupy less than 8 ha (20 ac) (maps in Borchert 1981, Gaskin 1990; Danielsen pers. comm. 1997). It was likely once continuous, but is now divided by a two-lane highway. The southern portion of the site, on public lands, is further bisected by a dirt road that is currently about 10 m (33 ft) wide and runs the length of the population. Although this road has existed for many decades, grading during the past 5 years has widened it toward the bounds of the pipe barrier fence that lines it, causing direct loss of some individuals of *C. p.* var. *reductum* and additional habitat loss (D. Magney, pers. comm. 1997). Because the roadbed is graded and highly compacted, the loss of habitat due to the roadbed is relatively permanent, barring extensive restoration efforts. Dust from use of the road during late spring may impede pollination in those plants exposed to it, and dust coating leaves can reduce photosynthetic abilities (Farmer 1993).

In the 1970s and 1980s, most of the LPNF locality of *Chlorogalum purpureum* var. *reductum* was used as a staging area by OHV enthusiasts (McLeod 1987). An active 4-wheel drive route still exists near the population (USFS 1993). A portion of the population was fenced in the early 1980s by the CNPS with help from the USFS to protect it from OHV use. In 1989 or 1990, due to continued OHV use in the area, the USFS installed a pipe barrier on both sides of the dirt road that bisects the population, to exclude vehicles from most of the population. Vehicles repeatedly trespassed onto the site over the past 5 years through broken fences leaving ruts or exposed tracks in the population (K. Danielsen pers. comm. 1996; A. Koch, CDFG, *in litt.* 1997; D. Steeck, pers. obs. 1997). In 1998, the USFS replaced a section of barbed wire fence with a metal post and rewelded broken pipe barriers. Continued monitoring and repairs will be needed to exclude vehicles. In addition to causing injury or death of individual plants, vehicle passes may destroy cryptobiotic soil crusts (Webb and Wilshire 1983), damage soil mycorrhizae, and cause soil compaction, altering the soil's water-holding capacity and interfering with the ability of roots to penetrate the soil (Webb and Wilshire 1983). The existing scars of older vehicle tracks in the population are probably partly the result of soil compaction. Biologists attempting to establish seedlings of *C. p.* var. *reductum* in old OHV tracks in the LPNF population found that only 36 percent of the seeds planted in untreated tracks germinated and survived through their first 1.5 years. Survival was 66 percent for seeds planted in old tracks where the top 10 cm (4 in) of soil was loosened prior to planting to reduce the effects of soil compaction. Bulbs in unloosened soil of old tracks also had a lower survival rate compared to those in loosened soil (Koch 1997). Other tests of germination response suggest that seeds require burial for post-germination survival and that uncompacted soils containing small fissures and spaces around gravel components are likely essential to successful seedling establishment (D. Wilken, *in litt.* 1998). Little information is available on the portion of this population located on private lands north of the highway.

The second site for *Chlorogalum purpureum* var. *reductum,* located solely on private lands, is reported to be extremely small (less than 0.1 ha (0.25 ac) with several hundred plants), compared to the population managed by the USFS (8 ha). Because this taxon is so narrowly distributed, the degradation of even an acre or two of the occupied habitat in the LPNF population constitutes a significant portion of this taxon's range.

Most localities of *Chlorogalum purpureum* are, or have been, subject to cattle grazing. The negative effects of livestock use on oak savannah habitat, where *C. purpureum* is most likely to occur, includes soil compaction, soil disturbance that enhances the introduction or spread of nonnative aggressive weedy species, direct crushing of the above-ground portion of plants, and diminished seedling establishment from trampling or from destruction of cryptobiotic crusts (Beymer and Klopatek 1991). It has been suggested that light grazing in the habitat of *C. purpureum* var. *reductum* may benefit *C. p. var. reductum* by reducing competition from annual grasses (The Nature Conservancy 1987, CDFG 1988). Others have noted, however, that any benefits of cattle use in the area may be more than offset by loss of reproductive structures, damage to seedlings, and habitat damage caused by livestock, since the allotment is in use February through May, a critical season in the life cycle of the purple amole (B. Painter *in litt.* 1998; J. Kuyper, Environmental Defense Center, *in litt.* 1998). Cattle use is likely to negatively affect the habitat of this species to the extent that cattle actually use the portion of the allotment where the population is located. Anecdotal observations in recent years suggest the cattle spend more time in other areas of the allotment where water and more forage is available (M. Fountain, pers. comm. 1998). However, cattle impacts can vary from year-to-year through variation in the grazing, congregating, or trailing patterns of the cattle without an increase in the permitted level of forage utilization in the allotment. If cattle have continued access to the population area, their effect on the population on Federal lands must be monitored; the

allotment should be managed to prevent negative effects to this taxon. Predation by cattle is discussed below under Factor C of this section.

B. Overutilization for commercial, recreational, scientific, or educational purposes.

Overutilization is not currently known to be a factor affecting this species.

C. Disease or predation.

Nearly every locality of *Chlorogalum purpureum* either is or has been subject to cattle grazing. The potential negative effects of livestock grazing (actual herbivory) on *C. purpureum* include the loss of flowers, fruit, and leaves. Cattle have been recorded grazing a substantial portion of the leaves of other, larger, *Chlorogalum* species (Willoughby 1986). Leaves of *C. p.* var. *purpureum* are more likely than those of *C. p.* var. *reductum* to be attractive to cattle, as the leaves of the latter are narrow and only a couple of inches long. All three localities of *C. p.* var. *purpureum* at Fort Hunter Liggett were in grazing allotments prior to 1991. Documented overgrazing occurred from 1963 to 1977 at Fort Hunter Liggett, after which a study of grazing was begun (Stechman 1995). During the grazing study, cattle stocking rates continued to exceed the capacity of the habitats to support them, especially when combined with the drought of the late 1980s and early 1990s (Stechman 1995). No specific information is available on the condition of the localities of *C. p.* var. *purpureum* during the period of overgrazing, as no basewide surveys for sensitive plant species had been conducted and the status of populations was not tracked. Grazing on Fort Hunter Liggett stopped in 1991, following an extended drought and poor range condition (Stechman 1995), but is scheduled to be resumed in the future, although no date has been set. If the recommendations in the grazing assessment are followed, cattle grazing leases would include most of the extended northern locality of this taxon and all of the second locality in Training Area 25. Only the southernmost locality, at the boundaries of Training Areas 23, 24, and 27, would be completely excluded from cattle use (Stechman 1995).

Chlorogalum purpureum var. *reductum* is within an active grazing allotment on the LPNF that cattle use from February through May (USFS 1997). The permitted level of use of the allotment by livestock is moderate (USFS 1997). In 1986 livestock use became a problem when cattle congregated within the population behind a fence built to block vehicle access (The Nature Conservancy 1987). A pipe barrier with low sections was later installed to permit cattle movement over the barriers. Because the period of cattle use coincides with growth and flowering of *C. p.* var. *reductum*, it is likely that reproduction would be negatively affected if cattle congregated on the plateau within the locality containing the population. In 1995 and 1996, cattle appeared to have spent little time on the plateau (A. Koch, pers. comm. 1997a). In 1997, fecal evidence suggested that cattle spent relatively more time within the site (D. Steeck, pers. obs. 1997; A. Koch, pers. comm. 1997b). Although current monitoring data are insufficient to evaluate the use of the allotment on *C. p.* var. *reductum*, grazing has the potential to negatively affect reproduction and survival (through loss of inflorescences and photosynthetic tissue), and may exacerbate damage already caused by vehicles or other human activities. We consider the inclusion of the population in an active grazing allotment a potential threat that should be assessed.

D. The inadequacy of existing regulatory mechanisms.

Pursuant to the Native Plant Protection Act (Div. 2, chapter 10 sec. 1900 *et seq.* of the California Department of Fish and Game Code) and the California Endangered Species Act (Div. 3, chapter 1.5 sec. 2050 *et seq.*), the California Fish and Game Commission listed *Chlorogalum purpureum* var. *reductum* as rare in 1978. California Senate Bill 879, passed in 1997 and effective January 1, 1998, requires individuals to obtain a section 2081(b) permit from CDFG to take a listed species incidental to otherwise lawful activities, and requires that all impacts be fully mitigated and all measures be capable of successful implementation. As applied to State-listed plant species, however, these requirements have not been tested; their effectiveness cannot be evaluated for several years.

Chlorogalum purpureum var. *reductum* occurs primarily on Federal lands managed by the LPNF and on private lands. State listing provides no consultation or other requirements for protection on Federal lands, although it is USFS policy to work with the State in the conservation of such taxa. The management of sensitive resources on the LPNF is guided by various policies and regulations, including the National Environmental Policy Act (NEPA) of 1969 (Pub. L. 91–109, 42 U.S.C. 4321–4347, 83 Stat. 852), National Forest Management Act (16 U.S.C. 1600 *et seq.*), and the Land and Resource Management Plan for the Los Padres National Forest (USFS 1988).

The NEPA requires that the USFS disclose and consider potential environmental impacts of a proposed project. Under new regulations, 10-year grazing permits are subject to the NEPA process, and the NEPA process is under way for the grazing allotment where *Chlorogalum purpureum* var. *reductum* occurs (USFS 1997). Although NEPA requires disclosure of potential effects of Federal actions and allows for comment by agencies and the public, it does not, of itself, provide additional protection.

The Land and Resource Management Plan for LPNF (USFS 1988) directs the USFS to ensure the viability of sensitive plant species and to emphasize the improvement and protection of habitat for sensitive species in their management activities. These regulations appear to be adequate, but their implementation by the USFS has not been consistent. Unless the barriers around portions of the population are regularly monitored and maintained, illegal trespass by vehicles into the habitat of *Chlorogalum purpureum* var. *reductum* is likely to continue. To date, the USFS has not adequately monitored vehicle trespass, repaired fencing, bolstered barriers in a timely manner, or adequately evaluated the effects of permitted livestock use on the population on LPNF (D. Steeck, pers. obs. 1998).

Chlorogalum purpureum var. *purpureum* occurs solely on Federal lands managed by Fort Hunter Liggett. The Department of Defense has various policies and directives to guide the management of sensitive natural resources. Army Regulation 200–3 provides for environmental review of projects that might affect sensitive and listed species. Fort Hunter Liggett has had an environmental review process since 1994, and *C. p.* var. *purpureum* is included in this process. According to the Army at Fort Hunter Liggett (D. Hines *in litt.* 1998), all projects are modified to reduce impacts to this taxon if impacts are predicted to occur. For example, a planned bayonet course was relocated to avoid placing it within or directly adjacent to patches of *C. p.* var. *purpureum.* In other cases, such as with the recent construction of the obstacle course and parking areas in occupied habitat, project modifications have been insufficient, and projects continue to be sited in occupied habitat and continue to affect this taxon. In addition, environmental review only occurs for projects that require excavation; bivouacking and vehicle impacts are not covered by this process. The environmental review process does not

always allow for assessment surveys to be conducted at the time of year when the plant can be identified (H. Hormann, *in litt.* 1997). For example, surveys for the proposed bayonet course occurred in late summer 1997, when the above-ground portions of the plants were dry and difficult to locate.

Under Army Regulation 200–3, a Species Management Plan for *Chlorogalum purpureum* var. *purpureum* and other sensitive species on the base has been developed (Hazebrook and Clark 1997). While some of the goals will benefit *C. p.* var. *purpureum* if achieved, the actual protection the plan affords is minimal and based primarily on avoiding impacts to populations ''when feasible.'' To date, no areas where *C. p.* var. *purpureum* occurs on the base are off-limits to training. We conclude that Army directives, while improving the consideration that this taxon receives on the base, have not yet altered activities to sufficiently reduce the threats posed by military activities.

E. *Other natural or manmade factors affecting its continued existence.*

Other factors affecting individuals of *Chlorogalum purpureum* var. *purpureum* include military training, changes in fire frequency, and the invasion of this taxon's habitat by nonnative plant species. Training activities that involve trampling, camping, or driving through occupied habitat can directly crush flowers, fruits, and vegetative parts of *C. p.* var. *purpureum* and result in diminished reproductive success, lower seedling establishment, and reduced plant vigor. At Fort Hunter Liggett, training activities increase in the spring, around April, and peak in the summer (U.S. Dept. of Army 1997), a period that coincides with flowering and fruiting of the taxon. Military field training activities can reduce seedling establishment by direct crushing and by altering soil bulk density and water-holding capacity. Training activities lead to soil compaction and soil disturbance, which also encourages the invasion of weedy, nonnative plant species that may compete directly with *C. p.* var. *purpureum.* Habitat alterations due to training activities are further discussed under Factor A.

The oak savannah and grassland habitats in which *Chlorogalum purpureum* occurs have been invaded by nonnative annual plants such as wild oats (*Avena* sp.), soft chess (*Bromus hordeaceus*), red brome (*Bromus madritensis* var. *rubens*), schismus (*Schismus barbatus*), and filaree (*Erodium* sp.) (Borchert 1981; Magney 1988; Painter and Neese 1998). Hoover (1970) noted that *C. p.* var. *reductum* grew higher under oaks where the soil was looser with greater humus content; others have noted since then that *C. p.* var. *reductum* is not found where annual nonnative grasses are dense (Borchert 1981, Painter *in litt.* 1998), which tends to be under oaks at the site on USFS land (D. Steeck, pers. obs. 1998). It may be that *C. p.* var. *reductum* has been displaced by nonnative grasses in these areas, restricting *C. p.* var. *reductum* to the patches of gravelly soils where nonnative grasses are stunted or sparse. Increasing invasion by nonnative annual grasses has been implicated in loss of habitat for other rare geophytes (*e.g.,* Rosentreter 1994). Cryptobiotic crusts that form on the soil surface have been shown to enhance seedling establishment in some native taxa (Belnap 1994), and the displacement of crusts may enhance invasion by nonnative species. These soil crusts are found in at least some populations of *C. purpureum* (Painter and Neese 1998; B. Painter *in litt.* 1998). Scraping or other activity that disturbs the soil surface has been noted in one instance at Fort Hunter Liggett to result in at least temporary high abundance of nonnative annual grasses (Painter and Neese1998). The rapid, dense growth of nonnative annual grasses may also act as an abundant, rapidly replenished fuel source leading to more frequent range fires as has been documented in other areas (Wright 1985) or the need for more frequent prescribed burns to reduce the potential of uncontrolled range fires (J. Chesnut, consulting biologist, *in litt.* 1998).

Burning too frequently or during seasons of growth and reproduction may threaten *Chlorogalum purpureum* var. *purpureum* at Fort Hunter Liggett. A spring burn swept through the southernmost locality on Fort Hunter Liggett in 1995. Botanists conducting a post-fire survey reported that all observed fruiting inflorescences were either damaged or destroyed, and they concluded that the seed crop was mostly, if not completely, destroyed (Painter and Neese 1998). The fire occurred in May, rather than summer or early fall, when most seeds would have been dispersed (Painter and Neese 1998). Burning too frequently may damage a population due to the slow growth rate of seedlings. Estimates of time needed for *C. purpureum* to reach reproductive maturity in the wild range from 5 to 15 years (Judy Jernstedt, University of California at Davis, *in litt.* 1998; M. Elvin, pers. comm. 1998). In addition, immature plants with small bulbs located near the soil surface may be particularly vulnerable to fires. The fire did appear to stimulate an increase in the number of plants flowering the following year (Painter and Neese 1998).

In developing this final rule, we have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species. Based on this evaluation, the preferred action is to list the species as threatened. This species is particularly vulnerable due to the restricted range it occupies. Threats to the species are vehicle trespass on USFS lands, military activities due to the species' location in active training areas and in the housing and administration area of an Army base, road use and maintenance, displacement by nonnative plant species, and livestock grazing. Because the Army's environmental directives are increasing the consideration afforded to this and other rare plant species on Fort Hunter Liggett and because the USFS has implemented some management actions for this species, we determine that threatened status is currently appropriate. The species is not currently in danger of extinction, but is likely to become so if substantial use of its habitat for military training activities continues and if OHV activities or livestock impacts increase in the population area on USFS lands.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by the 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.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the 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.

The Final Listing Priority Guidance for FY 2000 (64 FR 57114) states, 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 allowed by our funding allocation for that year. 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 *Chlorogalum purpureum* 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 *Chlorogalum purpureum* without further delay.

We propose that critical habitat is prudent for *Chlorogalum purpureum.* 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 believe that designation of critical habitat would be prudent for *Chlorogalum purpureum.*

In the absence of a finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. In the case of this species, there may be some benefits to designation of critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. 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, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. There may also be some educational or informational benefits to designating critical habitat. Therefore, we find that critical habitat is prudent for *Chlorogalum purpureum.*

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 *Chlorogalum purpureum* as soon as feasible, considering our workload priorities.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States 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, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) 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 the species or destroy or adversely modify its critical habitat, if any is designated. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

Although this final rule lists *Chlorogalum purpureum* at the specific level, we intend through the recovery planning process to designate each of the varieties as a separate recovery unit for purposes of section 7 consultation and the recovery process. In other words, the jeopardy standard would be applied to either *C. p.* var. *purpureum* or *C. p.* var. *reductum* as separately identified recovery units, in accordance with our Endangered Species Consultation Handbook.

Federal agencies that may affect the species proposed in this rule through activities they fund, authorize, or carry out are the USFS (at Los Padres National Forest), the Department of the Army (at Fort Hunter Liggett) and, to a much smaller extent, the Federal Highway Administration through funds provided for State highway construction or maintenance.

Chlorogalum purpureum var. *purpureum* occurs wholly on Federal lands managed by the Department of the Army. Activities the Army funds, authorizes, or carries out that could affect this taxon include, but are not limited to, construction and use of training facilities, field training exercises, road construction and maintenance, prescribed burning, fire suppression activities, livestock grazing, and hunting.

Chlorogalum purpureum var. *reductum* occurs primarily on public lands managed by the USFS on Los Padres National Forest. Activities that the USFS funds, authorizes, or carries out that could affect this taxon include livestock grazing, OHV activities, road maintenance, fire suppression activities, and special use permits authorizing use and the development of management plans for special use areas.

Listing *Chlorogalum purpureum* as threatened will provide for the development of a recovery plan. The plan will bring together Federal, State, and local efforts for the plant's conservation, establishing a framework for cooperation and coordination. The plan will set recovery priorities and describe site-specific management actions necessary to achieve the conservation of the species. Additionally, pursuant to section 6 of the Act, we will be more likely to grant

funds to the 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 or threatened plants. All prohibitions of section 9(a)(2) of the Act implemented by 50 CFR 17.71 for threatened 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 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 any such species from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on 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, or in the course of violation of State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. This protection may apply to this species in the future if regulations are promulgated. Seeds from cultivated specimens of threatened plants are exempt from these prohibitions provided that their containers are marked ''Of Cultivated Origin.'' Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits are also available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act. It is anticipated that few trade permits would ever be sought or issued because this species is not in cultivation or common in the wild. Information collections associated with these permits are approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. For additional information concerning these permits and associated requirements, see 50 CFR 17.72.

Requests for copies of the regulations on listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (telephone: 503/231–2063; facsimile: 503/231–6243).

It is our policy, published in the **Federal Register** (59 FR 34272) on July 1, 1994, to identify to the maximum extent practicable those activities that would or would not be likely to constitute a violation of section 9 of the Act if a species is listed. The intent of this policy is to increase public awareness of the effect of the species' listing on proposed and ongoing activities within its range. Collection of listed plants are prohibited without a Federal endangered species permit. We are unaware of any activities on non-Federal lands that constitute a violation of section 9 of the Act.

Questions regarding whether specific activities would constitute a violation of section 9 should be directed to the Field Supervisor of the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Planning and Review

This rule is not subject to review by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This rule does not contain any information collection requirements for which 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 clearance number 1018–0094. For additional information concerning permits and associated requirements for threatened plants, see 50 CFR 17.32.

References Cited

A complete list of all references cited herein is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author:

The primary author of this final rule is Diane Steeck, Ventura 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.

Regulations Promulgation

Accordingly, we hereby 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. 4201–4205; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend section 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Chlorogalum purpureum.	Purple amole	U.S.A. (CA)	Liliaceae—Lily	T	689	NA	NA
*	*	*	*	*	*	*	

Dated: March 14, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–6836 Filed 3–15–00; 4:31 pm]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE81

Endangered and Threatened Wildlife and Plants; Final Rule for Endangered Status for Four Plants From South Central Coastal California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have determined endangered status for *Cirsium loncholepis* (La Graciosa thistle), *Eriodictyon capitatum* (Lompoc yerba santa), *Hemizonia increscens* ssp. *villosa* (Gaviota tarplant), and *Lupinus nipomensis* (Nipomo Mesa lupine), pursuant to the Endangered Species Act (Act) of 1973, as amended. These plants are in danger of extinction because their habitats have been significantly reduced over time by residential, commercial, agricultural, and oil and gas development. Their remaining habitats have been adversely affected by development, military activities, alteration of natural fire cycles, and the invasion of nonnative plant species. The limited distribution and small population sizes of these four species also make them more vulnerable to extinction from naturally occurring catastrophic events. Existing regulations do not provide adequate protection to prevent further losses from ongoing activities. This rule will extend the Act's protection to these plants.

EFFECTIVE DATE: This rule is effective April 19, 2000.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Tim Thomas, Botanist, at the above address (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Cirsium loncholepis (La Graciosa thistle), *Eriodictyon capitatum* (Lompoc yerba santa), *Hemizonia increscens* ssp. *villosa* (Gaviota tarplant), and *Lupinus nipomensis* (Nipomo Mesa lupine) occur along the south central California coast. They are restricted to a narrow area in northern and western Santa Barbara County, southern San Luis Obispo County, and southern Monterey County.

These species occur in sensitive, declining or altered habitats including central dune scrub, central maritime chaparral, valley needlegrass grassland, coastal freshwater wetlands, and southern bishop pine forest (Holland 1986; Schoenherr 1992). Two of these habitats, central dune scrub and coastal freshwater wetlands, are notable for their geological and biological value. The largest coastal dune system in California, the Guadalupe Dune region, is located in southern San Luis Obispo County near Guadalupe, where approximately 47 square kilometers (sq km) (18 sq miles (mi)) of active dunes create a series of back dune lakes. The Department of the Interior added the Guadalupe Dune region to the National Natural Landmark system in 1980, recognizing the biological and physical diversity of the area (Schoenherr 1992).

Lupinus nipomensis is wholly restricted to these dunes. *Cirsium loncholepis* is also restricted to these dunes with the exception of a small disjunct population in southern Monterey County (California Natural Diversity Data Base (CNDDB) 1998). The coastal dune habitats are highly disturbed, and all habitat remnants have been invaded by nonnative plant species. Invasive weeds such as *Ehrharta calycina* (veldt grass), *Ammophila arenaria* (European beach grass), *Carpobrotus edulis* (iceplant), and *Mesembryanthemum crystalinum* (crystalline iceplant) are serious threats to the natural ecological processes of coastal sandy habitats and to the viability of *L. nipomensis* and *C. loncholepis* (Smith 1976; Zedler and Scheid 1988; Schoenherr 1992).

Inland from the active dunes, remnants of prehistoric uplifted dunes have formed a weakly cemented sandstone that has weathered to produce a sandy, extremely well drained, and nearly infertile soil (Davis *et al.* 1988). This substrate has a limited distribution, occurring on the following mesas in the area: Nipomo Mesa, Casmalia Hills, San Antonio Terrace, Burton Mesa, Lompoc Terrace, and Purisima Hills. The habitat that occurs on these sand hills has been called the central coast maritime chaparral and has been the focus of several studies (Ferren *et al.* 1984; Davis *et al.* 1988; Philbrick and Odion 1988; Davis et al. 1989; Odion *et al.* 1992). Two of the locations of *Eriodictyon capitatum* occur in maritime chaparral. Seven local endemic plant species, and at least 16 other uncommon plant species, are also components of this habitat. This community type is an exceptional biological resource due to the concentration of rare plants found within it, but most of it has been converted to other land uses or degraded by weed invasion and habitat fragmentation (Davis *et al.* 1988; Odion *et al.* 1992). Central coast maritime chaparral is considered threatened and sensitive by the California Department of Fish and Game's (CDFG) Natural Heritage Division (Holland 1986). Southern bishop pine (*Pinus muricata*) forest is scattered in the Purisima Hills and intergrades with the central coast maritime chaparral (Holland 1986).

Hemizonia increscens ssp. *villosa* is associated with the rare needlegrass grasslands, composed of native purple needlegrass (*Nassella* spp.). The habitat intergrades with coastal sage scrub made up of *Artemisia californica* (California sagebrush), *Baccharis pilularis* (coyote bush), and *Hazardia squarrosa* (sawtooth golden bush).

Discussion of the Four Species

Cirsium loncholepis

Cirsium loncholepis (La Graciosa thistle) was collected by Eastwood in 1906 near the village site of La Graciosa (razed in 1877 and the current site of Orcutt) in San Luis Obispo County (Smith 1976). *Cirsium loncholepis* is a short-lived (1 to 2 years), spreading, mound-like or erect, and often fleshy, spiny member of the sunflower family (Asteraceae). Plants are from 1 to 10 decimeters (dm) (4 to 40 inches (in.)) in height, with one to several stems. The leaves are wavy-margined. The lower leaves are 10 to 30 centimeters (cm) (4 to 12 in.) long with spiny petioles and usually deeply lobed with secondary lobes or teeth. The leaf base of the middle and upper leaves forms short, spiny wings along the petiole. The flower heads are in tight clusters at the tips of the stems. Flowering heads are 2 to 4 cm (0.8 to 1.6 in.) wide. The corollas are 25 to 30 millimeters (mm) (1 to 1.2 in.) long and more or less white with a purplish tube containing purple anthers. This species closely resembles *Cirsium brevistylum* (Indian thistle), a taller plant with the upper portion covered with cobwebby hairs. The leaves of *C. brevistylum* are shallowly lobed, whereas the leaves of *C. loncholepis* are deeply lobed with secondary lobes (Keil and Turner 1993).

Cirsium loncholepis is largely restricted to back dune and coastal wetlands of southern San Luis Obispo County and northern Santa Barbara County, from the Pismo Dunes lake area and south historically to the Santa Ynez River. The Guadalupe Dune complex, in which the majority of the species occurs, extends inland only up to 3.2 kilometers (km) (2 miles (mi)). Deflation areas behind the foredunes often intersect the water table, creating wetlands and back dune lakes. *Cirsium loncholepis* is found in wet soils surrounding the dune lakes and in the moist dune swales, where it is often associated with *Juncus* spp. (rush), *Scirpus* spp. (tule), *Salix* spp. (willow), *Toxicodendron diversilobum* (poison oak), *Distichlis spicata* (salt grass), and coyote brush (Hendrickson 1990). The historic distribution of the species included extensive areas in the Orcutt region that have been converted from wetland habitat to agricultural uses or otherwise developed. Large populations, similar to an existing one at the mouth of the Santa Maria River, likely occurred in these areas prior to their conversion. As early as 1950, Smith studied the lack of suitable habitat for *C. loncholepis* in the vicinity of La Graciosa (Smith 1976). Historic maps show the area covered with extensive wetlands, which no longer exist (Hendrickson 1990). One small population has been reported from moist openings in coastal scrub habitat in a coastal drainage in southern Monterey County (Vern Yadon, pers. comm. 1998).

There are 17 known locations for *Cirsium loncholepis.* The populations in the dune systems are small and isolated, and show a reduced reproductive vigor (Hendrickson 1990). Seven of the populations are reported to have fewer than 60 plants each (CNDDB 1998). Only one population has had a substantial number of plants, fluctuating between 6,000 and 54,000 individuals. However, it is located at the mouth of the Santa Maria River in the floodplain, where it was significantly disrupted by flooding in 1998 (John Chesnut, private consultant, *in litt.* 1998). Surveys in 1998 of five known population locations found that all of them were much reduced or apparently extirpated since surveys were conducted in 1990 (J. Chesnut, *in litt.* 1998). The declines apparently are due to the change in habitat as riparian willows and other vegetation invade the areas that previously supported this wet meadow plant (J. Chesnut, *in litt.* 1998).

Ongoing threats to this species include groundwater pumping, oil field development, and competition from nonnative plants (Hendrickson 1990; CDFG 1992). Cattle grazing in the riparian habitat at the mouth of the Santa Maria River may reduce the competition from other species (Hendrickson 1990), but the long-term effects of livestock use on the habitat are unknown. All but one population of *C. loncholepis* are on private lands. A small population occurs in the Los Padres National Forest in southern Monterey County. The trend for *C. loncholepis* has been one of decline (CDFG 1992; CNDDB 1998). The State listed this species as threatened in 1990 (CDFG 1992).

Eriodictyon capitatum

Eriodictyon capitatum (Lompoc yerba santa) was collected by Hoffman in 1932 near Lompoc growing under bishop pine and described the following year (Eastwood 1933). *Eriodictyon capitatum* is a shrub in the waterleaf family (Hydrophyllaceae) with sticky stems up to 3 meters (m) (10 feet (ft)) tall. The sticky leaves are narrowly linear. The head-like inflorescence has lavender corollas that are 6 to 15 mm (0.2 to 0.6 in.) long. It is distinguished from related species by its narrow, entire leaves and its head-like inflorescence (Halse 1993).

Eriodictyon capitatum occurs in maritime chaparral with *Dendromecon rigida* (bush poppy), *Quercus berberidifolia, Q. parvula* (scrub oaks), and *Ceanothus cuneatus* (buck brush) and in southern bishop pine forests that intergrade with chaparral *Arctostaphylos* spp. (manzanita) and *Salvia mellifera* (black sage) (Smith 1983). The four known locations of the *E. capitatum* occur in western Santa Barbara County. Two of these locations, composed of three groups, are on Vandenberg Air Force Base (VAFB). The other two locations are on private land in the oilfields south of Orcutt (comprising one group) and at the western end of the Santa Ynez Mountains (made up of three groups). Based on isozyme analysis, Elam (1994) determined that two of the VAFB groups are apparently uniclonal, a single plant composed of many stems produced by the vegetative spread of the root system. All of the Santa Ynez Mountains colonies, and the remaining group at VAFB, were multiclonal. The Orcutt location was not studied due to inaccessibility. The three Santa Ynez Mountains groups ranged from 11 to 20 clones each. The three VAFB groups ranged from 1 to 18 clones each. *Eriodictyon capitatum* is self-incompatible (i.e., it requires pollen from genetically different plants to produce seed), and its fruits appear to be parasitized by an insect (Elam 1994). A study of one of the apparently uniclonal groups at VAFB showed that *E. capitatum* successfully resprouted from the base of the plant after a prescribed fire. However, several stems died, and no seedling recruitment occurred; a uniclonal, self-incompatible plant would be expected to produce little or no seed (Jacks *et al.* 1984).

Fire management practices, invasive nonnative plant species, low seed productivity, and naturally occurring catastrophic events pose significant threats to the long-term survival of this species. None of the colonies are actively protected. *Eriodictyon capitatum* was listed as rare by the State of California in 1979 (CDFG 1992).

Hemizonia increscens ssp. villosa

Hemizonia increscens ssp. *villosa* (Gaviota tarplant) is a member of the sunflower family. Tanowitz (1982) described this plant from collected material, as well as a specimen gathered in 1902 by Elmer near Gaviota, 24 km (15 mi) west of Santa Barbara. *Hemizonia increscens* ssp. *villosa* is a yellow-flowered, variable gray-green, soft, hairy annual that is 3 to 9 dm (12 to 35 in.) tall with stems branching near the base. The lower leaves are 5 to 8.6 cm (2 to 3.4 in.) long. The inflorescence is rounded to flat-topped with mostly 13-ray flowers and 18 to 31 disk flowers that are usually sterile. Two other subspecies, *H. increscens* ssp. *increscens* and *H. increscens* ssp. foliosa, differ from *H. increscens* ssp. *villosa* by their stiff-bristly, deep-green foliage; however, chemical composition is the best means to differentiate these species (obtained from a glycone exudate, which can be tested easily with thin layer chromatography) (Keil 1993; Katherine Rindlaub, Biological Consulting, *in litt.* 1998). Occasional observations of 13-rayed *H. increscens* ssp. *increscens* are reported as *H. increscens* ssp. *villosa* (K. Rindlaub, *in litt.* 1998).

Hemizonia increscens ssp. *villosa* has a highly localized distribution in western Santa Barbara County, where it is associated with needlegrass grasslands dominated by *Avena* spp. (a nonnative wild oat), and occasional native purple needlegrass, that intergrade with coastal sage scrub composed of California sagebrush, coyote bush, and sawtooth golden bush. Its habitat lies on an uplifted, narrow marine terrace 46 to 60 m (150 to 200 ft) above sea level. The plant is restricted to Conception and Milpitas-Positas soils, which consist of acidic, fine, sandy loams (All American Pipeline Company (AAPC) 1990). A subsurface clay layer, 2.5 to 90 cm (1 to 36 in.) deep, may serve as a reservoir of

soil moisture in an area otherwise characterized by summer drought (Howald 1989). *Hemizonia increscens* ssp. *villosa* consistently occurs where the depth to clay is only 2.5 to 5 cm (1 to 2 in.) (K. Rindlaub, *in litt.* 1998).

Hemizonia increscens ssp. *villosa* is known only from a narrow, 3.5-km (2.2-mi) long band of coastal terrace situated between the Santa Ynez Mountains and the ocean near Gaviota. Within this band, one scattered population occurs on a total of about 24 hectares (ha) (60 acres (ac)) of habitat. The patches are often separated by no more than 100 m (330 ft) and represent one extended population (Howald 1989). Other pockets of Conception and Milpitas-Positas soils occur along the coast to the west and east of Gaviota, where the vegetation continues to be altered by development, cattle grazing, and farming. Repeated extensive surveys have been conducted without positive verification of *H. increscens* ssp. *villosa* in these areas (Howald 1989). As is typical of annual plant species, the number of individuals present from 1 year to the next varies dramatically, depending on climatic conditions and other factors. In some years, patches may contain few to no individuals (Howald 1989). In 1995 and 1997, the taxon was not abundant at any location (K. Rindlaub, pers. comm. 1995, *in litt.* 1998).

The narrow coastal terrace is bisected lengthwise by Highway 101, a railroad, and several pipelines. Most of the habitat for *Hemizonia increscens* ssp. *villosa* lies on the north side of the highway on private lands owned by the petroleum industry. A few colonies occur on the south side of Highway 101 on land owned by the California Department of Parks and Recreation.

Hemizonia increscens ssp. *villosa* is threatened by destruction of individual plants, habitat loss, and degradation from the development of oil and gas facilities, including pipelines, and competition with nonnative weeds. The trend for this taxon has been one of decline (CDFG 1992). *Hemizonia increscens* ssp. *villosa* was listed as endangered by the State of California in 1990 (CDFG 1992).

Lupinus nipomensis

Lupinus nipomensis (Nipomo mesa lupine) was collected in 1937 by Eastwood and Howell from Nipomo Mesa, San Luis Obispo County; Eastwood subsequently published a description of the species (Eastwood 1939). Although Munz and Keck (1959) submerged *L. nipomensis* as a synonym of *L. concinnus,* other authors, including the most recent treatment, recognize *L. nipomensis* as a species (Abrams 1944; Riggins 1993). *Lupinus nipomensis* is an annual member of the pea family (Fabaceae). It is 1 to 2 dm (4 to 8 in.) tall and hairy with decumbent stems. The leaves, with 5 to 7 leaflets, are 10 to 15 mm (0.4 to 0.6 in.) long and 5 to 6 mm (0.2 to 0.23 in.) wide. The inflorescence is not whorled, and the flowers are 6 to 7 mm (0.23 to 0.3 in.) long with pink petals. *Lupinus nipomensis* is distinguished from the related *L. concinnus* by its decumbent inflorescence, succulent leaflets, lack of axillary flowers, and restriction to sand dune habitat (Walters and Walters 1988).

Lupinus nipomensis grows in stabilized back dune habitat of the Guadalupe dunes in the southwestern corner of San Luis Obispo County. The plant occurs as 1 extended population made up of 7 colonies with fewer than 700 plants. The small patches are spread over 2.4 km (1.5 mi). At least three historical localities have been extirpated, including its type locality (CDFG 1992; CNDDB 1998). The majority of the habitat is considered degraded by either physical disturbance or invasion by nonnative weedy species (Walters and Walters 1988). Even high-quality habitat is adversely affected by impacts from nonnative invasive species. Under the best conditions, the species occurs in dune swales with a higher diversity of native annuals and widely spaced individuals of *Ericameria ericoides* (mock heather), a small native subshrub. In both types of habitat, *L. nipomensis* requires pockets of bare sand, suggesting a low tolerance for competition (Walters and Walters 1988).

All known occurrences of *Lupinus nipomensis* are on private lands and remain unprotected. The primary threat to the species is the uncontrolled invasion of aggressive nonnative weeds, especially veldt grass, and the subsequent displacement of the species. The plant was listed by the State as endangered in 1987, and the trend has been one of decline (CDFG 1992).

Previous Federal Action

Federal action on these plants began as a result of section 12 of the 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 (House Document No. 94–51) was presented to Congress on January 9, 1975, and included *Cirsium loncholepis* and *Eriodictyon capitatum* as endangered. We published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) of our acceptance of the Smithsonian Institution 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 reported plant species.

On June 16, 1976, we published a proposal in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. *Cirsium loncholepis* and *Eriodictyon capitatum* were included in this **Federal Register** publication. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), we published a notice of withdrawal of the June 16, 1976, proposal, along with four other proposals that had expired.

We published an updated Notice of Review (NOR) for plants on December 15, 1980 (45 FR 82480). This notice included *Cirsium loncholepis, Eriodictyon capitatum,* and *Lupinus nipomensis* as category 1 candidate species. Category 1 candidates were formerly defined as species for which we had on file substantial information on biological vulnerability and threats to support preparation of listing proposals, but issuance of a proposed rule was precluded by other listing activities of higher priority. On November 28, 1983, we published a supplement to the NOR in the **Federal Register** (48 FR 53640), in which *C. loncholepis* and *L. nipomensis* were included as category 2 candidates. Category 2 formerly included species for which information in our possession indicated that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not available to support a proposed rule.

The plant NOR was again revised on September 27, 1985 (50 FR 39526). In this notice, *Eriodictyon capitatum* was included as a category 1 candidate, and *Cirsium loncholepis* and *Lupinus nipomensis* remained category 2 candidates. On February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144), revised NORs were published that included *C. loncholepis, E. capitatum, Hemizonia increscens* ssp. *villosa,* and *L. nipomensis* as category 1

candidates. On February 28, 1996, we published an NOR in the **Federal Register** (61 FR 7596) that discontinued the designation of category 2 species as candidates. That notice included as candidates only those species meeting the former definition of category 1, and included the four species in this rule. They maintained candidate status in the NORs published on September 19, 1997 (62 FR 49398), and October 15, 1999 (64 FR 57534).

Section 4(b)(3)(B) of the Act requires the Secretary 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. That provision of the Act applied to *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis,* because the 1975 Smithsonian report had been accepted as a petition. On October 13, 1983, we found that the petitioned listing of this species was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed annually in October of 1984 through 1995. On March 30, 1998, a proposed rule to list *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis* as endangered was published in the **Federal Register** (63 FR 15164).

The processing of this final 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 lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. 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 and to incorporate information obtained through the public comment period. This additional information did not alter our decision to list these species.

Summary of Comments and Recommendations

In the March 30, 1998, proposed rule, we requested interested parties to submit comments or information that might contribute to the final listing determination for these four plant species. We sent announcements of the proposed rule to appropriate Federal and State agencies, county and local governments, scientific organizations, and other interested parties, and requested comments. During the public comment period, nine written comments were received. Eight of the commenters provided additional data and information concerning the threats, biology, and ecology of the subject species. We evaluated this information and incorporated it into the final determination, as appropriate. A single issue raised by one commenter that is relevant to the listing of the plant species is summarized as follows, along with our response:

Issue: The Federal Government, and hence the U.S. Fish and Wildlife Service, does not have the authority to list a species found in only one State, and we exceeded the scope of the Federal commerce power under the Commerce Clause of Article I, section 8 of the U.S. Constitution.

Our Response: The Federal Government has the authority under the Commerce Clause of the U.S. Constitution to protect these species, for the reasons given in Judge Wald's opinion and Judge Henderson's concurring opinion in *National Association of Home Builders* v. *Babbitt,* 130 F.3d 1041 (D.C. Cir. 1997), *cert. denied,* 1185 S.Ct. 2340 (1998). 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 the species in this rule, the Delhi Sands flower-loving fly is endemic to only one State. Judge Wald held that application of the Act's prohibition against taking of endangered species to this fly was a proper exercise of Commerce Clause power to regulate (1) use of channels of interstate commerce; and (2) activities substantially affecting interstate commerce, because applying the Act in that case prevented destructive interstate competition and loss of biodiversity. Judge Henderson upheld protection of the fly because doing so prevents harm to the ecosystem upon which interstate commerce depends and regulates commercial development that is part of interstate commerce.

The Federal Government also has the authority under the Property Clause of the Constitution to protect *Cirsium loncholepis* occurring in the Los Padres National Forest. If this species were to become extinct or extirpated, the diversity of plant life in the Los Padres would be diminished. The courts have long recognized Federal authority under the Property Clause to protect Federal resources in such circumstances. See e.g., *Kleppe* v. *New Mexico,* 429 U.S. 873 (1976); *United States* v. *Alford,* 274 U.S. 264 (1927); Camfield v. *United States,* 167 U.S. 518 (1897); *United States* v. *Lindsey,* 595 F.2d 5 (9th Cir. 1979).

Peer Review

We solicited formal scientific peer review of the proposal in accordance with our July 1, 1994, Interagency Cooperative Policy for Peer Review (59 FR 34270). We requested three individuals who possess expertise in botany and/or conservation biology to review the proposed rule by the close of the comment period. We received comments from two of the three reviewers within the comment period. Both concurred with our position on factors relating to the taxonomy of the species and the biological and ecological information. One provided additional information on threats. We considered their comments and incorporated the additional information into the final rule.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) issued to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to *Cirsium loncholepis* Petrak (La Graciosa thistle), *Eriodictyon capitatum* Eastw. (Lompoc yerba santa), *Hemizonia increscens* ssp. *villosa* B.D. Tanowitz (Gaviota tarplant), and *Lupinus nipomensis* Eastw. (Nipomo Mesa lupine) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Habitat fragmentation and alteration of species composition and vegetation structure threaten the long-term survival of all of the species in this rule. These species have extremely limited natural distributions (*Eriodictyon capitatum* and *Hemizonia increscens* ssp. *villosa*)

or reduced distributions resulting from loss of habitat (*Cirsium loncholepis* and *Lupinus nipomensis*).

Eriodictyon capitatum is associated with the central maritime chaparral and bishop pine forest, which are threatened habitat types with limited distribution and rich in plant species of limited distribution (Holland 1986). Most of the central maritime chaparral has been converted to a variety of land uses, and degraded by development, weed invasion, habitat fragmentation, and other factors (Hoover 1970; Davis *et al.* 1988; Odion *et al.* 1992; CNDDB 1998). Iceplant invasion threatens to convert the maritime chaparral into a habitat dominated by mats of the exotic succulent (Odion *et al.* 1992). Iceplant was documented as an invasive in habitat occupied by *E. capitatum* following a prescribed fire (Jacks *et al.* 1984). Veldt grass, seeded in controlled burns and used for soil stabilization at VAFB, has become widespread and naturalized (Smith 1976; Jones and Stokes Associates 1997). Comparison of historic and current photographs of habitat similar to that occupied by *E. capitatum* show no veldt grass in 1973, whereas in 1997, the same site was dominated by veldt grass (Chris Gillespie, VAFB, pers. comm. 1997).

Department of Defense base closures across the nation have resulted in the relocation of activities to those bases that remain operational. Facility maintenance and development for military and private commercial purposes planned at VAFB are likely to result in additional loss and alteration of habitat occupied by *Eriodictyon capitatum* (Al Nadel, VAFB, pers. comm. 1993).

With considerable competition for use of the commercial spaceport on the base by 25 to 30 companies and launches anticipated to occur every 2 weeks (C. Gillespie, pers. comm. 1995), missile launch operations could adversely affect habitats surrounding launch facilities. For example, in 1993, a missile was destroyed shortly after launching at VAFB, and a series of brush fires caused by burning rocket fuel burned more than 162 ha (400 ac). Large fragments of metal blasted downward toward the ground caused physical damage to the habitat (Wallace 1993). In September 1997, a 200–ha (500–ac) fire and a 600–ha (1,500–ac) fire burned near occupied habitat of *Eriodictyon capitatum* (Los Angeles Times 1997a). Fire containment lines constructed by bulldozers in the vicinity of the species were observed after the fire (J. Watkins, pers. comm. 1997). On November 1, 1997, a 495–ha (1,225–ac) fire that was accidentally set by an explosives disposal team at VAFB was partially contained by back-burning an area containing a population of *E. capitatum* (Los Angeles Times 1997b). In addition, nonnaturally occurring fires facilitate the invasion of aggressive nonnative plant species into the maritime chaparral habitats. This occurrence will likely become more of a problem under the existing prescribed burn program and suppression activities (see factor E below).

Hemizonia increscens ssp. *villosa* occurs within a narrow 3.6-km (2.25-mi) band of coastal terrace grassland about 24 ha (60 ac) in extent. About 40 percent of the coastal terrace habitat within the known range of *H. increscens* ssp. *villosa* has been destroyed, altered, or fragmented by the construction of oil and gas facilities and pipelines. Projects during the past 5 years within the taxon's habitat include the installation of a water pipeline for the relocated Vista del Mar school, the proposed construction of the Pacific and Mariposa pipelines (oil/gas), and the Molino drilling station. The Molino parcel contains the single largest continuous population of *H. increscens* ssp. *villosa* (M. Meyer, pers. comm. 1996). Maintenance of pipelines and facilities will continue to disturb the species' habitat and encourage the establishment of invasive weed species.

Because the Santa Ynez Mountains occur only 0.4 km (0.25 mi) inland from the coastline, the relatively flat coastal terrace forms a natural corridor for any utility project passing between Gaviota Pass to the west and Santa Barbara to the east. All future projects that pass through this corridor are very likely to adversely affect habitat for the *Hemizonia increscens* ssp. *villosa* by further destroying, degrading, and fragmenting habitat. The highest quality habitat remains unprotected and lies within this pipeline corridor. In an attempt to mitigate habitat loss, a preserve area has been established by the oil industry within the corridor. However, it protects less than 5 percent of the habitat. Because invasive species must be managed intensively to prevent their dominance, whether this management area can sustain a colony of *H. increscens* ssp. *villosa* without ongoing maintenance is questionable (K. Rindlaub, pers. comm. 1995). Additional impacts to *H. increscens* ssp. *villosa* may result from a proposed bikepath on State Park property that will extend throughout most of the plant's range. The proposed bikepath will create a linear zone of disturbance that will act as a corridor for weed dispersal into pristine *H. increscens* ssp. *villosa* habitat (S. Treanor, State Park Superintendent, *in litt.* 1998). Also, as the oil and gas industry abandons some of the facilities in Gaviota, proposed development options include recreational vehicle campgrounds, golf courses, a convention center, and residential housing (K. Rindlaub, *in litt.* 1998).

The Guadalupe Dunes, which contain the only known population of *Lupinus nipomensis* and the majority of the populations of *Cirsium loncholepis*, have been extensively developed and altered for petroleum extraction (Rindlaub *et.al.* 1985). About one-third of the historic occurrences of *C. loncholepis* have been extirpated (CDFG 1992). While the future extent of development and habitat alteration is unknown at this time, continued energy-related operations, including maintenance activities, hazardous waste cleanup, and other commercial development that result in additional habitat modification, remain a predominant threat (CDFG 1992). Ground water extraction in the Guadalupe Dunes and vicinity is thought to have diminished the total area of suitable habitat of *C. loncholepis* by lowering the water table and drying the wetlands (Smith 1976; Hendrickson 1990; CDFG 1992). Hydrological alterations remain a significant threat to this taxon (CDFG 1992). At least 3 historic populations of *L. nipomensis*, including the type locality, have been extirpated. Development, along with invasion by nonnative plant species (see factor E below), are the primary threats to this species (CDFG 1992).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overutilization is not currently known to be a factor for these plants. However, simply listing a species could attract 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. These species have such small populations that even limited collecting pressure could have significant impacts.

Vandalism is also a concern for these species. For example, approximately one-third of a *Lupinus nipomensis* colony was destroyed by bulldozer activity during road construction to provide staff access at the Oceano State Vehicular Recreation Area, in spite of staff knowledge of the location and rarity of this species (J. Chesnut, *in litt.* 1998).

C. *Disease or predation.* Disease is not known to be a factor affecting any of the species in this rule. Herbivory by pocket gophers (*Thomomys bottae*) has been documented to consume whole colonies of *Lupinus nipomensis* and is considered a major threat (Walters and Walters 1988). Veldt grass, a food source for pocket gophers, was observed to be increasing during the course of a 3-year monitoring program for *L. nipomensis* and is forming pure stands in the back dune habitat of *L. nipomensis* (Walters and Walters 1988; J. Chesnut, *in litt.* 1998). Veldt grass provides a year-round food source, thus creating artificially high densities of gophers and increased predation pressure upon *L. nipomensis*.

Several invertebrate species have been documented as predators of *Lupinus nipomensis,* reducing the vigor and seed production of this species. The most significant predator is an anthomyid fly (*Hylemya lupini*), whose larvae burrow into the terminal inflorescence, reducing seed production and sometimes killing the entire plant (Walters and Walters 1988). Other invertebrate predators noted are mites, the caterpillars of the common painted lady butterfly (*Vanessa cardui*), a noctuid moth that feeds on leaves (family Notuidae), a tent-building microlepidopteran larva (family Pyralidae) that causes leaf damage, and a lupine blue butterfly larva (*Plebejus lupini monticola*) that feeds on seed pods (Walters and Walters 1988). Predation by these species does not threaten *L. nipomensis* in and of itself, but because of the limited range and small population size, predation in combination with other threats could adversely affect population viability.

Approximately 50 percent of the disk and ray achenes of *Hemizonia increscens* ssp. *villosa* have been observed to be infested by an unidentified flower beetle (K. Rindlaub, *in litt.* 1998).

Cattle grazing occurs within the habitats of *Cirsium loncholepis* and *Hemizonia increscens* ssp. *villosa*. Low levels of grazing may enhance the opportunities for both species to propagate successfully, as it may serve to reduce competition from nonnative species. However, recent evidence indicates that heavy grazing has affected individuals of *H. increscens* ssp. *villosa* by reducing their stature and the number of seeds that can be produced. Cattle grazing in the area west of the oil and gas facility appears to have facilitated the displacement of *H. increscens* ssp. *villosa* and favored the dominance of *H. fasciculata*, a common native tarplant (K. Rindlaub, *in litt.* 1998). Similar observations were made in the Guadalupe dunes and along the Santa Maria River where *C. loncholepis* was adversely affected (Hendrickson 1990).

No known predation threats affect *Eriodictyon capitatum*.

D. *The inadequacy of existing regulatory mechanisms.* The California Fish and Game Commission has listed *Eriodictyon capitatum* as rare, *Cirsium loncholepis* as threatened, and *Hemizonia increscens* ssp. *villosa* and *Lupinus nipomensis* as endangered under the Native Plant Protection Act (NPPA) (chapter 1.5 sec. 1900 *et seq.* of the California Fish and Game Code), and the California Endangered Species Act (CESA) (chapter 1.5 sec. 2050 *et seq.*). California Senate Bill 879, passed in 1997 and effective January 1, 1998, requires individuals to obtain a section 2081(b) permit from CDFG to take a listed species incidental to otherwise lawful activities, and requires that all impacts be fully mitigated and all measures be capable of successful implementation. These requirements have not been tested as applied to State-listed plants; it will be several years before their effectiveness can be evaluated. In the past, attempts to mitigate rare plant populations have often failed, largely due to inadequate consideration of a species' biological needs and inadequate protection and management of the mitigation site (Howald 1993).

The California Environmental Quality Act (CEQA) requires a 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 other agencies concerned about 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 a rare or endangered plant or animal.'' 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, such as destruction of State-listed species. Protection of listed species through CEQA, therefore, is dependent upon the discretion of the agency involved.

State agencies reviewing requests for large development projects are required by CEQA to conduct surveys of the biological resources of a project site. Most public documents such as environmental impact reports are prepared by the project proponent for the State agency. Sensitive species located during surveys are to be reported to the CNDDB, which is maintained by the CDFG Natural Heritage Division. If, however, the project proponent considers the information proprietary, consulting biologists may not report to the CNDDB (Carl Wishner, Envicom Consulting, Agoura, California, pers. comm. 1999).

One of the species in this rule, *Cirsium loncholepis,* could potentially be affected by projects requiring a permit under section 404 of the Clean Water Act (CWA). Perennial freshwater emergent marshes and back dune wetlands are generally small and scattered, and treated as isolated wetlands or waters of the United States for regulatory purposes by the U.S. Army Corps of Engineers (Corps) under section 404. However, the CWA by itself does not protect *C. loncholepis*. For example, Nationwide Permit No. 26 (33 CFR part 330 Appendix B (26)) was established by the Corps to facilitate issuance of permits for discharge of fill into wetlands up to 1.2 ha (3 ac). For project proposals falling under this permit, the Corps seldom withholds authorization unless a listed threatened or endangered species' continued existence would likely be jeopardized by the proposed action. Current section 404 regulations require an applicant to obtain an individual permit to fill isolated wetlands or waters larger than 1.2 ha (3 ac). In either case, candidate species receive no special consideration. Additionally and equally important, the upland watersheds that contribute significantly to the hydrology of marshes are not provided any direct protection under section 404. Alterations of hydrology resulting from groundwater pumping are thought to pose the most likely and serious threat to *C. loncholepis*. No permit is required under the CWA for groundwater pumping. As a consequence, the habitat of *C. loncholepis* receives insufficient protection under section 404.

Although several public agencies manage lands with occurrences of these and other sensitive, threatened and endangered species, none of those agencies have specific management plans for the species in this rule. Serious threats to the habitats of all of the plants in this rule persist and are not currently being addressed with active management (see factor E below). The CDFG prepared an unpublished management plan for the State-listed *Cirsium loncholepis* (Morey 1990), but

its recommendations have not yet been implemented.

Mitigation performed to satisfy CEQA requirements for *Hemizonia increscens* ssp. *villosa* has included salvaging seedbank and topsoil for transfer to a habitat creation site, seeding of areas disturbed by facility and pipeline construction, and enhancement of areas with low density of this taxon (AAPC 1990). These experimental mitigation measures are in progress, and the long-term success of treatments will not be known for years. As of 1997, none of the sites showed success (K. Rindlaub, *in litt.* 1998). *Hemizonia increscens* ssp. *villosa* does not compete well with other annual species, and long-term survival of relocated plants requires intensive maintenance to control nonnative weeds. These experimental mitigation measures focus on reintroducing the plant and not necessarily reestablishing the other elements of the habitat that would maintain the plant in perpetuity. If the original habitat has been destroyed and mitigation fails, the loss of the resource is irretrievable. Too little is known to predict the success of any mitigation measures that involve moving or creating habitat. Minimal soil disturbance and shrub removal, included as mitigation measures that enhanced *H. increscens* ssp. *villosa* germination, in the past may now result in colonization by veldt grass (K. Rindlaub, *in litt.* 1998).

The Los Padres National Forest is aware of the presence of *Cirsium loncholepis* on their land. No projects planned at this time will affect this species. Vandenburg Air Force Base (VAFB) does not have any planned projects that may affect *Eriodictyon capitatum.* However, with the listing of these species, both agencies will be required to consult with us on future projects.

E. *Other natural or manmade factors affecting their continued existence.* Other threats to the species in this rule include displacement by nonnative weeds, altered fire regimes, facility accidents by oil companies or VAFB, small population size, and loss of reproductive vigor. The most severe threat to the species in this rule is the active invasion and subsequent modification or conversion of habitat and displacement of native species by aggressive nonnative weeds such as European beach grass, iceplant, veldt grass, and crystalline iceplant (Davis *et al.* 1988; Zedler and Schied 1988; Morey 1989; Walters and Walters 1988; Odion *et al.* 1992; CNDDB 1998; J. Chesnut, *in litt.* 1998). Current research and management approaches are inadequate to provide control of the problem of nonnative plant invasions (Hobbs and Humphries 1995; Schierenbeck 1995). The California Exotic Pest Plant Council (CalEPPC) has compiled a list of the exotic pest plants of greatest ecological concern in California. The most invasive wildland pest plants that threaten native plants and natural habitats have been placed on two lists: list A–1 (widespread pest plants) and list A–2 (regional pest plants). European beach grass and iceplant are on list A–1, and veldt grass is on list A–2 (CalEPPC 1994). All of the habitats for the species in this rule are fragmented and dissected by roads and pathways that are the principal corridors for introduction of weedy species (Odion *et al.* 1992).

Iceplant, widely disseminated in the feces of deer and rabbits, tends to displace native plant species, particularly after fire or mechanical disturbance. Iceplant has been observed invading native vegetation occupied by *Eriodictyon capitatum* after a prescribed fire, resulting in a documented increase in iceplant cover from negligible to 26 percent 3 years after the fire. This increase was attributed to post-fire seedling production of over 7,800 iceplant seedlings per ha (2,800 per ac) the year after the fire, with a survivorship of over 70 percent 3 years later (Zedler and Schied 1988). After establishment, each plant can grow to over 6 m (18 ft) in diameter (Vivrette 1993), virtually replacing all other vegetation. The Air Force is currently conducting prescribed burns on VAFB for fuels management without a program to control the subsequent invasion of weedy species (J. Watkins, pers. comm. 1997). An effort is made occasionally to apply herbicides to a burn area; however, such an effort is ineffective without followup measures to ensure the control of the invasive species. Because fire is inevitable in natural habitats, and prescribed burns are utilized for hazard fuels reduction, iceplant and other invasive weed invasions will continue to degrade habitat and adversely affect *E. capitatum, Hemizonia increscens* ssp. *villosa*, and *Lupinus nipomensis*.

Other invasive plants, including Australian saltbush (*Atriplex semibaccata*), veldt grass, and wild oats threaten *Hemizonia increscens* ssp. *villosa* by displacement and the buildup of thatch (accumulated dead leaves and stems). *Hemizonia increscens* ssp. *villosa* requires open habitat in which to germinate and become established. Thatch from the nonnative grass species that dominate the habitat effectively prevents its establishment (K. Rindlaub, pers. comm. 1995).

In addition to affecting *Hemizonia increscens* ssp. *villosa*, veldt grass is actively invading habitat occupied by *Eriodictyon capitatum* and *Lupinus nipomensis* and is becoming a significant threat (Zedler and Schied 1988; Morey 1989; Walters and Walters 1988; Bonnie Walters, California Polytechnic State University, pers. comm. 1997; J. Chesnut, *in litt.* 1998; K. Rindlaub, *in litt.* 1998). Veldt grass prefers sandy soils and has the potential to persist for long periods of time. This nonnative grass has a mass of roots that captures the majority of the soil moisture, effectively outcompeting the native vegetation and dominating habitats as a monoculture (David Chipping, California Native Plant Society, pers. comm. 1997).

Used to control nonnatives, herbicides may inadvertently harm these species. For example, *Cirsium loncholepis* at Mud Lake was destroyed by herbicide application on poison oak (Hendrickson 1990; CNDDB 1998). However, the significance of herbicide application as a threat to the survival of *C. loncholepis or the other three species is unknown.*

Eriodictyon capitatum and *Hemizonia increscens* ssp. *villosa* occupy habitats that experience periodic fires. Wildfires are an important component of natural ecosystems in California wildland habitats, and suppression of natural fires facilitates ecosystem degradation (Schoenherr 1992; Keeley 1995). All recent fires in the central maritime chaparral have been human-caused, resulting from arson, prescribed management, or accidental ignition (Philbrick and Odion 1988). The highly fragmented nature of the remaining chaparral habitat has ended the occurrence of large wildfires that burn under natural conditions in the coastal chaparral areas considered in this rule. Wildfire frequencies and intensities are not known, but estimates of historic burn intervals exceed 30 years. Wildfires naturally occur during high wind events that force the fire quickly through a stand of fuel, resulting in short burn durations and generally cooler ground temperatures. The use of prescribed burning as a management technique is restricted to periods when environmental conditions are favorable to preventing the spread of escaped fire, thus preventing a normal wildfire situation. Prescribed fire behavior does not mimic natural conditions, since low wind speed is required for control of the fire. Low wind speed causes an increase in the duration and intensity of the fire and results in higher mortality of seeds in the soil and reduced post-fire species diversity (Odion *et al.* 1992; Keeley

1995). Additionally, with the higher mortality of plants and seeds from a more intense fire, burned habitats are more susceptible to the rapid invasion by nonnative species that alter the type and structure of the plant community and, thus, future fuels for fires (Odion *et al.* 1992).

Petroleum-processing plant catastrophes are rare events, but have the potential to threaten the long-term survival of *Hemizonia increscens* ssp. *villosa* and *Lupinus nipomensis*, which have the smallest distributions of the species in this rule. All known individuals of *H. increscens* ssp. *villosa* are contained within a 3.2-km (2-mi) radius, and all known locations for *L. nipomensis* occur within a 1.2-km (0.75-mi) radius, of oil and gas refineries and associated storage facilities. The oil and gas facility, managed by at least 12 operating companies to consolidate pipelines and treating plants, is near the center of the distribution of *H. increscens* ssp. *villosa*. The Santa Maria TASCO refinery and storage facilities are near the center of the distribution of *L. nipomensis*. These facilities occur in a tectonically complex and active region that is historically characterized by locally moderate to high earthquake activity, which can result in facility catastrophes (AAPC 1990). In the event of a facility catastrophe, the resulting habitat modification could destroy populations, causing the extinction of species with such extremely limited distribution.

All the species in this rule are vulnerable to naturally occurring events, such as failure to produce viable seed and catastrophic incidents. For example, *Eriodictyon capitatum* is self-incompatible and produces few viable seeds. In two colonies of this species, each presumably composed of a single genetic unit, virtually no seed production occurs (Elam 1994). Seeds of *Cirsium loncholepis* in small back dune populations have been shown to be of limited viability (Hendrickson 1990). Because of the small population sizes, the four species' vulnerability is heightened by natural events, such as drought, flooding, fires, earthquakes, outbreaks of insects or disease, or other catastrophic events, that could destroy a significant percentage of the individuals of these species.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in making this rule final. The habitats for these species have been much reduced due to residential, commercial, agricultural, and oil and gas development. These species continue to face threats from development, military activities, alteration of natural fire cycles, and invasion of nonnative species. The limited habitat for the four species and their small population sizes make *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa*, and *Lupinus nipomensis* particularly vulnerable to extinction from naturally occurring events. Existing regulations do not provide adequate protection to prevent further losses; many actions that adversely affect these species and their habitats are ongoing. Because the four plant species are in danger of extinction throughout all or a significant portion of their ranges, they fit the Act's definition of endangered under the Act.

Critical Habitat

Critical habitat is defined in section 3, paragraph (5)(A) of the Act as 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 essential to the conservation of the species and that may require special management considerations or protection; and specific areas outside the geographical area occupied by a species at the time it is listed in accordance with the provisions of section 4 of the Act, upon a determination by the Secretary 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.

Critical habitat designation, by definition, directly affects only Federal agency actions through consultation under section 7(a)(2) of the Act. 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 a listed species or destroy or adversely modify its critical habitat.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. 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 activity and the 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 for these four species was not prudent because we believed it would not provide any additional benefit beyond that provided through listing as endangered, since most of the historical ranges of these plants occur on private land.

We find that designation of critical habitat is prudent for *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa*, and *Lupinus nipomensis*. 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 believe that the designation of critical habitat for these four species would be prudent.

Due to the small number of populations, *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa*, and *Lupinus nipomensis* are 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 and have not found specific evidence of taking, vandalism, collection, or trade of these 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 these species, some benefits may result from designation of critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by these species would not be likely to change the section 7 consultation outcome because an action

that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, 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. Some educational or informational benefits may also result from designating critical habitat. Therefore, we find that critical habitat is prudent for *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa*, and *Lupinus nipomensis*.

As explained in detail in the Final Listing Priority Guidance for FY2000 (64 FR 57114), our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. We anticipate in FY 2000 and beyond giving higher priority to critical habitat designation, including designations deferred pursuant to the Listing Priority Guidance, such as the designation for these species, than we have in recent fiscal years. 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. Deferral of the critical habitat designation for these species 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 *C. loncholepis, E. capitatum, H. increscens* ssp. *villosa*, and *L. nipomensis* without further delay. We will develop a proposal to designate critical habitat for *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa*, and *Lupinus nipomensis* 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 Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. Funding may be available through section 6 of the Act for the State to conduct recovery activities. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(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) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat, if designated. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us, under section 7(a)(2) of the Act.

VAFB and the U.S. Forest Service will be required to consult with us on activities that may affect federally listed plant species found on their lands through the section 7 consultation process. While no activities are known at this time, future activities may affect populations of or habitat for *Cirsium loncholepis* and *Eriodictyon capitatum.* The Corps might become involved with *C. loncholepis* through its permitting authority as described under section 404 of the CWA. As previously discussed, nationwide or individual permits cannot be issued when a federally listed endangered or threatened species would be affected by a proposed project without first completing a section 7 consultation with us. In addition, sections 2(c)(1) and 7(a)(1) of the Act require Federal agencies to utilize their authorities in furtherance of the purposes of the Act to carry out conservation programs for endangered and threatened species.

Listing of these plants as endangered would provide for development of recovery plans for the plants. Such plans would identify both State and Federal efforts for conservation of the plants and establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plans would set recovery priorities and describe site-specific management actions necessary to achieve conservation and survival of the plants. Additionally, pursuant to section 6 of the Act, we would be able to grant funds to affected States for management actions promoting the protection and recovery of these 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, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove such plants from areas under Federal jurisdiction. In addition, the Act prohibits the malicious damage or destruction of such plants on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants on any other area in knowing violation of any State law or regulation, or in the course of a violation of State criminal trespass law. Certain exceptions to the prohibitions apply to our agents and State conservation agencies.

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. We anticipate that few trade permits would be sought or issued because these species are not in cultivation or common in the wild. Requests for copies of the regulations on listed plants and inquiries regarding them may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Permits Branch, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–6241; facsimile 503/231–6243).

As published in the **Federal Register** on July 1, 1994 (59 FR 34272), our policy is to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of

section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. We believe that, based upon the best available information, activities on private lands that do not require Federal authorization and do not involve Federal funding, such as grazing management, agricultural conversions, wetland and riparian habitat modification (not including filling of wetlands), flood and erosion control, residential development, road construction, pesticide/herbicide application, and pipelines or utility lines crossing suitable habitat, conducted in accordance with State law would not likely result in a violation of section 9.

We believe that the following actions could result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Unauthorized collecting of the species on Federal lands;

(2) Malicious destruction of the species on Federal lands; and

(3) Interstate or foreign commerce and import/export without previously obtaining an appropriate permit. Permits to conduct activities are available for purposes of scientific research and enhancement of propagation or survival of the species.

Questions regarding whether specific activities would constitute a violation of section 9 should be directed to the Field Supervisor of the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid control number. For additional information concerning permits and associated requirements for endangered species, see 50 CFR 17.62 and 17.63.

This rule has not been reviewed by the Office of Management and Budget under Executive Order 12866.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author:

The primary author of this final rule is Tim Thomas, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects 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. 4201–4205; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Cirsium loncholepis	La Graciosa thistle	U.S.A. (CA)	Asteraceae	E	691	NA	NA
*	*	*	*	*	*		*
Eriodictyon capitatum.	Lompoc yerba santa	U.S.A. (CA)	Hydrophyllaceae	E	691	NA	NA
*	*	*	*	*	*		*
Hemizonia increscens ssp. *villosa.*	Gaviota tarplant	U.S.A. (CA)	Asteraceae	E	691	NA	NA
*	*	*	*	*	*		*
Lupinus nipomensis	Nipomo Mesa lupine	U.S.A. (CA)	Fabaceae	E	691	NA	NA
*	*	*	*	*	*		*

Dated: March 13, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–6835 Filed 3–15–00; 4:31 pm]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE80

Endangered and Threatened Wildlife and Plants; Threatened Status for *Holocarpha macradenia* (Santa Cruz tarplant)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have determined threatened status according to the Endangered Species Act of 1973, as amended, for *Holocarpha macradenia* (Santa Cruz tarplant). *Holocarpha macradenia* is an aromatic annual herb that is currently known from coastal grasslands and prairies in Contra Costa, Santa Cruz, and Monterey Counties, California. It is threatened by alteration and destruction of habitat due to historic and ongoing urban and commercial development, historic habitat alteration due to grazing, limited success of seed transplant populations, and competition from nonnative plants.

DATES: This rule becomes effective April 19, 2000.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Carl Benz, Assistant Field Supervisor, Listing and Recovery, Ventura Fish and Wildlife Office (see **ADDRESSES** section) (telephone number 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Holocarpha macradenia (Santa Cruz tarplant) was first recognized by Augustin-Pyramus de Candolle, who published the name *Hemizonia macradenia* in 1836 (Ferris 1960). In 1897, E. L. Greene referred the species to the genus *Holocarpha* with publication of the new combination *Holocarpha macradenia* (DC.) E. Greene (Ferris 1960). This name continues to be recognized in the most recent treatment for the genus (Keil 1993).

Holocarpha macradenia, an aromatic annual herb in the aster (Asteraceae) family, is one of only four species of *Holocarpha,* which are all geographically restricted to California. The genus name, derived from the Greek *holos* for whole and *karphos* for chaff, refers to the scales found among the florets on the receptacle (the structure that supports the florets in the daisy-like flower head). The plant is rigid, with lateral branches that arise to the height of the main stem, which is 1 to 5 decimeters (dm) (4 to 20 inches (in.)) tall. The lower leaves are broadly linear and up to 12 centimeters (cm) (5 in.) long. The upper leaves are smaller, with rolled back margins, and are truncated by a distinctive craterform gland. The yellow flower head is surrounded from beneath by individual bracts that have about 25 stout gland-tipped projections (Keil 1993). *Holocarpha macradenia* is distinguished from other members of the genus by its numerous ray flowers and black anthers. However, as with all other members of the genus, *H. macradenia* establishes seedbanks, so that sites that support a population of this plant, particularly those that support small populations (fewer than 100 individuals), may not display individuals in any given year, but still have a viable population in other years.

Habitat for *Holocarpha macradenia* historically consisted of grasslands and prairies found on coastal terraces below 100 meters (m) (330 feet (ft)) in elevation, from Monterey County, north to Marin County. In the 1800s, coastal prairies covered an estimated 350,000 hectares (ha) (865,000 acres (ac)) (Huenneke 1989). This coastal prairie habitat is becoming increasingly fragmented and restricted in distribution. Four major factors contributed to changes in the distribution and composition of coastal prairies: grazing; introduction of highly competitive, nonnative species; elimination of periodic fire; and cultivation (Heady *et al.* 1988). Currently, the California Department of Fish and Game's Natural Diversity Database (CNDDB 1996, cited in Holl 1998) lists just over 800 ha (1977 ac) of high-quality coastal prairie remaining, of which less than 5 percent is *H. macradenia* habitat.

Holocarpha macradenia populations occur on the alluvium resulting from the terrace deposits (Palmer 1986). Typically terrace soils are sandy clay soils; the clay component of these soils holds moisture longer into the growing season compared to the surrounding sandy soils. In the Santa Cruz area, *H. macradenia* exists on the gently sloping terrace platforms that are separated by steep-sided ''gulches,'' whereas in the Watsonville (Santa Cruz County) and Monterey areas, and on the east side of San Francisco Bay, the terraces are more extensively dissected.

Although *Holocarpha macradenia* is historically associated with native herbaceous species and grasses (including other tarplants (*Hemizonia* sp.), needlegrass (*Nasella* sp.) and California oatgrass (*Danthonia californica)),* nonnative grasses, such as wild oats (*Avena fatua*), Mediterranean barley (*Hordeum hystrix*), and bromes (*Bromus* sp.), have invaded its habitat. At some locations, *H. macradenia* is found with other species that may be threatened or endangered, including the Ohlone tiger beetle (*Cicindela ohlone;* federally proposed as endangered), San Francisco popcorn flower (*Plagiobothrys diffusus;* State-listed as endangered), Santa Cruz clover (*Trifolium buckwestiorum;* State-listed as a species of concern), and Gairdner's yampah (*Perideridia gairdneri)* (CNDDB 1997). Other locally unique plant species, such as Choris's popcorn flower (*Plagiobothrys chorisianus* var. *chorisianus),* triteleia (*Triteleia ixiodes),* coast coyote thistle (*Eryngium armatum*), and San Francisco gumplant (*Grindelia hirsutula* var. *maritima*) also occur in these areas (Kathy Lyons, pers. comm. 1998).

Historically, *Holocarpha macradenia* was known from ''low dry fields about San Francisco Bay'' (Jepson 1925). Around the San Francisco Bay, herbarium collections were made from Tamalpias in Marin County in 1934; near Berkeley, Oakland, and San Lorenzo in Alameda County as early as 1894; and Pinole in Contra Costa County (CNDDB 1997, Specimen Management System for California Herbaria (SMASCH) 1997). All of the native San Francisco Bay area populations have since been extirpated. The last remaining native population, known as the Pinole Vista population, consisting of 10,000 plants, was eliminated in 1993 by a commercial development (California Department of Fish and Game (CDFG) 1997).

In 1959, Keck (in Munz 1959) noted the species in Santa Cruz County, but also added that the species could possibly be extinct. Fortunately, numerous collections were made from the Monterey Bay area in Santa Cruz County in the late 1950s and early 1960s. In 1966 and 1969, Hoover made the first collection of the species in northern Monterey County, just south of the Santa Cruz County line (SMASCH 1997). Additional populations were found in Monterey County in the

subsequent decades, although the lack of specific location noted on herbarium labels makes it difficult to determine exactly how many populations occurred there. According to CNDDB, nine populations in Santa Cruz and Monterey Counties have been extirpated by development (CDFG 1994). The most recent extirpation occurred in 1993 when a population in Watsonville (Anna Street site) was destroyed during construction of office buildings and a parking lot (CDFG 1995a).

Holocarpha macradenia is currently known from a total of 20 populations; 12 of these are remaining native populations, and 8 are a result of experimental seedings. Eleven of the native populations occur in Santa Cruz County. Six occur around the City of Santa Cruz (Graham Hill Road, Twin Lakes, Arana Gulch, O'Neill/Tan, Winkle, and Fairway), and five occur around the City of Watsonville, scattered from Watsonville Airport to Hall Road, 8 kilometers (km) (4 miles (mi)) to the south-southeast (Watsonville Airport, Harkins Slough, Apple Hill, Struve Slough, and Spring Hills Golf Course). Only one population (Porter Ranch) occurs in Monterey County, just south of the Santa Cruz County line and the City of Watsonville. The size of each of these populations and the last year they were surveyed are as follows: Graham Hill Road, 475 (1999); Twin Lakes, 16 (1999); Arana Gulch, 12,820 (1998); O'Neill/Tan, 0 (1998); Winkle, 0 (1994); Fairway, 1,500 (1993); Watsonville Airport, 8 million (1999); Harkins Slough, 15,000 (1993); Apple Hill, 0 (1999); Struve Slough, 1 (1994); Spring Hills Golf Course, 4,000 (1990); Porter Ranch, 3,200 (1993). As stated earlier, there are years where few or no plants are present on a site, but a viable population is still probable due to the established seedbank.

The other eight existing populations of *Holocarpha macradenia* have resulted from experimental planting of seeds in Wildcat Regional Park in the east San Francisco Bay area. The names of the eight populations and their population size, based on 1997/1998/1999 surveys, are as follows: Big Belgum, 148/318/74; Big Belgum West, 51/23/0; Upper Belgum, 22/59/59; Mezue, 5,000–7,000/3,128/10,000; Fowler, 22/7/0; Nimitz Way 0/56/0; Upper Havey, 17/1/2; and Lower Sather 0/2/0 (Olson *et al.* 1997; Olson, pers. comm. 1998; CDFG, *in litt.* 1999).

Holocarpha macradenia is threatened primarily by historic and recent habitat alteration and destruction caused by residential and commercial development. Future loss of habitat may also result from recreational development, airport expansion, and agriculture. Occupied habitat that has been set aside in preserves, conservation easements, and open spaces also suffers secondary impacts from casual use by residents, introduction of nonnatives (*e.g.,* French broom (*Genista monspessulana*), eucalyptus (*Eucalyptus* sp.), acacia (*Acacia decurrens, A. melanoxylon*), artichoke thistle (*Cynara cardunculus*), and grass species), and changes in hydrology, problems that are all exacerbated by the lack of management plans. In addition, smaller preserve areas with *H. macradenia* suffer because they are cut off from the ecosystem functions that would be present in larger, more contiguous sites. More often, these smaller areas are left as open spaces, but without the benefit of the grassland management needed to sustain them. Finally, random disturbance, including unseasonable fires or a drought event, also threatens small populations of this species. Probability of population extirpation increases as the number of individuals and the area of habitat decrease.

Previous Federal Action

Federal action on this plant began as a result of section 12 of the 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 (House Document No. 94–51) was presented to Congress on January 9, 1975, and included *Holocarpha macradenia* as endangered. We published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) of our acceptance of the Smithsonian Institution 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 reported plant species.

On June 16, 1976, we published a proposal in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. *Holocarpha macradenia* was included in this **Federal Register** publication. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). However, the Endangered Species Act Amendments of 1978 required that all proposals more than 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), we published a notice of withdrawal of the June 16, 1976, proposal, along with four other proposals that had expired.

We published an updated Notice of Review (NOR) for plants on December 15, 1980 (45 FR 82480). This notice included *Holocarpha macradenia* as a category 1 candidate species. Category 1 candidates were formerly defined as a species for which we had on file substantial information on biological vulnerability and threats to support preparation of a listing proposal, but for which issuance of a proposed rule was precluded by other listing activities of higher priority.

On February 15, 1983, we published a notice (48 FR 6752) of our prior finding that the listing of *Holocarpha macradenia* was warranted but precluded in accordance with section 4(b)(3)(B)(iii) of the Act as amended in 1982. Pursuant to section 4(b)(3)(C)(i) of the Act, this finding must be recycled annually, until the species is either proposed for listing, or the petitioned action is found to be not warranted. Each October, from 1983 through 1990, further findings were made that the listing of *H. macradenia* was warranted, but that the listing of this species was precluded by other pending proposals of higher priority.

Holocarpha macradenia continued to be included as a category 1 candidate in plant NORs published on September 27, 1985 (50 FR 39526), February 1, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144). Upon publication of the February 28, 1996 NOR (61 FR 7596), we ceased using category designations and included *H. macradenia* as a candidate. Candidate species are those for which we have on file sufficient information on biological vulnerability and threats to support proposals to list them as threatened or endangered. Our September 19, 1997, NOR (62 FR 49398) retained *H. macradenia* as a candidate, with a listing priority of 2. On March 30, 1998, we published a proposed rule in the **Federal Register** (63 FR 15142) to list *H. macradenia* as threatened.

The processing of this final rule conforms with our Final 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 lists of endangered and threatened wildlife and plants. Third priority (Priority 3) is

processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority (Priority 4). The processing of this final rule is a Priority 2 action.

Summary of Comments and Recommendations

In the March 30, 1998, proposed rule (63 FR 15142), we requested interested parties to submit factual reports or information that might contribute to development of a final rule. We contacted appropriate Federal agencies, State agencies, county and city governments, scientific organizations and other interested parties and requested information and comments. We published newspaper notices inviting public comment in the Monterey Herald, the Santa Cruz Sentinel, and the Oakland Tribune on, respectively, April 2, 3, and 4, 1998. The comment period closed on May 29, 1998.

During the comment period, we received 16 comments from 15 individuals, agencies, or group representatives concerning the proposed rule. Five commenters supported the proposal, six provided neutral comments, and four were opposed to the proposal. Several commenters provided additional information that, along with other clarifications, has been incorporated into the ''Background'' or ''Summary of Factors'' sections of this final rule. Opposing and technical comments have been organized into specific issues, and our responses to each are summarized as follows:

Issue 1: One commenter stated that the ''tarplant'' is a useless and unattractive weed that gums up mowers, is difficult to eradicate, and is not worthy of listing. Another commenter offered that there is no shortage of ''tarweed,'' as there are about 400 ha (990 ac) of it in San Benito County. A third commenter stated that protection is not needed because *Holocarpha macradenia* can be propagated on sites other than native stands.

Our response: Many different plant species are commonly referred to as tarweeds or tarplants. However, the species that is the subject of this rulemaking is known from only a few locations. The total acreage of currently occupied habitat is less than 40 ha (99 ac). The species has been eliminated from a number of sites within its historic range and has become not only rare, but is likely to become endangered within the foreseeable future, throughout its range. Although experimentally seeded populations have been established on sites that historically have not been occupied by *Holocarpha macradenia*, these sites have had limited success in maintaining a viable population.

Issue 2: A number of commenters were concerned that listing of the species would result in project delays, additional permitting requirements or restrictions on private property owners, and increased cost of land. For example, several commenters were concerned that Federal listing would delay or affect the proposed expansion of the Watsonville Airport. On the other hand, one commenter was concerned that the airport should not be allowed to expand into habitat for *Holocarpha macradenia*.

Our response: The Act requires us to base our listing decisions on the best scientific and commercial information available, without regard to the effects, including economic effects, of listing. The Federal listing of *Holocarpha macradenia* should not lead to significant project delays, additional permitting requirements or restrictions on private property owners, or increased cost of land. Because the species is already State-listed, many project sites have already been subject to California Environmental Quality Act (CEQA) review and permitting requirements under the California Endangered Species Act (CESA). Agencies responsible for review of those few projects that are pending are aware of the declining status of this species and are taking this issue into consideration. In addition, most populations of this species are on private land where there is no Federal nexus.

CDFG and the airport are currently developing a memorandum of understanding (MOU) to ensure that loss of *Holocarpha macradenia* habitat from airport expansion would be offset by establishing the plant in adjacent suitable locations. We are participating in this effort. The Federal Aviation Administration (FAA) should also have conferred with us under the provisions of section 7(c) of the Act since the plant was proposed for listing. Because the conservation solution is currently being developed through the MOU, and a conference opinion can be expeditiously converted to a biological opinion, pursuant to section 7(a)(2) of the Act, the Federal listing in itself should not delay the proposed expansion of the airport. Likewise, the expansion of the airport, as long as the requirements of both the State and Federal regulations are followed, should not adversely affect the *H. macradenia* population currently located at the airport.

Issue 3: One commenter suggested that cooperation is needed between the Service, the University of California Agricultural Extension Service, and California Department of Transportation (CALTRANS), so that the species can be propagated and out-planted on CALTRANS property where they can be viewed and appreciated by millions of people. Another commenter wanted to know what we know about minimum population size/areas to support continued existence of the species.

Our response: We agree that cooperation among agencies is important to prevent further losses of currently occupied habitat, as well as for developing options for future management and conservation of the species. Although our recovery planning process typically occurs after the species has been federally listed, the previous State listing of this species has served to advance the process of identifying appropriate recovery actions. We currently do not know what minimum plant population size and habitat areas are needed to support the continued existence of this species. However, the specific recovery objectives and criteria to delist the species in the future, including targets for population/habitat sizes, will be developed during the formal recovery planning process. This process will involve species experts, scientists, and interested members of the public, in accordance with the interagency policy on recovery plans under the Act, published on July 1, 1994 (59 FR 34272).

Issue 4: One commenter asked what additional protection Federal listing will provide given that the species is already State-listed.

Our response: Federal listing will provide additional protection for the species through Federal regulations and recovery efforts. Additional protection will potentially be provided through the consultation process for projects that are funded, permitted, or carried out by a Federal agency. At this time, the only projects in occupied habitat, with an identified Federal nexus, are the expansion of the Watsonville Airport and the construction of a bicycle path in Arana Gulch. In addition, Federal listing of a species generally provides for recognition and additional funding, by our agency as well as others, for the conservation and recovery of the listed species.

Issue 5: One commenter believed that the current status of *Holocarpha macradenia* warranted listing as endangered rather than threatened. Another commenter thought that the appropriate status hinged on opportunities for funding current management needs; should no funding

be available for appropriate management, the status of the species should more appropriately be endangered.

Our response: We believe that the determination of threatened status is appropriate for the species at this time because ongoing intensive management has forestalled imminent extinction. However, should factors such as reduced funding for managing the species result in its continued decline, we would have the option of reclassifying the species to endangered.

Issue 6: One commenter suggested that we lack jurisdiction to enact the proposed rule and that the rule should be withdrawn, believing that no connection exists between regulation of these plants 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, for the reasons given in Judge Wald's opinion and Judge Henderson's concurring opinion in *National Association of Home Builders* v. *Babbitt*, 130 F.3d 1041 (D.C. Cir. 1997), *cert. denied*, 1185 S.Ct. 2340 (1998). 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 *Holocarpha macradenia*, the Delhi Sands flower-loving fly is endemic to only one State. Judge Wald held that application of the Act's prohibition against taking of endangered species to this fly was a proper exercise of Commerce Clause power to regulate: (1) use of channels of interstate commerce; and (2) activities substantially affecting interstate commerce, because applying the Act in that case prevented destructive interstate competition and loss of biodiversity. Judge Henderson upheld protection of the fly because doing so prevents harm to the ecosystem upon which interstate commerce depends and regulates commercial development that is part of interstate commerce.

Peer Review

We requested and received the expert opinions of four peer reviewers regarding pertinent scientific or commercial data and assumptions related to population status and supporting biological and ecological information for *Holocarpha macradenia*. This action is consistent with the interagency policy on peer review published on July 1, 1994 (59 FR 34270). Three of the four reviewers supported the listing of the species, and one reviewer was neutral. One of the reviewers provided typographical corrections to the proposed rule. The second reviewer provided minor technical corrections and updates to the background information on several of the populations. Both reviewers also addressed the lack of funding available to provide management for populations at Arana Gulch and in the East Bay Regional Parks District. The third reviewer commented that, with lack of needed management, the species qualified for endangered rather than threatened status, particularly because the viability of seed banks at unmanaged locations could be extirpated within a decade. The fourth reviewer provided updates on the Graham Hill Road, Arana Gulch, and O'Neill/Tan sites.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) issued to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to *Holocarpha macradenia* (DC.) Greene are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Urbanization has been responsible for severely reducing the extent of coastal prairie habitat that supports *Holocarpha macradenia.* Since *H. macradenia* was listed as endangered by the State of California in 1979, CDFG has been tracking the status of its populations. Although it is difficult to assess the total number of historical populations, since herbarium specimens often have only general location information, it is apparent that the species has declined considerably. All native populations of *H. macradenia* have been extirpated from Alameda, Contra Costa, and Marin Counties around the San Francisco Bay (CDFG 1997a). Habitat for the last naturally occurring population in the San Francisco Bay area, near Pinole in Contra Costa County, was converted to a shopping center in 1993 (CDFG 1997a, CNDDB 1997). The only populations that persist in this area are eight populations that were planted from seed in Wildcat Canyon Regional Park in Contra Costa County. The CDFG has also determined that the plant has been extirpated from nine locations around the Monterey Bay since 1979 (CDFG 1993, CNDDB 1997). Most recently, sometime after a 1992 survey, a population at the Anna Street site in Watsonville was destroyed during construction of office buildings and a parking lot (CDFG 1995a, CNDDB 1997).

In the last 5 years, increasing concern over the loss of *Holocarpha macradenia* habitat and populations has prompted some permitting agencies to require conservation of remaining habitat through the review and permitting of development projects. This permitting requirement has decreased the rate of habitat destruction. However, although occupied habitat has been conserved in developed areas, the indirect effects of residential and local use in these areas often threaten the remaining *H. macradenia* habitat and populations. In many cases, the historical alteration of native *H. macradenia* habitat has been further exacerbated by current human activities. Descriptions of the 12 remaining native sites and the current threats of habitat destruction or modification facing these sites are given below. These descriptions do not include the eight sites that were seeded with *H. macradenia* in Contra Costa County where the species was not known to be native. The threats to those sites are discussed under ''Factor E.''

The Graham Hill Road site is owned by Standard Pacific Corporation. An Environmental Impact Report (EIR) was approved by the County of Santa Cruz in 1996 for a development that comprises 52 residences, a fire station, a common area, a park, and an equestrian facility and trails on a 69-ha (170-ac) parcel (Environmental Science Associates 1996). The approved EIR also includes 0.2 ha (0.5 ac) of occupied *Holocarpha macradenia* habitat, and 4 ha (10 ac) of coastal prairie habitat within a 7-ha (17-ac) conservation easement. The EIR provides for prairie management, habitat restoration, and a 20-year maintenance and monitoring program (Lyons, *in litt.* 1998). In 1994, five colonies of *H. macradenia* occupied less than 0.4 ha (1 ac) of habitat. One colony supported 10,000 individuals, and the other four collectively supported 2,000 individuals. By this time, French broom had invaded the coastal prairie habitat and threatened all of the plant species of concern, including *H. macradenia* (Environmental Science Associates 1995). In 1998, French broom was removed from the conservation easement area, and in June and September, mowing was implemented (Valerie Haley, Native Vegetation Network, pers. comm. 1998). In 1998, only 2 of the 5 colonies were located, supporting a total of 675 individuals (V. Haley, pers. comm. 1998). In addition to *H. macradenia,* other species of concern occur on the site, including Gairdner's

yampah, San Francisco popcorn flower, and Santa Cruz clover.

The Twin Lakes site is owned by the California Department of Parks and Recreation (CDPR). The site has been fragmented by an access road for park vehicles and several hiking paths. The population occupies less than 0.4 ha (1 ac) and appears to have been declining since 1986 (120 individuals in 1986; fewer than 10 in 1994; 1 in 1996; 0 in 1997; and 12 in 1998). The decline has been attributed to competition from French broom and nonnative grasses (CDFG 1995a; G. Gray, ecologist, CDPR, pers. comm. 1997). In the last 3 years, CDPR has made progress in removing French broom from the site. They also have experimented with management actions that would enhance habitat for *Holocarpha macradenia* through mowing, raking, simulating cattle hoof action with wood blocks, and burning. However, the population has continued to decline. In 1997, CDPR committed significant funding to continue with experimental management actions, and by 1998, a draft management plan was prepared (G. Gray, pers. comm. 1997, CDPR 1998). In 1997, a portion of the habitat was accidentally disturbed through the use of a road grader; in 1998, another portion of the habitat was scraped with hand tools. Of the 12 plants that appeared in 1998, 6 appeared in each of the 2 disturbed areas (CDPR 1998).

The Arana Gulch population is on a 25-ha (62-ac) parcel of land that has been owned and managed by the City of Santa Cruz since 1994. In the late 1980s, the population comprised approximately 100,000 individuals. In 1988, cattle grazing was terminated, and over the next few years, population sizes decreased due to competition with nonnative grasses. In 1993, only 133 individuals appeared, and in 1994, no individuals were seen. In 1994, the City of Santa Cruz acquired the land from the private landowner. The city entered into an MOU with CDFG in 1997 to manage the four remaining colonies, which covered approximately 2 ha (5 ac) within a 7-ha (17-ac) management area (CDFG 1997b). In 1995, management of one colony included fall mowing, raking, hoeing, and mechanical scraping of the habitat. By the summer of 1996, the *Holocarpha macradenia* colony had recovered to approximately 7,500 individuals (summer 1996). However, in the fall of 1996, a portion of the treated colony was accidentally burned, and the City and local volunteers began management of a second colony (by grass raking, hoeing, and mowing). A total of 20,000 individuals were observed in these two areas in 1997, and a total of 12,820 were observed in 1998 (K. Lyons, consultant, pers. comm. 1997, 1998). The City now proposes to construct a bicycle path that would bisect the management area (Brady and Associates, Inc. 1997). Direct impacts to occupied *H. macradenia* habitat would be avoided, but secondary impacts associated with increased recreational use, such as increased trampling from humans, pets, and bicycles, may have a negative impact on the remaining habitat and increase the difficulty of managing this site.

The O'Neill/Tan population straddles the boundary of two parcels, the O'Neill Ranch owned by the County Redevelopment Agency (CRA) and the privately owned Tan property. In 1996, the county approved development of the 40-ha (100-ac) O'Neill property into a county park. *Holocarpha macradenia* is located in the upper reaches of the park where past recreational use consisted of occasional hiking. A park management plan is currently being developed and will include the population of *H. macradenia* in a 6-ha (15-ac) conservation easement that is zoned for ''passive recreation.'' The plan may recommend fencing around 0.4 ha (1 ac) of *H. macradenia* habitat in lieu of trying to restrict hikers to designated trails (S. Gilchrist, CRA, pers. comm. 1997). Although the site receives light use currently, development of the adjacent Tan property will allow easier access to a larger number of people. The County hopes to establish a cooperative management strategy with the developers of the Tan property to address management of this population. The size of the *H. macradenia* population on the O'Neill property has fluctuated from up to 200 plants in 1979 down to 0 in 1998 (1979—between 100 to 200 plants; 1984–0; 1985–0; 1986–170; 1990–0; 1991–170; 1993–2; 1997–0; 1998–0) (Brady and Associates 1995, K. Lyons, pers. comm. 1998). Santa Cruz clover and Gairdner's yampah also occur on this site.

The 43-ha (106-ac) Tan property was approved in 1997 for the development of 28 residential units. The habitat mitigation plan for this development includes approximately 0.2 ha (0.5 ac) that support *Holocarpha macradenia* in the 4.2-ha (10.4-ac) conservation parcel. This parcel will be managed by the homeowner's association (HRG 1996). Management prescriptions for the conservation parcel include mowing, weed control, fencing, and removal of invasive nonnative plants. These invasive nonnative plants include French broom, rattlesnake grass (*Briza* sp.), and eucalyptus (HRG 1996).

The size of the *Holocarpha macradenia* population on the Tan parcel is difficult to determine because historic surveys did not count these individuals separately from those on the O'Neill parcel. However, the total number of individuals in the entire population has never been larger than 200 individuals, with the Tan parcel supporting only a portion of those. In 1996, only one tarplant individual was seen (Val Haley, consultant, *in litt.* 1997). In 1997 and 1998, no individuals were seen (K. Lyons, pers. comm. 1997, 1998).

In addition to *Holocarpha macradenia,* the privately owned Winkle Avenue site also supports populations of the Ohlone tiger beetle and Gairdner's yampah. Part of the *Holocarpha macradenia* population at this site was destroyed by two phases of a residential development in 1986, and a portion of the remaining 23 ha (57 ac) of habitat was placed in a ''temporary open space easement'' (Strelow Consulting 1995). The 23-ha (57-ac) parcel is now being proposed for the development of 21 residential units (Parsons Engineering Science, Inc. 1997). Although approval by the County of Santa Cruz is still pending, the planning department has recommended that the development be limited to 10 residential units, with the remaining 11 lots being placed in a preservation easement (K. Tschantz, County of Santa Cruz Planning Department, pers. comm. 1997; CDFG *in litt.* 1997). In 1993, the *H. macradenia* population consisted of approximately 100 plants covering 16 cubic meters (174 square feet) (Parsons Engineering Science, Inc 1997). In 1994, no plants were seen on the site (CDFG 1995). In addition to the threat of development, the population on this site has been subject to competition and habitat alteration from the invasion of French broom and nonnative grasses.

The Fairway Drive site is a 12-ha (30-ac) parcel of land that is privately owned. In 1989, the year that grazing by horses ceased, the site supported a population of approximately 5,000 plants on less than 0.4 ha (1 ac). At the time, the site was considered a ''well-preserved fragment of native grassland'' that supported native bunchgrasses (California oatgrass and purple needlegrass (*Nasella pulchra*)) as well as several species of concern, including Gairdner's yampah and San Francisco popcorn flower (CNDDB 1997). In 1993, the population was approximately 1,500 plants (CDFG 1995a, Greening Associates 1995); the decline being attributed to cessation of grazing. Several woody nonnative species, including French broom, acacia, pampas

grass (*Cortaderia jubata*), and eucalyptus (*Eucalyptus globulus*), have invaded the grasslands and are rapidly spreading. In 1996, the County approved a lot split into four parcels, with the condition that the coastal terrace prairie habitat be placed in a preservation easement of approximately 6 ha (15 ac) and a management plan be developed and implemented (K. Tschantz, pers. comm. 1997).

The Watsonville Airport site, owned by the City of Watsonville, supports the largest population of *H. macradenia.* Successive population estimates at this site show an overall increase in population size and extent over time: 459,000 plants in 1993; 240,000 plants in 1994 (CNDDB 1997); 27,854,000 plants in 1998 (a year with greater than average rainfall) (John Gilchrist & Associates 1999); and 8,200,000 plants in 1999 (L. Kiguchi, John Gilchrist & Associates, pers. comm. 1999). Portions of the 15-ha (37-ac) site are grazed, and other portions are mowed several times between late spring and late summer to maintain visual clearance of the runways. This management appears to have benefitted *H. macradenia* by reducing competition from nonnative species. In 1994, the City released an initial study for a proposed clay mining operation and a 20-year airport expansion plan. Both activities would potentially reduce available *H. macradenia* habitat (Denise Duffy & Associates 1994). Since then, the proposal to mine clay has been removed from consideration due to permitting complications. CDFG is working with city representatives to formalize an agreement to use ongoing management activities to enhance the available habitat, but a final agreement has not been reached. CDFG is also working with representatives from the City of Watsonville to develop a strategy to phase in airport expansion over a number of years so that loss of habitat would be mitigated in advance, by enhancing habitat for *H. macradenia* in adjacent suitable areas.

The Harkins Slough site is privately owned. In 1993, the population consisted of about 15,000 plants in 2 colonies; the current status of the population is unknown due to limited access to the property. The first colony covers 0.4 ha (1 ac), and the other colony is 0.4 ha (1 ac) in size. Cattle grazing was discontinued in 1990. Current uses of the property include fava bean production. In 1997, the owners requested that the property be annexed to the City of Watsonville in anticipation of developing residences and a golf course. The city council turned down the request due to public concern over the loss of prime agricultural land in the area. The CDFG has approached the owners with a proposal to assist in conservation efforts; however, no agreement has been reached.

The Apple Hill site is owned by CALTRANS. The population previously comprised three colonies. However, two colonies were extirpated by the construction of a housing development on adjacent private property. The remaining colony occurs on a strip of land between the housing development and Highway 152. The continued existence of this colony is in jeopardy due to use of the habitat strip by local residents as a play area, repository for yard waste, and walkway to adjacent businesses (CDFG 1994; G. Smith, resource ecologist, CDPR, pers. comm 1997). In an effort to protect the colony, CALTRANS had proposed placing a fence along the highway to limit access (G. Ruggerone, CALTRANS, pers. comm. 1997). However, prior to taking this action, CDFG and CALTRANS agreed that additional fencing would also limit access to the site for mowing and that a monitoring program to determine the extent of indirect effects posed by the adjacent development and the fence should be established (CALTRANS and CDFG pers. comm. 1999). The *Holocarpha macradenia* population has fluctuated between 4,000 (1986) and 81 plants (1994). In 1995, the population supported 700 individuals (CNDDB 1997). In 1998, the population supported 1,000 individuals, and habitat was mowed in the fall to reduce biomass of nonnative grasses (Thomas M. Edell, *in litt.* 1998). In 1999, no plants appeared at this site (T. Edell, pers. comm. 1999).

The privately owned Struve Slough site currently supports a very small population of *Holocarpha macradenia*, as well as the Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*), a federally endangered species. In the late 1980s, the site supported one of the largest populations of Santa Cruz tarplant, occupying 2 ha (5 ac) and comprising 400,000 plants (CDFG 1995). When cattle grazing was terminated on the site in 1989, the population size dropped considerably. This trend currently continues. The site is now dominated by nonnative wild oats (*Avena* sp.), prickly lettuce (*Picrus echioides*), and fennel (*Foeniculum vulgare*), which are outcompeting the *H. macradenia* (CDFG 1995). As of 1994, only one Santa Cruz tarplant has been observed. In 1992, the City of Watsonville approved an Environmental Impact Report for the Bay Breeze housing development at this site. In 1999, the City circulated a draft supplemental EIR for the housing project. It proposed to set aside a portion of the site that supports *H. macradenia* as a conservation area, but proposed no active management plan for the project. Due to the extent of area that is occupied by nonnative grasses, it is unlikely that *H. macradenia* will reappear at the site unless it is actively managed. The CDFG has expressed an interest in enlisting the property owners in conservation efforts, but no agreements have yet been reached (D. Hillyard, plant ecologist, CDFG, pers. comm. 1997).

The Spring Hills Golf Course site is privately owned. In 1989, *Holocarpha macradenia* was observed growing in five separate colonies scattered over 5 ha (12 ac) in unlandscaped patches between the fairways of the golf course. The distribution of the colonies suggests that *H. macradenia* habitat was altered by development of the golf course, especially in the fairways. In 1989 and 1990, the largest colony supported 2,000 to 3,000 plants. Each of the other four colonies supported between 100 and 400 plants (CNDDB 1997). *H. macradenia* was last observed at this site in 1995; no population size estimates were made, but all of the colonies appeared to still be present (B. Davilla, pers. comm. 1997). In 1997, CDFG approached representatives of the golf course and expressed an interest in enlisting them in conservation efforts. To date, however, no agreements have been made (D. Hillyard, pers. comm. 1997). Since there are no apparent plans for expansion of the golf course, the continued threats to H. macradenia on this site are uncertain.

The Porter Ranch site, the only site in Monterey County, is privately owned. Taylor (1990) noted that this site is unusual in that the *Holocarpha macradenia* population is primarily in the bottom of a small canyon, rather than on the adjacent terrace or upper slope. The population is scattered over approximately 1 ha (2.5 ac). Between 1984 and 1993, population sizes fluctuated between 1,500 (1984) and 43,000 plants (1989) (CNDDB 1997). The most recent population estimate in 1993 was 3,200 plants. Cattle grazing at this site continues with varying intensity (M. Silberstein, Elkhorn Slough Foundation, pers. comm. 1997). Within cattle exclosures, constructed to protect *H. macradenia* from heavy grazing, the number of plants had decreased to fewer than 100 by 1996 (R. Morgan, pers. comm. 1997). The owners are interested in developing management plans in conjunction with The Nature Conservancy that would address

appropriate grazing levels to benefit *H. macradenia* (CDFG 1994, M. Silberstein, pers. comm. 1997). In 1998, CDFG acquired a 16-ha (40-ac) conservation easement on the Porter Ranch that surrounds the *H. macradenia* population (D. Hillyard, *in litt.* 1998). The threats to *H. macradenia* on this site are uncertain.

In summary, development, with its associated effects, is a primary threat to *Holocarpha macradenia.* Six of the 12 remaining native populations are on privately owned lands that are currently or anticipated to be proposed for urban development (Graham Hill Road, the Tan portion of O'Neill/Tan, Winkle Avenue, Fairway Drive, Harkins Slough, and Struve Slough). One site has plans for a phased, 20-year airport expansion (Watsonville Airport). Three sites have also been subjected to secondary effects of adjacent residential development (Arana Gulch, Twin Lakes, Apple Hill). Seven of the 12 sites include plans for conservation of *H. macradenia,* either through development-related mitigation, or by virtue of being on city, county, or State agency lands. However, none of these conservation plans have yet been successful. In particular, the size and quality of conservation areas and management actions prescribed through the environmental review process (see Factor D) may not be biologically adequate to meet the goal of long-term conservation of the species. Also, some *H. macradenia* conservation areas where populations are small in number, small in area, whose habitat is degraded, or that continue to receive secondary effects of adjacent human activities are more vulnerable to extirpation from random, natural events (see Factor E).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overutilization is not known to be a problem for this species.

C. *Disease or predation.* Disease is not known to be a problem for this species. Predation of adult plants by cattle, livestock, or other wildlife species is not known to occur, probably due to the presence of oil glands that would make the plant unpalatable. Whether very young plants are subject to predation prior to maturation of oil glands is unknown.

Although *Holocarpha macradenia* does not appear to be directly impacted by grazing, it has altered the plant's habitat at a number of sites (Arana Gulch, O'Neill/Tan, Watsonville Airport, Harkins Slough, Struve Slough, Porter Ranch, and all eight seed transplant populations in Wildcat Regional Park). Prior to the spread of nonnative annual grasses in the valleys and foothills of California, the openings between perennial grasses in grassland and oak woodland communities were probably occupied by native herbaceous plants (Barbour *et al.* 1993). With the introduction of nonnative grasses, cattle grazing has changed, and continues to alter, the species composition of grasslands in several ways. The hooves of cattle sufficiently disturb soil to create open ground and a seedbed for the establishment of nonnative species. Cattle selectively forage on native species, thus favoring the establishment of nonnative species (Painter 1995). Cattle also act as dispersal vectors for nonnative species to new sites (Heady 1977, Willoughby 1986, Sauer 1988). Once nonnative plants become established, these species compete with native herbs and grasses for water, nutrients, and light (Heady 1977, McClintock 1986). Because nonnative grasses are typically prolific seeders, they continue to increase in abundance at the expense of the native taxa, even after grazing is discontinued (Painter 1995).

Once *Holocarpha macradenia* habitat has been altered by grazers and nonnative plants have proliferated throughout the native ecosystem, continued grazing may either be deleterious or beneficial to the viability of *H. macradenia.* The indirect effects of continued grazing depend on several factors, including the current condition of the site, the timing, and the amount of grazing. In some cases, light to moderate grazing will remove sufficient biomass of nonnative grasses to allow *H. macradenia* to persist (CDFG 1995a, CDFG 1995b). For example, a combination of mowing and grazing has likely favored the persistence of *H. macradenia* at the Watsonville Airport site. The decline of *H. macradenia* on the Struve Slough site has been attributed to the elimination of grazers without new grassland management (Taylor 1990, CDFG 1995a). On the other hand, the indirect result of heavy grazing is most likely responsible for the decline or restriction in *H. macradenia* population sizes at the Arana Gulch, Tan, and portions of the Porter Ranch sites (CDFG 1995a, CNDDB 1997), as well as one of the seed transplant populations (Big Belgum) in Wildcat Canyon Regional Park (CDFG 1995b). Additional discussion on this issue is found under Factor E of this rule.

D. *The inadequacy of existing regulatory mechanisms.* The California Fish and Game Commission listed *Holocarpha macradenia* as an endangered species in 1979 under the California Native Plant Protection Act (CNPPA) (Division 2, chapter 10 section 1900 *et seq.* of the CDFG Code). In 1984, this species became an endangered species under the California Endangered Species Act (CESA) (Division 3, chapter 1.5 sec. 2050 *et seq.*). Although the ''take'' of State-listed plants has long been prohibited under the CNPPA (Division 2, chapter 10, section 1908) and CESA (Division 3, chapter 1.5, section 2080), these statutes do not provided adequate protection for such plants from the impacts of habitat modification and land use change. For example, under CNPPA, certain activities, such as agricultural or timber operations, mining assessment work, or removal of plants from a right-of-way (e.g., canal, lateral ditches, building site or road), are exempt from the general take prohibitions. Also under CNPPA, after CDFG notifies a landowner that a State-listed plant grows on his or her property, the statute requires only that the landowner notify the agency ''at least ten days in advance of changing the land use to allow salvage of such plant'' (section 1913). With recent amendments to CESA, a permit under section 2081(b) of the CDFG Code is required to ''take'' State-listed species incidental to otherwise lawful activities. The amendments require that impacts to the species be fully mitigated. However, these new requirements have not yet been tested, and evaluating their effectiveness will take several years. The scope of these exceptions to the CNPPA take prohibition, and consequently to the protections for plants under CESA, have been the subject of some controversy, even after an opinion in 1998 by the California Attorney General (Opinion #98–105, June 23, 1998). This opinion cataloged the legal mechanisms for take of California-listed plants, and included both incidental take permits issued under the CESA and projects that are statutorily exempt from CNPPA's take prohibition. The opinion did not, however, clarify the scope of the CNPPA exemptions, including a provision that allows the removal of California-listed rare and endangered plants from building sites.

The California Environmental Quality Act (CEQA) requires a full disclosure of the potential environmental impacts of proposed projects on State-or federally listed species or species that are eligible for State listing as rare, threatened, or endangered but have not yet been listed. 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 other agencies concerned with the resources affected by the project. However, protection of listed species through

CEQA is dependent upon the discretion of the agency involved. 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 a rare or endangered plant or animal.'' Once significant effects are identified, the lead agency may require mitigation for those effects by changing the project or deciding that overriding considerations make the significant effects acceptable. In the latter case, projects may be approved that cause significant environmental damage, such as destruction of endangered species.

The County of Santa Cruz recently revised its Local Coastal Program and General Plan (Santa Cruz County 1994). Under this plan, ''grasslands in the coastal zone'' are identified as one of a number of official Sensitive Habitats. Uses allowed within Sensitive Habitat areas are restricted to those that are dependent on the habitat's resources unless other uses are ''(a) consistent with protection policies and serve a specific purpose beneficial to the public; (b) it is determined through environmental review that any adverse impacts on the resource will be completely mitigated and that there is no feasible less-damaging alternative; and (c) legally necessary to allow a reasonable economic use of the land, and there is no feasible less-damaging alternative'' (Santa Cruz County 1994). The County has attempted to protect *Holocarpha macradenia* during the review of proposals for development that fall under their jurisdiction with conservation easements voluntarily established by the project applicant, or preservation easements requested of the applicant by the County. To date, these include development projects at the Graham Hill Road, O'Neill, Tan, Winkle, and Fairway Drive sites. These easements typically set aside all or most of the occupied habitat of *H. macradenia* and provide for implementation of management plans for the coastal prairie habitat. Despite these efforts, the easements cover only small remnants that represent a fragment of the coastal prairie habitat that historically occurred in the region. Intensive grassland management will be needed to sustain and enhance populations of *H. macradenia* on these sites.

In the late 1980s and early 1990s, CDFG became more concerned about the status of *Holocarpha macradenia* when it became apparent that native populations were being destroyed by development, both in the San Francisco Bay area and the Monterey Bay area. In 1993 and 1995, CDFG hosted three *H. macradenia* recovery workshops to review the status of the species and identify actions needed to conserve the species. These workshops resulted in the development of an MOU between the CDFG and the City of Santa Cruz to address management of the population at Arana Gulch. The workshops also initiated discussion with the City of Watsonville regarding the development of an MOU for management of the Watsonville Airport site. Funding for management of several populations was generated (including those at Arana Gulch and at Wildcat Regional Park), and a conservation plan was developed for the species that included a list of four sites to be targeted. In 1998, CDFG secured a conservation easement over a 16.4–ha (40.5–ac) parcel on one of the four sites (Porter Ranch) prioritized for conservation. Currently, however, efforts to secure conservation easements with the other three property owners have been suspended (Cochrane, *in litt.*, 1998).

E. *Other natural or manmade factors affecting its continued existence.* In addition to the threats described above, three additional factors threaten the continued existence of *Holocarpha macradenia*: limited success of transplant efforts conducted as part of mitigation projects, competition with nonnative plants, and extinction caused by random, naturally occurring events.

In Factor A above, detailed accounts were given of the 12 remaining native populations of *Holocarpha macradenia*. The other eight existing populations of *H. macradenia* are the result of experimental seed transplants. In 1911, Jepson referred to *H. macradenia* as being ''abundant'' in west Berkeley and Oakland (Havlik 1986). However, close to 50 years later, due to loss of habitat to urbanization, Munz (1959) considered the taxon ''possibly extinct.'' Therefore, when several populations were found near Pinole and Richmond in Contra Costa County in the late 1970s and early 1980s, botanists placed a high priority on establishing additional populations to forestall extinction. Experiments were carried out to establish new populations by seeding what was thought to be appropriate habitat (Havlik 1986). Most of the seedings were done at Wildcat Canyon Regional Park, which straddles Alameda and Contra Costa Counties, but several were done on lands owned and managed by East Bay Municipal Utility District (EBMUD).

Havlik (1989) reviewed the first 7 years of monitoring sites that were seeded with *Holocarpha macradenia* and included discussions on how habitat characteristics such as soil type, grazing pressure (cattle), and landscape position within the coastal fog belt may have affected the species' seeding success. In initial results, populations exposed to moderate grazing pressure were larger than those exposed to low grazing pressure. From 1982 to 1986, 22 sites were seeded within Wildcat Regional Park and on EBMUD land. Most of the sites are monitored annually. By 1989, 3 sites supported over 3,000 plants; 2 had over 1,000 plants; 11 had over 100 plants; 2 had over 10 plants; and 4 had no plants.

By 1993, 1 site (referred to as Mezue) supported a population of 6,400 plants; 4 had fewer than 300 plants; 2 had fewer than 100 plants; 10 had no plants; and 3 sites could not be relocated (CDFG 1994). By 1997, the Mezue site supported between 5,000 and 7,000 plants; one had fewer than 300 plants; 4 had fewer than 100 plants; and 7 had no plants. Most of the remaining sites were not checked because previous multiple-year monitoring indicated that plants had disappeared from those sites. In 1998, the Mezue site supported 3,128 plants; one had 318 plants; 6 had fewer than 100 plants; and 5 had no plants (B. Olson, pers. comm. 1998). Although more sites supported plants in 1998 (eight compared to six in 1997), the total number of plants was less. Also, of those sites that support small populations (fewer than 100 individuals), some may not display any individuals in a given year, even though a seedbank may be present. Although the seeds were probably planted in less than perfect habitat, the competition for limited resources between *H. macradenia* and artichoke thistle and nonnative grasses probably contributed to the decline in populations of the former.

Although the information gathered from these seeded sites has been valuable for understanding the life-history of the plant and how it responds to various types of management, these sites have had limited success in establishing viable populations of *Holocarpha macradenia*. The seeded sites, therefore, have a limited value for maintaining the viability of the species when compared to the native populations.

One of the most prevalent forms of habitat alteration occurring within the coastal prairie habitat of *Holocarpha macradenia* is the conversion of the plant community from one dominated by native grasses to one dominated by nonnative grass species. Nonnative grasses may quickly gain a competitive advantage over native grasses because they germinate early and seed prolifically (Heady 1977, McClintock

1986). As discussed in Factors A and C, the conversion of native prairie habitats to grazing lands enhances the opportunity for nonnative grasses to be introduced and disseminated into the surrounding areas. Field survey reports show that nonnative grasses often dominate coastal prairie habitat and represent a potential threat at eight *H. macradenia* sites (Arana Gulch, Twin Lakes, Tan, Watsonville Airport, Harkins Slough, Struve Slough, Spring Hills and Porter sites) (CNDDB 1997, Taylor 1990).

In 1989, the Struve Slough site supported one of the largest populations of *Holocarpha macradenia*. Before 1989, the cattle grazing regime in place favored the presence of nonnative grasses such as oatgrass (*Avena barbada*), ryegrass (*Lolium multiflorum*), and quaking grass (*Briza maxima*). However, even after cattle were removed from the site in 1989, wild oat and other nonnatives, primarily prickly lettuce and wild fennel, further invaded the site. Even without continual grazing to facilitate the growth of nonnative plants, previous grazing practices had established sufficient numbers of these nonnative plants that they could outcompete the native plants and increase their abundance. Probably as a result of nonnative competition, *H. macradenia* has not been seen on the site since 1994, despite the apparent existence of a seedbank.

Both the native populations and the seeded ones are threatened to some extent by competition with artichoke thistle. An individual thistle, the wild variety of the edible artichoke, occupies a large area, has allelopathic properties, and creates shade (Kelly and Pepper 1996). The artichoke thistle also resprouts vigorously from a perennial taproot, has extended flowering, and prolific seed production. Other weedy characteristics of the artichoke thistle include germinating and resprouting in a variety of environmental conditions and over several seasons (Kelly and Pepper 1996). In the 1880s, artichoke thistle was introduced around Benicia, only a few miles north of the Regional Park. By the 1930s, 28,330 ha (70,000 ac) in the hills around the east and north side of San Francisco Bay were infested with the artichoke thistle (Ball in Thomsen *et al.* 1986). In 1996, the Regional Park and Alameda County initiated a cooperative artichoke thistle removal program using herbicides. Although sites that support *Holocarpha macradenia* are a priority for artichoke thistle removal, the abundance of artichoke thistle in adjacent areas allows it to reseed back into treated areas.

Nonnative grasses also occur with *Holocarpha macradenia* at the eight seeded sites. All eight sites are grazed by cattle. If nonnative grasses become too abundant, they can outcompete *H. macradenia*. As stated above in Factor C, cattle grazing can decrease the abundance of nonnative grasses; however, at the Big Belgum site an increase in grazing pressure is believed to have caused the *H. macradenia* population to decline (CDFG 1995b).

French broom is another aggressive nonnative species that threatens *Holocarpha macradenia*. French broom colonizes easily and spreads rapidly in many types of habitats. It is especially aggressive in disturbed areas such as roadsides and newly cleared land. French broom can eventually form dense thickets that displace native vegetation, including *H. macradenia* (Habitat Restoration Group (HRG) n.d.). French broom occurs at five of the natural *H. macradenia* sites (Arana Gulch, Graham Hill Road, Twin Lakes, O'Neill/Tan, Fairway Drive) (CDFG 1997, HRG 1996).

So much of the coastal prairie habitat that supports *Holocarpha macradenia* has been altered, fragmented, or destroyed that most of the remaining habitat is of small acreage and supports only very small populations. Species with a small number of populations and few individuals (compared to historical numbers) are vulnerable to the threat of local extinction from random, naturally occurring events. Such random events can affect long-term survival or cause extinction at several different levels—genetic, demographic, environmental, and catastrophic. For example, the random loss of a few individuals in these small populations can further decrease a species' already diminished gene pool. This loss of genetic diversity can affect the species' ability to adapt to routine environmental change, such as drought. The loss of genetic diversity is often manifested in depressed reproductive vigor. In other circumstances, sites with small populations or few individuals may be vulnerable to forces that affect their ability to successfully complete their life cycle. For example, the loss of pollinators may reduce successful seed-set, and could lead to reduced species viability and possible extirpation over time. Large-scale disturbances such as floods, drought, or untimely fire can destroy a significant percentage of a species' individuals or entire populations.

Since *Holocarpha macradenia* populations naturally tend to fluctuate in number due to climatic factors, the species is especially vulnerable to catastrophic disturbance during periods when population numbers are low. Watsonville Airport, the largest of the 12 native sites, supports a population that fluctuates from 200,000 to 28 million plants on 15 ha (37 ac). The Struve Slough site formerly supported 400,000 individuals on 1.6 ha (4 ac), but had declined to a single individual in 1994. The Spring Hills Golf Course site supports up to 3,500 plants on 5 ha (12 ac). The Porter Ranch site once supported 43,000 plants on 1 ha (2.5 ac), but by 1996, the population had declined to fewer than 100 plants. The Arana Gulch site supported 12,820 plants on 2 ha (5 ac) in 1998. The remaining seven native sites support approximately 0.4 ha (1 ac) or less of occupied habitat. In 1997, 2 of these native sites (Twin Lakes and O'Neill/Tan) had no plants, while Twin Lakes had only 12 plants in 1998. Of the 8 seed transplant sites in Wildcat Canyon Regional Park, in the east San Francisco Bay area, 1 site supported a population of 3,128 individuals, and the remaining 7 supported between 0 and 318 individuals (1998). Each of these sites is estimated to cover 0.4 to 1.2 ha (1 to 3 ac). The total area of all eight seeded sites is between 3 and 8 ha (8 and 20 ac) (B. Olson, biologist, EBRPD, pers. comm. 1997).

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this taxon in determining to make this final rule. Based on this evaluation, we find that *Holocarpha macradenia* (Santa Cruz tarplant) meets the definition of a threatened species under the Act. This species is likely to become endangered in the foreseeable future throughout all or a significant portion of its range due to habitat alteration and destruction, resulting primarily from urban and commercial development; invasion of its habitat and competition from nonnative species due to grazing; limited success of seed transplant populations; and vulnerability to random disturbance in populations of small size and number. Although a few of the native populations are on city, county, or State lands, most are on private lands. Conservation efforts indicate that this species may be maintained by applying intensive management techniques. These efforts will be most effective on sites with large tracts of remaining habitat that support naturally large populations and that can be secured from threats to the species. Although conservation efforts have been prescribed as part of mitigation for a number of development projects, the

small acreage, small population sizes, and physical proximity of threats lessen the chance that such efforts will lead to secure, self-sustaining populations at these sites.

Critical Habitat

Critical habitat is defined in section 3, paragraph (5)(A) of the Act as 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 essential to the conservation of the species and that may require special management considerations or protection; and specific areas outside the geographical area occupied by a species at the time it is listed in accordance with the provisions of section 4 of the Act, upon a determination by the Secretary 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.

Critical habitat designation, by definition, directly affects only Federal agency actions through consultation under section 7(a)(2) of the Act. 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 a listed species or destroy or adversely modify its critical habitat.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. 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 activity and the 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 for *Holocarpha macradenia* was not prudent because we believed that designation of critical habitat would not provide any additional benefit beyond that provided through listing as threatened, since most of the current populations of the plant occur on private land or on local/county/State land that is subject to additional conservation regulations.

We now find that designation of critical habitat is prudent for *Holocarpha macradenia*. 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 believe that the designation of critical habitat for *H. macradenia* would be prudent.

Due to the small number of populations, we are concerned that *Holocarpha macradenia* could be vulnerable to unrestricted collection, vandalism, or other disturbance. Although we have found no specific evidence of such activities, we are also concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, 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 identification of critical habitat would increase threats to a species, if any benefits would result from a critical habitat designation, then a prudent finding is warranted. In the case of this species, designation of 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 certain 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 critical habitat is prudent for *Holocarpha macradenia*.

As explained in detail in the Final Listing Priority Guidance for FY 2000 (64 FR 57114), our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. We anticipate in FY 2000 and beyond giving higher priority to critical habitat designation, including designations deferred pursuant to the Final Listing Priority Guidance for FY 2000, such as the designation for this species, than we have in recent fiscal years. 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. Therefore, deferral of a critical habitat designation for this species will allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, without delaying the final listing decision for *Holocarpha macradenia*. We will develop a proposal to designate critical habitat for *H. macradenia* 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 Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. Funding may be available through section 6 of the Act for the State to conduct recovery activities. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part

402. Section 7(a)(4) 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) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat, if designated. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us, under section 7(a)(2) of the Act. Federal agency involvement, on the part of the Federal Highway Administration, has been identified for the Arana Gulch site. In addition, the FAA will be involved in the expansion of the Watsonville Airport.

Listing of this plant as threatened provides for the development of a recovery plan. Such a plan would bring together Federal, State, and local efforts for its conservation. The recovery plan would establish a framework for cooperation and coordination in recovery efforts, set recovery priorities, and describe site-specific management actions necessary to achieve conservation and survival of the listed species. Additionally, pursuant to section 6 of the Act, we will be able to grant funds to affected States for management actions promoting the protection and recovery of this species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71 for threatened 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 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 to possession the species from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on 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. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. This protection may apply to *Holocarpha macradenia* in the future if regulations are issued. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that their containers are marked ''Of Cultivated Origin.'' Certain exceptions to the prohibitions apply to our agents and those of State conservation agencies.

The Act and 50 CFR 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits also are available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act. We anticipate that few trade permits would ever be sought or issued because this species is not in cultivation or common in the wild. Requests for copies of the regulations on listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Portland Regional Office, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–6131, facsimile 503/231–6243).

As published in the **Federal Register** (59 FR 34272) on July 1, 1994, our policy is to identify to the maximum extent practicable those activities that would or would not be likely to constitute a violation of section 9 of the Act if a species is listed. The intent of this policy is to increase public awareness of the effect of the species' listing on proposed and ongoing activities within its range. Collection on Federal lands is prohibited without a Federal endangered species permit. Conducting commerce with this species is also prohibited.

Questions regarding whether specific activities, such as changes in land use, will constitute a violation of section 9 should be directed to the Field Supervisor, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. 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 new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated requirements for threatened plants, see 50 CFR 17.72.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author:

The primary author of this final rule is Constance Rutherford, Ventura 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 a 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. 4201–4205; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Holocarpha macradenia.	Santa Cruz tarplant	U.S.A. (CA)	Asteraceae	T	690	NA	NA
*	*	*	*	*	*		*

Dated: March 13, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–6834 Filed 3–15–00; 4:31 pm]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 991220343–0071–02; I.D. 120999D]

RIN 0648–AM52

Pacific Halibut Fisheries; Catch Sharing Plans

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

ACTION: Final rule; annual management measures for Pacific halibut fisheries and approval of catch sharing plans.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (AA), on behalf of the International Pacific Halibut Commission (IPHC), publishes the annual management measures promulgated as regulations by the IPHC and approved by the Secretary of State governing the Pacific halibut fishery. The AA also announces the approval of modifications to the Catch Sharing Plan (Plan) for Area 2A and implementing regulations for 2000. These actions are intended to enhance the conservation of the Pacific halibut stock and further the goals and objectives of the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPFMC).

DATES: Effective March 15, 2000.

ADDRESSES: NMFS Alaska Region, 709 West 9th Street., P.O. Box 21668, Juneau, AK 99802–1668; or NMFS Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115–0070 (http://www.nwr.noaa.gov).

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–4345 or Yvonne deReynier, 206–526–6140.

SUPPLEMENTARY INFORMATION: The IPHC has promulgated regulations governing the Pacific halibut fishery in 2000, under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979). The IPHC regulations have been approved by the Secretary of State of the United States under section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773–773k). Pursuant to regulations at 50 CFR 300.62, the approved IPHC regulations setting forth the 2000 IPHC annual management measures are published in the **Federal Register** to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements.

The IPHC held its annual meeting on January 10–13, 2000, in Lynnwood, WA, and adopted regulations for 2000. The substantive changes to the previous IPHC regulations (64 FR 13519, March 19, 1999) include:

1. New catch limits for all areas;
2. A requirement that the operator of a vessel that offloads halibut must completely offload all halibut from the vessel once the offloading commences;
3. Establishment of opening dates for the Area 2A commercial directed halibut fishery.

In addition, this action implements the Plan for regulatory Area 2A. This Plan was developed by the PFMC under authority of the Halibut Act. Section 5 of the Halibut Act (16 U.S.C. 773c) provides that the Secretary of Commerce (Secretary) shall have general responsibility to carry out the Halibut Convention (Convention) between the United States and Canada, and that the Secretary shall adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the AA. Section 5 of the Halibut Act also authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Pursuant to this authority, NMFS requested the PFMC to allocate halibut catches should such allocation be necessary.

Catch Sharing Plan for Area 2A

The PFMC prepared annual Plans from 1988 to 1994 to allocate the halibut catch limit for Area 2A among treaty Indian, non-Indian commercial, and non-Indian sport fisheries in and off Washington, Oregon, and California. In 1995, NMFS implemented a Council-recommended long-term Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries. The Plan allocates 35 percent of the Area 2A total allowable catch (TAC) to Washington treaty Indian tribes in Subarea 2A–1, and 65 percent to non-treaty fisheries in Area 2A, with the treaty fisheries divided into commercial fisheries, and ceremonial and subsistence fisheries. The allocation to non-treaty fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into two sectors; a directed (traditional longline) commercial fishery that is allocated 85 percent of the non-Indian commercial harvest, and 15 percent for harvests of halibut caught incidental to the salmon troll fishery. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53'18'' N. lat.), Oregon and California. The Plan also divides the sport fisheries into seven geographic areas, each with separate allocations, seasons, and bag limits.

No vessel with a commercial license (directed or incidental) for halibut may be used in any sport fishery for halibut. No vessel with a charter license for halibut or that has been used to fish for halibut in sport fisheries may be used to fish in a commercial fishery for halibut in the same calendar year. A vessel may be licensed either to fish the directed commercial fishery for halibut, or to land halibut incidentally to the salmon troll fishery, but not both.

For 2000, PFMC recommended changes to the Plan to modify the Pacific halibut fisheries in Area 2A in 2000 and beyond pursuant to recommendations from the Washington Department of Fish and Wildlife (WDFW) and the Oregon Department of Fish and Wildlife (ODFW), and pursuant to a Stipulation and Order resulting from a sub-proceeding of *U.S. v. Washington*.. The purpose of these changes is to align the structure of the CSP more closely with the character of the Washington and Oregon sport fisheries, and to bring the Plan into compliance with a court order for the allocation between treaty and non-treaty fisheries. For the Washington sport fisheries, PFMC recommended altering the boundary between the Puget Sound and North Coast subareas, the two northernmost sport fishing subareas in Area 2A. This change would move the boundary eastward from the Bonilla-Tatoosh line to the mouth of the Sekiu River. To account for a shift in the size of the two subareas, PFMC also recommended changing the Plan to increase the portion of the Washington sport quota allocated to the North Coast subarea from 57.7 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery to 62.2 percent. The portion of the Washington sport quota allocated to the Puget Sound subarea will correspondingly decrease from 28 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery to 23.5 percent. For the Washington sport fisheries, PFMC also recommended increasing the flexibility of the process by which the closed ''hot spot'' zone in the Washington South Coast subarea could be opened inseason. For the Oregon sport fisheries, PFMC has recommended combining the subquotas for the inside 30–fathom fisheries for Northern and Southern Central Coast subareas. This change will simplify management of the inside 30–fathom fisheries to ensure that the seasons are of the same duration north and south of the Siuslaw River.

In addition to the above changes proposed by the States of Washington and Oregon, PFMC recommended accommodating in the Plan a court-ordered change in the allocation of halibut between treaty and non-treaty fisheries. In July 1999, the tribes, states, and Federal government agreed to settle the tribes' claim for an equitable adjustment to the current halibut allocation arising from allocations during the years 1989 through 1993, in which tribal treaty rights to halibut had not been met. The parties agreed in a stipulation, and their agreement has been entered as a court order, that 25,000 lb (11.3 mt) (dressed weight) of halibut would be transferred from the non-treaty halibut allocation to the treaty halibut allocation in each year from 2000 through 2007.

A complete description of the PFMC recommended changes to the Plan, notice of a draft Environmental Assessment and Regulatory Impact Review (EA/RIR), and proposed sport fishery management measures were published in the **Federal Register** on January 4, 2000 (65 FR 272), with a request for public comments. No public comments were received on the proposed changes to the Plan or on the EA/RIR. Therefore, NMFS has approved the changes to the Plan as proposed, made a finding of no significant impact, and finalized the EA/RIR. Copies of the complete Plan for Area 2A as modified and the final EA/RIR are available from the NMFS Northwest Regional Office (see **ADDRESSES**).

In accordance with the Plan, the ODFW and the WDFW held public workshops (after the IPHC set the Area 2A quota) on January 31 and February 3, 2000, respectively, to develop recommendations on the opening dates and weekly structure of the sport fisheries. The WDFW and ODFW sent letters to NMFS advising on the outcome of the workshops and provided the following comments and recommendations on the opening dates and season structure for the sport fisheries.

Comment 1: WDFW recommended a May 25 to July 27 season, 5 days per week (closed Tuesday and Wednesday) for the Washington Inside Waters area sport fishery. The recommended number of fishing days is based on analysis of past harvest patterns in this fishery.

Response: NMFS agrees with the calculated number of fishing days necessary to achieve, but not exceed, the subquota for this area. The recommended season has been incorporated in the 2000 sport fishery measures.

Comment 2: WDFW recommended that the Washington North Coast area sport fishery be structured such that 7,000 lb (3.2 mt) of the subarea quota be reserved to provide for the second priority in the Plan—a July 1 season. The WDFW recommendation is for the sport fishery to open on May 2 and continue 5 days per week (closed Sunday and Monday) to June 30, or until 92,744 lb (42 mt) of the 99,774 lb (45.2 mt) quota are harvested. The fishery would reopen on July 1 and on July 4, and continue 5 days per week until the quota has been taken.

Response: NMFS agrees and has incorporated these recommendations into the 2000 sport fishery measures.

Comment 3: WDFW recommended that the seasonal structure set forth in the Plan and described in the proposed rule (65 FR 272, January 4, 2000) be implemented for the sport fisheries in the Washington South Coast and the Columbia River subareas. WDFW further requested a review in the first week of May to determine whether the South Coast subarea ''hot spot'' should remain closed during the sport fishing season.

Response: NMFS has structured the seasons for these subareas in accordance with the Plan, and will schedule a South Coast area ''hot spot'' discussion with WDFW and interested stakeholders at the beginning of the season.

Comment 4: ODFW recommended a 5-day season of May 11, 12, 13, 18, and 19 for the May opening in the Oregon Central Coast and South Coast subareas based on an analysis of past harvest rates, which indicated an increasing annual trend in the sport fishery.

Response: NMFS has implemented ODFW's recommendation for the 5-day fixed season in May for these two subareas. The Plan stipulates that the number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season subquotas.

Comment 5: ODFW and the public in attendance at the ODFW workshop recommended that if sufficient unharvested quota remains for an additional day of fishing after the May fixed opening days in the Oregon Central and South Coast subareas, an additional opening date would be scheduled for Friday, June 9; if sufficient quota remains for three, four, five, or six additional days, then June 8, June 16, June 16–17, and June 15 would also be opened, in that order.

Response: The Plan stipulates that ''If sufficient catch remains for an additional day of fishing after the May season or the August season, openings will be provided if possible in May and August respectively. Potential additional open dates for both the May and August seasons will be announced preseason.'' Further, the Plan stipulates

that ''ODFW will monitor landings and provide a post-season estimate of catch within 2 weeks of the end of the fixed season.'' Since a 5-day May season would extend to late May (May 19), additional opening dates in May cannot be set that would provide the necessary 2-week timeframe for ODFW to estimate the catch during the fixed season. Therefore, NMFS agrees with the recommendation to set potential additional open dates in June.

Comment 6: ODFW recommended a mid-July review of the May all-depth harvest and the catch projections for the inside 30-fathom curve fisheries, to determine whether sufficient halibut remains for an August fishery. If sufficient halibut quota remains, ODFW recommends Friday, August 4 or Friday and Saturday, August 4 and 5 for the August fishery. If a post-fishery assessment indicates that enough halibut remains in the quota for a third fishing day in August, the additional day would occur on August 18.

Response: If the mid-July review indicates that there is sufficient halibut for an August fishery, the fishery will be open on Friday, August 4, in accordance with the Plan. If there is enough quota available for 2 days of fishing, the second day of the fishery will be August 5. NMFS concurs with the ODFW recommendation to reserve August 18 as a third possible August fishing day, if sufficient quota remains from the August 4 and/or 5 fishery.

NMFS has implemented sport fishing management measures in Area 2A based on recommendations from the states in accordance with the CSP.

Annual Halibut Management Measures

The annual management measures that follow for the 2000 Pacific halibut fishery are identical to those recommended by the IPHC and approved by the Secretary of State, and include the domestic regulations approved by NMFS that are necessary to implement the CSP in Area 2A.

2000 PACIFIC HALIBUT FISHERY REGULATIONS

1. Short Title

These regulations may be cited as the Pacific Halibut Fishery Regulations.

2. Interpretation

(1) In these Regulations,

(a) *Authorized officer* means any State, Federal, or Provincial officer authorized to enforce these regulations including, but not limited to, the National Marine Fisheries Service (NMFS), Canada's Department of Fisheries and Oceans (DFO), Alaska Division of Fish and Wildlife Protection (ADFWP), the United States Coast Guard (USCG), the Washington Department of Fish and Wildlife, and the Oregon State Police;

(b) *Charter vessel* means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator;

(c) *Commercial fishing* means fishing the resulting catch of which either is or is intended to be sold or bartered;

(d) *Commission* means the International Pacific Halibut Commission;

(e) *Daily bag limit* means the maximum number of halibut a person may take in any calendar day from Convention waters;

(f) *Fishing* means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area;

(g) *Fishing period limit* means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period;

(h) *Land*, with respect to halibut, means the offloading of halibut from the catching vessel;

(i) *License* means a halibut fishing license issued by the Commission pursuant to section 3;

(j) *Maritime area*, in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea or internal waters of that Party;

(k) *Operator*, with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(l) *Overall length* of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(m) *Person* includes an individual, corporation, firm, or association;

(n) *Regulatory area* means an area referred to in section 6;

(o) *Setline gear* means one or more stationary, buoyed, and anchored lines with hooks attached;

(p) *Sport fishing* means all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing;

(q) *Tender* means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(2) In these Regulations, all bearings are true and all positions are determined by the most recent charts issued by the National Ocean Service or the Canadian Hydrographic Service.

(3) In these Regulations all weights shall be computed on the basis that the heads of the fish are off and their entrails removed.

3. Licensing Vessels

(1) No person shall fish for halibut from a vessel, nor possess halibut on board a vessel, used either for commercial fishing or as a charter vessel in Area 2A unless the Commission has issued a license valid for fishing in Area 2A in respect of that vessel.

(2) A license issued for a vessel operating in Area 2A shall be valid only for operating either as a charter vessel or a commercial vessel, but not both.

(3) A vessel with a valid Area 2A commercial license cannot be used to sport fish for Pacific halibut in Area 2A

(4) A license issued for a vessel operating in the commercial fishery in Area 2A shall be valid only for either the directed commercial fishery during the fishing periods specified in paragraph (2) of section 8 or the incidental catch fishery during the salmon troll fishery specified in paragraph (3) of section 8, but not both.

(5) A license issued in respect of a vessel referred to in paragraph (1) must be carried on board that vessel at all times and the vessel operator shall permit its inspection by any authorized officer.

(6) The Commission shall issue a license in respect of a vessel, without fee from its office in Seattle, Washington, upon receipt of a completed, written, and signed ''Application for Vessel License for the Halibut Fishery'' form.

(7) A vessel operating in the directed commercial fishery in Area 2A must have its ''Application for Vessel License for the Halibut Fishery'' form postmarked no later than 11:59 P.M. on April 30, or on the first weekday in May if April 30 is a Saturday or Sunday.

(8) A vessel operating in the incidental commercial fishery during the salmon troll season in Area 2A must have its ''Application for Vessel License for the Halibut Fishery'' form postmarked no later than 11:59 P.M. on March 31, or the first weekday in April if March 31 is a Saturday or Sunday.

(9) Application forms may be obtained from any authorized officer or from the Commission.

(10) Information on ''Application for Vessel License for the Halibut Fishery'' form must be accurate.

(11) The ''Application for Vessel License for the Halibut Fishery'' form

shall be completed and signed by the vessel owner.

(12) Licenses issued under this section shall be valid only during the year in which they are issued.

(13) A new license is required for a vessel that is sold, transferred, renamed, or re-documented.

(14) The license required under this section is in addition to any license, however designated, that is required under the laws of the United States or any of its States.

(15) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in Title 15, Code of Federal regulations, part 904.

4. Inseason Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action:

(a) Will not result in exceeding the catch limit established preseason for each regulatory area;

(b) Is consistent with the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States; and

(c) Is consistent, to the maximum extent practicable, with any domestic catch sharing plans developed by the United States or Canadian governments.

(2) Inseason actions may include, but are not limited to, establishment or modification of the following:

(a) Closed areas;

(b) Fishing periods;

(c) Fishing period limits;

(d) Gear restrictions;

(e) Recreational bag limits;

(f) Size limits; or

(g) Vessel clearances.

(3) Inseason changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce inseason actions under this section by providing notice to major halibut processors; Federal, State, United States treaty Indian, and Provincial fishery officials; and the media.

5. Application

(1) These Regulations apply to persons and vessels fishing for halibut in, or possessing halibut taken from, waters off the west coast of Canada and the United States, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which each of those countries exercises exclusive fisheries jurisdiction as of March 29, 1979.

(2) Sections 6 to 21 apply to commercial fishing for halibut.

John—This language differs slightly from IPHC language. I don't know what AKR prefers. (3) Section 7 applies to the Western Alaska Community Development Quota (CDQ) fishery in Area 4E.

(4) Section 22 applies to the United States treaty Indian tribal fishery in Area 2A–1.

(5) Section 23 applies to sport fishing for halibut.

(6) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

6. Regulatory Areas

The following areas shall be regulatory areas for the purposes of the Convention:

(1) Area 2A includes all waters off the states of California, Oregon, and Washington;

(2) Area 2B includes all waters off British Columbia;

(3) Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11'57'' N. lat., 136°38'18'' W. long.) and south and east of a line running 205° true from said light;

(4) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41'15'' N. lat., 155°35'00'' W. long.) to Cape Ikolik (57°17'17'' N. lat., 154°47'18'' W. long.), then along the Kodiak Island coastline to Cape Trinity (56°44'50'' N. lat., 154°08'44'' W. long.), then 140° true;

(5) Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29'00'' N. lat., 164°20'00'' W. long.) and south of 54°49'00'' N. lat. in Isanotski Strait;

(6) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in section 10 that are east of 172°00'00'' W. long. and south of 56°20'00'' N. lat.;

(7) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of 56°20'00'' N. lat.;

(8) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in section 10 which are east of 171°00'00'' W. long., south of 58°00'00'' N. lat., and west of 168°00'00'' W. long.;

(9) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00'00'' W. long.;

(10) Area 4E includes all waters in the Bering Sea north and east of the closed area defined in section 10, east of 168°00'00'' W. long., and south of 65°34'00'' N. lat.

7. Fishing in Regulatory Area 4E

(1) A person may retain halibut taken with setline gear in the Area 4E CDQ fishery that are smaller than the size limit specified in section 13, provided that no person may sell or barter such halibut.

(2) The manager of a CD CDQ organization that authorizes persons to harvest halibut in the Area 4E CDQ fishery must report to the Commission the total number and weight of undersized halibut taken and retained by such persons pursuant to section 7, paragraph (1). This report, that shall include data and methodology used to collect the data, must be received by the Commission prior to December 1 of the year in which such halibut were harvested.

(3) Section 7 shall be effective until December 31, 2000.

8. Fishing Periods

(1) The fishing periods for each regulatory area apply where the catch limits specified in section 11 have not been taken.

(2) Each fishing period in the Area 2A directed fishery south of 46°53'18'' N. lat. shall begin at 0800 hours and terminate at 1800 hours local time on July 5, July 19, August 2, August 23, September 6, and September 20, unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A. Vessels participating in the salmon troll fishery in Area 2A may retain halibut caught incidentally during authorized periods, in conformance with the annual salmon management measures announced in the **Federal Register**. The notice also will specify the ratio of halibut to salmon that may be retained during this fishery.

(4) The fishing period in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall begin at 1200 hours local time on March 15 and terminate at 1200 hours local time on November 15, unless the Commission specifies otherwise.

(5) All commercial fishing for halibut in Areas 2A, 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall cease at 1200 hours local time on November 15.

9. Closed Periods

(1) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in section 8 in respect of that area.

(2) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of section 19, these Regulations do not prohibit fishing for any species of fish other than halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have halibut in his/her possession while fishing for any other species of fish during the closed periods.

(5) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut on board.

(6) A vessel that has no halibut on board may retrieve any halibut fishing gear during the closed period after the operator notifies an authorized officer or representative of the Commission prior to that retrieval.

(7) After retrieval of halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection at the discretion of the authorized officer or representative of the Commission.

(8) No person shall retain any halibut caught on gear retrieved under paragraph (6).

(9) No person shall possess halibut aboard a vessel in a regulatory area during a closed period unless that vessel is in continuous transit to or within a port in which that halibut may be lawfully sold.

10. Closed Area

All waters in the Bering Sea north of 55°00'00'' N. lat. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36'00'' N. lat., 164'55'42'' W. long.) to a point at 56°°20'00'' N. lat., 168°30'00'' W. long.; thence to a point at 58°21'25'' N. lat., 163°00'00'' W. long.; thence to Strogonof Point (56°53'18'' N. lat., 158°50'37'' W. long.); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his/her possession while in those waters except in the course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00'00'' N. lat. and 54°49'00'' N. lat. are closed to commercial halibut fishing.

11. Catch Limits

(1) The total allowable catch of halibut to be taken during the halibut fishing periods specified in section 8 shall be limited to the weight expressed in pounds or metric tons shown in the following table:

CATCH LIMITS

Regulatory Area	Pounds	Metric Tons
2A	163,096.00	74.00
2B	10,600,000.00	4,807.30
2C	8,400,000.00	3,809.50
3A	18,310,000.00	8,303.90
3B	15,030,000.00	6,816.30
4A	4,970,000.00	2,254.00
4B	4,910,000.00	2,226.80
4C	2,030,000.00	920.60
4D	2,030,000.00	920.60
4E	390,000.00	176.90

(2) Notwithstanding paragraph (1) of this section, the catch limit in Area 2A shall be divided between a directed halibut fishery to operate south of 46°53'18'' N. lat. during the fishing periods set out in paragraph 2 of Section 8 and an incidental halibut catch fishery during the salmon troll fishery in Area 2A described in paragraph 3 of Section 8. Inseason actions to transfer catch between these fisheries may occur in conformance with the Catch Sharing Plan for Area 2A.

(a) The catch limit in the directed halibut fishery is 138,632 lb (62.9 mt).

(b) The catch limit in the incidental catch fishery during the salmon troll fishery is 24,464 lb (11.1 mt).

(3) The Commission shall determine and announce to the public the specific dates during which the directed fishery will be allowed in Area 2A and the date on which the catch limit for Area 2A will be taken.

(4) Notwithstanding paragraph (1), Area 2B will close only when all Individual Vessel Quotas assigned by Canada's Department of Fisheries and Oceans are taken, or November 15, whichever is earlier.

(5) Notwithstanding paragraph (1), Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all Individual Fishing Quotas and all Community Development Quotas issued by the National Marine Fisheries Service have been taken, or November 15, whichever is earlier.

(6) If the Commission determines that the catch limit specified for Area 2A in paragraph (1) would be exceeded in an unrestricted 10–hour fishing period as specified in paragraph (2) of section 8, the catch limit for that area shall be considered to have been taken unless fishing period limits are implemented.

(7) When under paragraphs (2), (3) or (6) the Commission has announced a date on which the catch limit for Area 2A will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

12. Fishing Period Limits

(1) It shall be unlawful for any vessel to retain more halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(2) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut to a commercial fish processor, completely offload all halibut on board said vessel to that processor and ensure that all halibut is weighed and reported on State fish tickets.

(3) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut other than to a commercial fish processor, completely offload all halibut on board said vessel and ensure that all halibut are weighed and reported on State fish tickets.

(4) The provisions of paragraph (3) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the halibut on board is ultimately offloaded and reported.

(5) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on:

(a) The vessel's overall length in feet and associated length class;

(b) The average performance of all vessels within that class; and

(c) The remaining catch limit.

(6) Length classes are shown in the following table:

Overall Length	Vessel Class
1–25	A
26–30	B
31–35	C
36–40	D
41–45	E
46–50	F
51–55	G
56+	H

(7) Fishing period limits in Area 2A apply only to the directed halibut fishery referred to in paragraph (2) of section 8.

13. Size Limits

(1) No person shall take or possess any halibut that:

(a) With the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail; or

(b) With the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail.

(2) No person shall possess on board a vessel a halibut that has been mutilated, or otherwise disfigured in any manner that prevents the determination of whether the halibut complies with the size limits specified in this section, except that:

(a) This paragraph shall not prohibit the possession on board a vessel of halibut cheeks cut from halibut caught by persons authorized to process the halibut on board in accordance with NMFS regulations published at Title 50, Code of Federal regulations, part 679; and

(b) No person shall possess a filleted halibut on board a vessel.

(3) No person on board a vessel fishing for, or tendering, halibut caught in Area 2A shall possess any halibut that has had its head removed.

14. Careful Release of Halibut

All halibut that are caught and are not retained shall be immediately released outboard of the roller and returned to the sea with a minimum of injury by

(a) Hook straightening;

(b) Cutting the gangion near the hook; or

(c) Carefully removing the hook by twisting it from the halibut with a gaff.

15. Vessel Clearance in Area 4

(1) The operator of any vessel that fishes for halibut in Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the unloading of any halibut caught in any of these areas, unless specifically exempted in paragraphs (9), (12), (13), (14), or (15).

(2) The vessel clearance required under paragraph (1) prior to fishing in Area 4A may be obtained only at Dutch Harbor or Akutan, Alaska from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(3) The vessel clearance required under paragraph (1) prior to fishing in Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, Alaska from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(4) The vessel clearance required under paragraph (1) prior to fishing in Area 4C or 4D may be obtained only at St. Paul or St. George, Alaska from an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(5) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(6) Before unloading any halibut caught in Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, Alaska, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(7) Before unloading any halibut caught in Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio or in person.

(8) Before unloading any halibut caught in Area 4C or 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or Akutan, Alaska, either in person or by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearances obtained in St. Paul or St. George, Alaska, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(9) Any vessel operator who complies with the requirements in section 18 for possessing halibut on board a vessel that was caught in more than one regulatory area in Area 4 is exempt from the clearance requirements of paragraph (1) of this section, but must comply with the following requirements:

(a) The operator of the vessel must obtain a vessel clearance prior to fishing in Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul, St. George, Adak, or Nazan Bay on Atka Island can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the Areas in which the vessel will fish; and

(b) Before unloading any halibut from Area 4, the vessel operator must obtain a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul or St. George can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island can be obtained by VHF radio.

(10) Vessel clearances shall be obtained between 0600 and 1800 hours, local time.

(11) No halibut shall be on board the vessel at the time of the clearances required prior to fishing in Area 4.

(12) Any vessel that is used to fish for halibut only in Area 4A and lands its total annual halibut catch at a port within Area 4A is exempt from the clearance requirements of paragraph (1).

(13) Any vessel that is used to fish for halibut only in Area 4B and lands its total annual halibut catch at a port within Area 4B is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for halibut only in Area 4C and lands its total annual halibut catch at a port within Area 4C is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for halibut only in Areas 4D and 4E and lands its total annual halibut catch at a port within Areas 4D, 4E, or the closed area defined in section 10, is exempt

from the clearance requirements of paragraph (1).

16. Logs

(1) The operator of any U.S. vessel that has an overall length of 26 feet (7.9 meters) or greater shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality. The log information must be recorded in the groundfish daily fishing logbook provided by NMFS, or Alaska hook-and-line logbook provided by Petersburg Vessels Owner Association or Alaska Longline Fishermen's Association, or the logbook provide by IPHC.

(2) The log referred to in paragraph (1) shall be

(a) Maintained on board the vessel;

(b) Updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) Retained for a period of two years by the owner or operator of the vessel;

(d) Open to inspection by an authorized officer or any authorized representative of the Commission upon demand; and

(e) Kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and for five (5) days following offloading halibut.

(3) The log referred to in paragraph (1) does not apply to the incidental halibut fishery in Area 2A defined in paragraph (3) of section 8.

(4) The operator of any Canadian vessel shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality. The log information must be recorded in the British Columbia Halibut Fishery logbook provided by DFO.

(5) The log referred to in paragraph (4) shall be:

(a) Maintained on board the vessel;

(b) Updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) Retained for a period of two years by the owner or operator of the vessel;

(d) Open to inspection by an authorized officer or any authorized representative of the Commission upon demand;

(e) Kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and for five (5) days following offloading halibut; and

(f) Mailed to the Department of Fisheries and Oceans (white copy) and IPHC (yellow copy) within seven days of offloading.

(6) The poundage of any halibut that is not sold, but is used by the vessel operator, his/her crew members, or any other person for personal use, shall be recorded in the vessel's log within 24–hours of offloading.

(7) No person shall make a false entry in a log referred to in this section.

17. Receipt and Possession of Halibut

(1) No person shall receive halibut from a United States vessel that does not have on board the license required by section 3.

(2) No person shall offload halibut from a vessel unless the gills and entrails have been removed prior to offloading.

(3) A commercial fish processor or buyer in the United States who purchases or receives halibut directly from the owner or operator of a vessel that was engaged in halibut fishing must weigh and record all halibut on board said vessel at the time offloading commences and record on State fish tickets or Federal catch reports the date, locality, name of vessel, Halibut Commission license number (for Area 2A), the name(s) of the person(s) from whom the halibut was purchased; and the scale weight obtained at the time of offloading of all halibut on board the vessel including the pounds purchased; pounds in excess of IFQs, IVQs, or fishing period limits; pounds retained for personal use; and pounds discarded as unfit for human consumption. It shall be the responsibility of the owner or operator of the vessel making the offload to offload all halibut from the vessel once offloading commences.

(4) The master or operator of a Canadian vessel that was engaged in halibut fishing must weigh and record all halibut on board said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports the date, locality, name of vessel, the name(s) of the person(s) from whom the halibut was purchased; and the scale weight obtained at the time of offloading of all halibut on board the vessel including the pounds purchased; pounds in excess of IVQs; pounds retained for personal use; and pounds discarded as unfit for human consumption.

(5) No person shall make a false entry on a State fish ticket or a Federal catch or landing report referred to in paragraph (3) and (4).

(6) A copy of the fish tickets or catch reports referred to in paragraph (3) and (4) shall be:

(a) Retained by the person making them for a period of three years from the date the fish tickets or catch reports are made; and

(b) Open to inspection by an authorized officer or any authorized representative of the Commission.

(7) No person shall possess any halibut that he/she knows to have been taken in contravention of these Regulations.

(8) When halibut are delivered to other than a commercial fish processor the records required by paragraph (3) shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (6).

(9) It shall be unlawful to enter a Halibut Commission license number on a State fish ticket for any vessel other than the vessel actually used in catching the halibut reported thereon.

18. Fishing Multiple Regulatory Areas

(1) Except as provided in this section, no person shall possess at the same time on board a vessel halibut caught in more than one regulatory area.

(2) Halibut caught in Regulatory Areas 2C, 3A, and 3B may be possessed on board a vessel at the same time providing the operator of the vessel:

(a) Has a NMFS-certified observer on board when required by NMFS regulations published at Title 50, Code of Federal Regulations, § 679.7(f)(4); and

(b) Can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(3) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board a vessel at the same time providing the operator of the vessel:

(a) Has a NMFS-certified observer on board the vessel when halibut caught in different regulatory areas are on board; and

(b) Can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(4) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board a vessel when in compliance with paragraph (3) and if halibut from Area 4 are on board the vessel, the vessel can have halibut caught in Regulatory Areas 2C, 3A, and 3B on board if in compliance with paragraph (2).

19. Fishing Gear

(1) No person shall fish for halibut using any gear other than hook and line gear.

(2) No person shall possess halibut taken with any gear other than hook and line gear.

(3) No person shall possess halibut while on board a vessel carrying any

trawl nets or fishing pots capable of catching halibut.

(4) All setline or skate marker buoys carried on board or used by any United States vessel used for halibut fishing shall be marked with one of the following:

(a) The vessel's name;

(b) The vessel's state license number; or

(c) The vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All setline or skate marker buoys carried on board or used by a Canadian vessel used for halibut fishing shall be

(a) Floating and visible on the surface of the water; and

(b) Legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72–hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(8) No vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72–hour period immediately before the opening of a halibut fishing period may be used to catch or possess halibut anywhere in those waters during that halibut fishing period.

(9) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72–hour period immediately before the opening of the halibut fishing season shall catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either

(a) Made a landing and completely offloaded its entire catch of other fish; or

(b) Submitted to a hold inspection by an authorized officer.

(10) No vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72–hour period immediately before the opening of the halibut fishing season may be used to catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either

(a) Made a landing and completely offloaded its entire catch of other fish; or

(b) Submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these regulations, a person may retain and possess, but not sell or barter halibut taken with trawl gear only as authorized by NMFS' Prohibited Species Donation regulations.

20. Retention of Tagged Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a halibut that bears a Commission tag at the time of capture, if the halibut with the tag still attached is reported at the time of landing and made available for examination by a representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by a representative of the Commission or an authorized officer, the halibut

(a) May be retained for personal use; or

(b) May be sold if it complies with the provisions of section 13, Size Limits.

21. Supervision of Unloading and Weighing

The unloading and weighing of halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

22. Fishing by United States Treaty Indian Tribes

(1) Halibut fishing in subarea 2A–1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by the National Marine Fisheries Service and published in the **Federal Register**.

(2) Subarea 2A–1 includes all waters off the coast of Washington that are north of 46°53'18'' N. lat. and east of 125°44'00'' W. long., and all inland marine waters of Washington.

(3) Commercial fishing for halibut in subarea 2A–1 is permitted with hook and line gear from March 15 through November 15, or until 305,000 pounds (138.3 mt) is taken, whichever occurs first.

(4) Ceremonial and subsistence fishing for halibut in subarea 2A–1 is permitted with hook and line gear from January 1 through December 31, and is estimated to take 10,500 pounds (4.8 metric tons).

23. Sport Fishing for Halibut

(1) No person shall engage in sport fishing for halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) In all waters off Alaska:

(a) The sport fishing season is from February 1 to December 31;

(b) The daily bag limit is two halibut of any size per day per person.

(3) In all waters off British Columbia:

(a) The sport fishing season is from February 1 to December 31;

(b) The daily bag limit is two halibut of any size per day per person.

(4) In all waters off California, Oregon, and Washington:

(a) The total allowable catch of halibut shall be limited to 188,307 pounds (85.4 mt) in waters off Washington and 163,097 pounds (74.0 mt) in waters off California and Oregon;

(b) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions in Section 24. All sport fishing in Area 2A is managed on a ''port of landing'' basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(i) In Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17'30'' N. lat., 124°23'70'' W. long.) north to the 48°24'10'' N. lat., 124°23'10'' W. long., there is no quota. This area is managed by setting a season that is projected to result in a catch of 49,137 lb (22.3 mt).

(A) The fishing season is May 25 through July 27, 5 days a week (Thursday through Monday).

(B) The daily bag limit is one halibut of any size per day per person.

(ii) In the area off the north Washington coast, west of the line described in paragraph (d)(2)(i) of this section and north of the Queets River (47°31'42'' N. lat.), the quota for landings into ports in this area is 99,774 lb (45.3 mt).

(A) The fishing seasons are:

(*1*) Commencing May 2 and continuing 5 days a week (Tuesday through Saturday) until 92,774 lb (42.1 mt) are estimated to have been taken and the season is closed by the Commission, or until June 30, whichever occurs first.

(*2*) Commencing July 1 and continuing 5 days a week (Tuesday through Saturday) until the overall area quota of 99,774 lb (45.3 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever occurs first.

(B) The daily bag limit is one halibut of any size per day per person.

(C) A portion of this area about 19 nm (35 km) southwest of Cape Flattery is closed to sport fishing for halibut. The closed area is within a rectangle defined by these four corners: 48°18'00'' N. lat., 125°11'00'' W. long.; 48°18'00'' N. lat., 124°59'00'' W. long.; 48°04'00'' N. lat., 125°11'00'' W. long.; and, 48°04'00'' N. lat., 124°59'00'' W. long.

(iii) In the area between the Queets River, WA and Leadbetter Point, WA (46°38'10'' N. lat.), the quota for landings into ports in this area is 34,482 lb (15.6 mt).

(A) The fishing season commences on May 1 and continues 5 days a week (Sunday through Thursday) in all waters, and commences on May 1 and continues 7 days a week in the area from Queets River south to 47°00'00'' N. lat. and east of 124°40'00'' W. long., until 33,482 lb (15.2 mt) are estimated to have been taken and the season is closed by the Commission. Immediately following this closure, the season reopens in the area from the Queets River south to 47°00'00'' N. lat. and east of 124°40'00'' W. long. and continues every day until 34,482 lb (15.6 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever occurs first.

(B) The daily bag limit is one halibut of any size per day per person.

(C) A portion of this area is closed to sport fishing for halibut. The closed area is within a rectangle defined by these four corners: 47°19'00'' N. lat., 124°53'00'' W. long.; 47°19'00'' N. lat., 124°48'00'' W. long.; 47°16'00'' N. lat., 124°53'00'' W. long.; and, 47°16'00'' N. lat., 124°48'00'' W. long.

(iv) In the area between Leadbetter Point, WA and Cape Falcon, OR (45°46'00'' N. lat.), the quota for landings into ports in this area is 8,177 lb (3.7 mt).

(A) The fishing season commences on May 1, and continues every day through September 30, or until 8,177 lb (3.7 mt) are estimated to have been taken and the area is closed by the Commission, whichever occurs first.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(v) In the area off Oregon between Cape Falcon and the Siuslaw River at the Florence north jetty (44°01'08'' N. lat.), the quota for landings into ports in this area is 143,574 lb (65.1 mt).

(A) The fishing seasons are:

(*1*) The first season is limited to the area inside the 30–fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600. It commences May 1 and continues every day through September 30, or until the combined subquotas of the north central and south central inside 30–fathom fisheries (12,324 lb (5.6 mt)) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(*2*) The second season is open on May 11, 12, 13, 18, and 19. The projected catch for this season is 97,630 lb (44.3 mt). If sufficient unharvested catch remains for an additional days fishing, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be June 9; if sufficient quota remains for two days, then June 10 would also be open; if sufficient quota remains for three, four, five, or six additional days, then June 8, June 16–17, then June June 15 would also be opened, in that order. If a decision is made inseason by NMFS to allow fishing on one or more of these additional dates, notice of the opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No halibut fishing will be allowed on any of the additional dates in June unless the opening date is announced on the NMFS hotline.

(*3*) The third season is open on August 4 or until the combined quotas for the all-depth fisheries in the subareas described in paragraphs (v) and (vi) of this section totaling 142,618 lb (64.7 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. An inseason announcement will be made in mid-July as to whether the fishery will be open on August 4 and/or 5. If the harvest during this opening does not achieve the 142,618 lb (64.7 mt) quota, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening date will be August 18. If a decision is made inseason to allow fishing on August 5 or August 18, notice of the reopening date will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(vi) In the area off Oregon between the Siuslaw River at the Florence north jetty and Humbug Mountain, Oregon (42°40'30'' N. lat.), the quota for landings into ports in this area is 11,368 lb (5.2 mt).

(A) The fishing seasons are:

(*1*) The first season is limited to the area inside the 30–fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600. It commences May 1 and continues every day through September 30, or until the combined subquotas of the north central and south central inside 30–fathom fisheries (12,324 lb (5.6 mt)) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(*2*) The second season is open on May 11, 12, 13, 18, and 19. The projected catch for this season is 9,094 lb (4.1 mt). If sufficient unharvested catch remains for an additional days fishing, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be June 9; if sufficient quota remains for three, four, five, or six additional days, then June 8, then June 16–17, then June 15 would also be opened, in that order. If a decision is made inseason by NMFS to allow fishing on one or more of these additional dates, notice of the opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No halibut fishing will be allowed on any of the additional dates in June unless the opening date is announced on the NMFS hotline.

(*3*) The third season is open on August 4 or until the combined quotas for the all-depth fisheries in the subareas described in paragraphs (v) and (vi) of this section totaling 142,618 lb (64.7 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. An inseason announcement will be made in mid-July as to whether the fishery will be open on August 4 and/or 5. If the harvest during this opening does not achieve the 142,618 lb (64.7 mt) quota, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening date will be August 18. If a decision is made inseason to allow fishing on August 5 or August 18, notice of the reopening date will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(vii) In the area south of Humbug Mountain, Oregon (42°40'30'' N. lat.) and off the California coast, there is no quota. This area is managed on a season that is projected to result in a catch of less than 4,893 lb (2.2 mt).

(A) The fishing season will commence on May 1 and continue every day through September 30.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(c) The Commission shall determine and announce closing dates to the public for any area in which the

subquotas in this Section are estimated to have been taken.

(d) When the Commission has determined that a subquota under paragraph (4)(b) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled in accordance with the Catch Sharing Plan for Area 2A, or announced by the Commission.

(5) Any minimum overall size limit promulgated under Commission or NMFS regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail.

(6) No person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(7) The possession limit for halibut in the waters off the coast of Alaska is two daily bag limits.

(8) The possession limit for halibut in the waters off the coast of British Columbia is three halibut

(9) The possession limit for halibut in the waters off Washington, Oregon, and California is the same as the daily bag limit.

(10) The possession limit for halibut on land in Area 2A north of Cape Falcon, OR is two daily bag limits.

(11) The possession limit for halibut on land in Area 2A south of Cape Falcon, OR is one daily bag limit.

(12) Any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

(13) No person shall be in possession of halibut on a vessel while fishing in a closed area.

(14) No halibut caught by sport fishing shall be offered for sale, sold, traded, or bartered.

(15) No halibut caught in sport fishing shall be possessed on board a vessel when other fish or shellfish aboard the said vessel are destined for commercial use, sale, trade, or barter.

(16) The operator of a charter vessel shall be liable for any violations of these regulations committed by a passenger aboard said vessel.

24. Flexible inseason management provisions in Area 2A.

(1) The Regional Administrator, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the Commission Executive Director, and the Fisheries Director(s) of the affected state(s), is authorized to modify regulations during the season after making the following determinations.

(A) The action is necessary to allow allocation objectives to be met.

(B) The action will not result in exceeding the catch limit for the area.

(C) If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to a Washington sport subarea projected to have the fewest number of sport fishing days in the calendar year.

(2) Flexible inseason management provisions include, but are not limited to, the following:

(A) Modification of sport fishing periods;

(B) Modification of sport fishing bag limits;

(C) Modification of sport fishing size limits; and

(D) Modification of sport fishing days per calendar week.

(3) Notice procedures.

(A) Actions taken under this section will be published in the **Federal Register**.

(B) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 206–526–6667 or 800–662–9825 (May through September) and by U.S. Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the notice to mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishers should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.

(4) Effective dates.

(A) Any action issued under this section is effective on the date specified in the publication or at the time that the action is filed for public inspection with the Office of the Federal Register, whichever is later, except that any partial or complete inseason opening of the Washington South Coast sport fishery closed area may be made effective upon announcement on the NMFS hotline.

(B) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the **Federal Register**. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after of the action in the **Federal Register**.

(C) Any inseason action issued under this section will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(5) Availability of data. The Regional Administrator will compile, in aggregate form, all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA.

25. Fishery election in Area 2A.

(1) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(a) The sport fishery under Section 23;

(b) The commercial directed fishery for halibut during the fishing period(s) established in Section 8; or

(c) The incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(2) No person shall fish for halibut in the sport fishery in Area 2A under Section 23 from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

(3) No person shall fish for halibut in the directed halibut fishery in Area 2A during the fishing periods established in Section 8 from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(4) No person shall fish for halibut in the directed commercial halibut fishery in Area 2A from a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A or that is licensed for the sport charter halibut fishery in Area 2A.

(5) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A, or that is licensed for the sport charter halibut fishery in Area 2A.

(6) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the directed

commercial fishery during the fishing periods established in Section 8 for Area 2A or that is licensed to participate in the directed commercial fishery during the fishing periods established in Section 8 in Area 2A.

26. Previous Regulations Superseded

These regulations shall supersede all previous regulations of the Commission, and these regulations shall be effective each succeeding year until superseded.

Classification

IPHC Regulations

Because approval by the Secretary of State of the IPHC regulations is a foreign affairs function, the notice-and-comment and delay-in-effective date requirements of the Administrative Procedure Act, 5 U.S.C. 553, do not apply to this notice of the effectiveness and content of the IPHC regulations, *Jensen v. NMFS*, 512 F.2d 1189 (9th Cir. 1975). Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

Catch Sharing Plan for Area 2A

An Environmental Assessment/Regulatory Impact Review was prepared on the proposed changes to the CSP. NMFS has determined that the proposed changes to the CSP and the management measures implementing the CSP contained in these regulations will not significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the final action is not required by section 102(2)(C) of the National Environmental Policy Act or its implementing regulations. At the proposed rule stage, the Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this action will not have a significant economic impact on a substantial number of small entities. No comments were received on this certification. Consequently, no regulatory flexibility analysis has been prepared.

This action has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Authority: 16 U.S.C. 773–773k.

Dated: March 15, 2000.

Andrew A. Rosenberg,

Deputy Asst. Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–6837 Filed 3–15–00; 2:31 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991207325–0063–02; I.D. 100699A]

RIN 0648–AJ52

Fisheries of the Exclusive Economic Zone Off Alaska; A Cost Recovery Program for the Individual Fishing Quota Program

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

ACTION: Final rule.

SUMMARY: NMFS establishes regulations to implement cost recovery for the Individual Fishing Quota (IFQ) program for fixed gear halibut and sablefish fisheries in waters in and off of Alaska (IFQ Program). Cost recovery is necessary because section 304(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires the Secretary of Commerce (Secretary) to collect fees to recover actual costs incurred for Federal management and enforcement of these IFQ fisheries. This action is intended to impose and provide for collection of such fees.

DATES: Effective March 15, 2000.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) and the Final Regulatory Flexibility Analysis (FRFA) for this action may be obtained from NMFS, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668 Juneau, AK 99802–1668, Attn: Lori J. Gravel, or by calling the Alaska Region, NMFS, at (907) 586–7228.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907–586–7228.

SUPPLEMENTARY INFORMATION: Section 304(d)(2)(A) of the Magnuson-Stevens Act requires the Secretary to ''collect a fee to recover the actual costs directly related to the management and enforcement of any * * * individual fishing quota program.'' Section 304(d)(2)(B) of the Magnuson-Stevens Act specifies an upper limit on these fees, when the fees must be collected, and where the fees must be deposited. Section 303(d)(4) of the Magnuson-Stevens Act allows NMFS to reserve up to 25 percent of the fees collected for use in an IFQ loan program to aid in financing the purchase of IFQ or quota share (QS) by entry-level and small-vessel fishermen.

The final rule will recover costs for the IFQ Program only. NMFS intends to implement cost recovery for the Community Development Quota (CDQ) program through separate rulemaking.

The Magnuson-Stevens Act specifies the following with respect to the imposition of IFQ cost-recovery fees:

1. Fees must recover actual costs directly related to actual enforcement and management of the IFQ Program;
2. Fees must not exceed 3 percent of the ex-vessel value of fish harvested under any such program;
3. Fees are in addition to any other fees charged under the Magnuson-Stevens Act;
4. With the exception of money reserved for the IFQ loan program, fees must be deposited in the Limited Access System Administrative Fund (LASAF) in the U.S. Treasury; and
5. Fees must be collected at either the time of a legal landing of halibut or sablefish, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

Background

NMFS, Alaska Region, administers the IFQ Program. The IFQ Program is a limited access system authorized by section 303(b) of the Magnuson-Stevens Act and the Northern Pacific Halibut Act of 1982. NMFS implemented the IFQ Program in March 1995. Regulations implementing the IFQ Program are set forth at 50 CFR part 679. NMFS published a proposed rule to recover costs of managing and enforcing the IFQ Program on December 27, 1999 (64 FR 72302), and solicited public comments through January 26, 2000.

Cost Recovery Program Description

An IFQ permit holder incurs a fee liability for every pound of IFQ halibut and sablefish that is landed on his or her permit. The IFQ permit holder must collect from himself or herself the amount due for all IFQ halibut and IFQ sablefish landings on his or her permit(s). The IFQ permit holder is also responsible for submitting this payment to NMFS on or before the due date of January 31 following the calendar year in which the landings were made. The dollar amount of the fee due is determined by multiplying the IFQ fee percentage (3 percent or less) by the ex-

vessel value of each IFQ landing made on a permit and summing the totals of each permit (if more than one).

More information on the background and details of the program can be found in the preamble to the proposed rule (64 FR 72302, December 27, 1999).

Changes from the Proposed Rule in the Final Rule

In § 679.5(7)(ii)(C)(*2*)(*ii*), examples of documentation that could establish a factual basis for a revised IFQ fee liability are provided in response to comment 7.

The proposed rule published December 27, 1999, was corrected to replace four typographical errors with the correct regulatory text (65 FR 11756; March 6, 2000).

Response to Written Public Comments on the IFQ Cost Recovery Program Proposed Rule

NMFS, Alaska Region, received several written public comments regarding the IFQ Cost Recovery Program proposed rule. They are summarized and responded to as follows.

Comment 1: There is no mechanism or method to determine the amount (up to 25 percent) of the IFQ cost recovery collections that are directed to the IFQ loan program.

Response: In September 1997, the North Pacific Fishery Management Council (Council) recommended to the Secretary an IFQ loan program that would reserve 25 percent of the fees collected under section 303(d)(2) of the Magnuson-Stevens Act in the halibut and sablefish fisheries off Alaska to guarantee obligations that aid in financing the purchase of IFQs in that fishery by fishermen who fish from small vessels and the first-time purchase of IFQs by entry level fishermen. Section 303(d)(4) of the Magnuson-Stevens Act sets 25 percent as the maximum amount of the collected fees that may be reserved for loan program purposes. The Secretary has not yet acted to approve this Council recommendation. No deductions from collected fees will be made until the Council's loan program recommendation is approved. The absence of this revenue to the U.S. Treasury, however, does not prevent the U.S. Congress from appropriating any amount for purposes of the loan program.

Comment 2: NMFS should provide an accounting of how collected fees are spent.

Response: NMFS agrees. This rule provides for an IFQ Cost Recovery Program Annual Report that will summarize the actual direct costs associated management and enforcement of the IFQ Program. This annual report will be made available to the public.

Comment 3: The International Pacific Halibut Commission (IPHC) should be eligible to receive part of the funds collected under the IFQ Cost Recovery Program.

Response: NMFS agrees. The IPHC is in the process of formally submitting to NMFS an estimate of reimbursable management costs incurred as a result of the IFQ Program. NMFS will include such costs in the annual determination of the revised IFQ fee percentage after receiving these submissions annually from the IPHC. Should such costs be submitted and included in any future IFQ fee percentage calculation, the IPHC would subsequently receive the appropriate portion of IFQ cost recovery collections as reimbursement for those IFQ Program related costs.

Comment 4: A cost recovery program for the Alaska Community Development Quota (CDQ) program should also be imposed in the future.

Response: NMFS agrees. The IFQ Program and the CDQ Program are different fishery management programs and, subsequently, have distinct costs eligible for Federal or state cost recovery. NMFS and the State of Alaska (State) are currently considering a CDQ cost recovery fee program that would be similar in design to, but implemented separately, from the IFQ program. Because the costs for the CDQ Program and the IFQ Program involve separate and distinct costs, the corresponding fee percentages would not necessarily be equal. The exception to this would be in years when costs of both programs individually equaled or exceeded the 3 percent limit established by Magnuson-Stevens Act and the fee percentage of each would, therefore, equal 3 percent during that year.

Comment 5: The IFQ Cost Recovery Program does not include a process for an ''Oversight Committee'' that would allow industry to review and comment on agency budgets and the associated fee percentage on an annual basis.

Response: A process exists for individual citizens or independent groups to provide comment to the Regional Administrator regarding possible adjustment of the IFQ fee percentage. NMFS will publish and distribute specific information regarding the actual management and enforcement cost of the IFQ Program during the most recently completed fiscal year, as well as such information regarding projected costs of the IFQ Program during the current fiscal year. In addition, the Annual Report as described in § 679.45(i) of this rule will provide a summary of the actual annual budgetary expenditures by each of the relevant NMFS Divisions and the IPHC.

The Council has two oversight committees, the longstanding IFQ Implementation Committee and the more recently established IFQ/CDQ Fee Committee, either of which may provide the Regional Administrator with relevant new information. The IFQ/CDQ Fee Committee contributed significantly to the constructive development of this IFQ Cost Recovery Program rule. Both are Council Committees and can provide relevant information.

Comment 6: IFQ standard prices should be distributed to the fleet through industry associations.

Response: NMFS agrees and will provide industry associations with copies of the NMFS IFQ standard price list for distribution. This is in addition to making available to the public the NMFS IFQ standard price list via the **Federal Register** and other means of public notification such as direct mailing to all IFQ permit holders and IFQ registered buyers.

Comment 7: The rule should provide additional clarification of the ''adequate documentation'' that would be required for a fishermen seeking to establish a revised IFQ fee liability.

Response: NMFS agrees but does not want to overly constrain IFQ permit holders by limiting options for defensibly documenting transactions of initial sale of their IFQ landings. Clarification language that includes examples of such documentation is incorporated in this final rule in § 679.5(l)(7)(ii)(C)(*2*)(*ii*).

Comment 8: Making IFQ permit holders responsible for collecting from themselves and submitting the fees to NMFS rather than making IFQ registered buyers operating as shoreside processors the responsible fee collectors and submitters will preclude the ability to track fee amounts owed by fishery, IFQ permit holder, and species year after year.

Response: NMFS disagrees. NMFS has developed a new computerized system capable of integrating aspects of the IFQ fisheries, including IFQ landings by species, permit number, IFQ permit holder, location, ex-vessel value, and date, storing this information year after year. The Restricted Access Management Division will maintain and operate this computerized data management system for the IFQ Cost Recovery Program. Furthermore, this rule requires IFQ registered buyers operating as shoreside processors to collect and submit to NMFS ex-vessel

value information regarding IFQ landings. This volume and value information will be included in the new computerized IFQ cost recovery system and will help track the amount owed by IFQ permit holders through the determination of NMFS standard prices by species, port or port-group, and month.

Comment 9: One commentator assumed that NMFS plans to enforce payment from IFQ permit holders by withholding the following year's quota issuance.

Response: NMFS clarifies this incorrect assumption. NMFS will issue IFQ each year to IFQ permit holders. However, if the Regional Administrator determines that an IFQ permit holder has not paid the full IFQ fee liability incurred by the permit holder, then the Regional Administrator may disapprove any transfer of IFQ or QS to or from the IFQ permit holder in accordance with § 679.41(c)(4). The Regional Administrator's determination may be appealed by the IFQ permit holder pursuant to § 679.45(h). During the period of an appeal the IFQ permit will remain valid, although transfer restrictions may be imposed or, if already imposed, remain in place. The IFQ permit will remain valid until a final agency action (FAA) is issued to the IFQ permit holder. Upon issuance of an FAA which identifies a final IFQ fee liability amount still due by the IFQ permit holder as specified in §§ 679.45 and 679.5(l)(7)(ii), the IFQ permit (i.e., the authorization to fish the IFQ/QS) will immediately become invalid pursuant to § 679.4(d)(7).

Compliance Guide for Small Entities

In compliance with the Small Business Regulatory Enforcement Fairness Act of 1996, NMFS is publishing this paragraph as a compliance guide that explains how small entities must comply with regulatory changes made by this final rule. This final rule requires IFQ permit holders to collect and submit to NMFS their IFQ fees as established and described in these regulations. IFQ permit holders should be aware that all of their IFQ landings have an IFQ fee liability, at the default rate of 3 percent of ex-vessel value, for which they are responsible for collecting and submitting in accordance with § 679.5.(l)(7)(ii) and § 679.45 of this regulation. Also, IFQ registered buyers should be aware that they must comply with the IFQ reporting and record-keeping requirements specified in § 679.5(l) and the landing report at § 679.5(i)(2), in particular.

Classification

The Regional Administrator has determined that this final rule is necessary to fulfil the requirement of section 304(d)(2) the Magnuson-Stevens Act. This action has been determined to be not significant for purposes of E.O. 12866.

The AA finds for good cause under 5 U.S.C. 553(d)(3) that the effectiveness of this rule should not be delayed for 30 days because a delay would be contrary to the public interest. The primary effect of this action will occur in January 2001 when the IFQ permit holders are required to submit fees based on the IFQ halibut and sablefish landings they made during the previous year. While submission of fees is not required until January 2001, fee liability starts with the effective date of the rule. Delayed effectiveness of the rule would prevent fee liability from being applied uniformly to all landings made during the IFQ fishing season, which starts March 15, 2000, and would cause substantial confusion and inequity as to which landings IFQ fee liability applies.

NMFS prepared an FRFA for this final rule in compliance with the Regulatory Flexibility Act. The FRFA describes the impact this final rule will have on small entities. A copy of the FRFA can be obtained from NMFS (see ADDRESSES).

The Magnuson-Stevens Act requires the Secretary to impose a fee to recover the actual management and enforcement costs of the Alaska IFQ Program. The objective of this rule is to collect revenue from fishermen participating in the IFQ Program to help recover the costs incurred by the Federal government as a result of the management and enforcement of the IFQ Program.

This rule applies to persons who possess and use IFQ Registered Buyer Permits or IFQ Permits (fishermen). IFQ registered buyer permit holders who do not operate as shoreside processors or those IFQ permit holders who do not land IFQ fish (i.e., possess unfished permits) would not be subject to this rule. In 1998, approximately 9 percent of IFQ pounds available remained unfished by the end of the season. As for IFQ registered buyers, generally, fewer than 40 percent of those who held IFQ Registered Buyer Permits actually reported landings (i.e., active buyer permit users). In addition, imposition of the cost recovery fees could indirectly impact the income of IFQ crew members if IFQ permit holders reduce the income to members of their crews due to the cost recovery fees. Detailed figures for the number of IFQ crew members are not available.

This action directly affects two types of registered small entities as defined by the Small Business Administration: (1) IFQ registered buyers who operate as shoreside processors and purchase IFQ halibut or sablefish from IFQ permit holders, and (2) halibut and sablefish IFQ permit holders. By year-end 1998, 3,978 persons held one or more IFQ permits (fishermen) and reported landings of at least 1 lb (0.45 kg) of IFQ fish. Also in 1998, NMFS issued 859 IFQ registered buyer permits, but only 309 were active IFQ registered buyers. Only 79 of the active IFQ registered buyers operated as shoreside processors that purchased IFQ halibut or sablefish. The 79 IFQ registered buyers identified themselves in 1998 as shoreside processors, and would be the only type of IFQ registered buyers regulated under the proposed action. The number of IFQ permits and IFQ registered buyer permits has decreased each year since 1995 when the program was initiated and is expected to stabilize near 1998 levels. For purposes of the IFRA, all 79 IFQ permits holders are considered small entities. Therefore, the total number of small entities that this rule would apply to IFQ registered buyers and permit holders would be expected to be equal to or less than 4,057. This rule imposes new Recordkeeping and reporting requirements. These are discussed below in the context of the Paperwork Reduction Act burden.

A broad variety of alternatives was considered in the development of the proposed regulations for IFQ cost recovery. The alternatives were considered in the context of combining various options associated with a specific set of necessary program elements. Some of the necessary program elements include the scope of the IFQ cost recovery regulations; identification of the IFQ fishery; the annual fee percentage value; the IFQ fish subject to the IFQ cost recovery fee; the method used to determine ex-vessel values of IFQ halibut and IFQ sablefish landings; the method used to establish standard ex-vessel prices for IFQ halibut and IFQ sablefish; the methods of accounting for post-season ex-vessel price adjustments and other corrections to ex-vessel value; IFQ fee collection and submission mechanisms and schedules; and the implementation date.

In selecting the preferred alternative, NMFS incorporated many elements designed to minimize negative impacts on small entities.

1. The fee would apply only to IFQ halibut and sablefish landings, and not to all species landed by IFQ fishermen.

2. Fishermen would be able to choose whether to use actual or standard ex-

vessel value of their IFQ landings whenever possible.

3. Standard prices would be primarily based on current year ex-vessel prices rather than previous year ex-vessel prices, and would be refined to represent ex-vessel prices by species, by month, and by port-group.

4. Registered buyers and IFQ permit holders would be required to submit recordkeeping and reporting information only once a year, rather than multiple mid-season submissions.

NMFS also considered the alternative of not implementing an IFQ cost recovery (status quo). The status quo alternative would minimize economic impacts on small entities in that no new fee would be imposed. However, this alternative would not be in compliance with the Magnuson-Stevens Act. Alternatives to the proposed recordkeeping and reporting requirements could reduce economic impacts on small entities. For instance, implementing an electronic reporting system could reduce the burdens associated with filing annual reports; however, NMFS has not ascertained whether electronic reporting would allow for comparable, easily interpreted data and costs associated with acquiring new software could counterbalance any benefits. NMFS also considered extracting data from reports currently required of AGF&G. The ADF&G reports would not provide all the necessary data in a sufficiently timely manner. NMFS also considered an alternative that would not have assessed a fee on retro-payments. While this approach would benefit permit-holders who accepted retro-payments, it would not be acceptable to those who do not. In addition, this approach might not comply with the spirit of the statute to assess a fee on the full amount of payment.

NMFS received no comments on the Initial Regulatory Flexibility Analysis prepared for this rule and no changes were made in the final rule.

Notwithstanding any other provision of law, no person is required to respond to and no person shall be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The collection of this information has been approved by the Office of Management and Budget, OMB Control Number 0648–0398.

The recordkeeping and reporting requirements will apply to the IFQ permit holder and the IFQ registered buyer operating as a shoreside processor and buying halibut or sablefish landed under the IFQ Program. The estimated time for an IFQ permit holder to complete the IFQ payment submission form package is 2.0 hours per response. The time required to complete the buyer report is estimated to be 2.0 hours per report. The estimated response times shown include the time to review the instructions, search existing sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503, Attention: NOAA Desk Officer.

List of Subjects in 50 CFR Part 679

Alaska, Cost recovery, Fees, Fisheries, IFQ, and Recordkeeping and reporting requirements.

Dated: March 13, 2000

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, definitions for listed terms are added in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

KIFQ actual ex-vessel value means the U.S. dollar amount of all compensation, monetary or non-monetary, including any IFQ retro-payments received by an IFQ permit holder for the purchase of IFQ halibut or IFQ sablefish landing(s) on his or her permit(s) described in terms of IFQ equivalent pounds.

* * * * *

IFQ equivalent pound(s) means the weight amount, recorded in pounds, for an IFQ landing and calculated as round weight for sablefish and headed and gutted weight for halibut.

IFQ fee liability means that amount of money for IFQ cost recovery, in U.S. dollars, owed to NMFS by an IFQ permit holder as determined by multiplying the appropriate standard ex-vessel value or actual ex-vessel value of his or her IFQ halibut or IFQ sablefish landing(s) by the appropriate IFQ fee percentage.

IFQ fee percentage means that positive number no greater than 3 percent (0.03) determined by the Regional Administrator and established for use to calculate the IFQ cost recovery fee liability for an IFQ permit holder.

* * * * *

IFQ permit holder means the person identified on an IFQ permit, at the time a landing is made, as defined at § 679.4(d)(3)(B).

IFQ program means the individual fishing quota program for the fixed gear fisheries for Pacific halibut and sablefish in waters in and off Alaska and governed by regulations under this part.

IFQ registered buyer means the person identified on a registered buyer permit, as defined at § 679.4(d)(2).

IFQ retro-payment means the U.S. dollar value of a payment, monetary or non-monetary, made to an IFQ permit holder for the purchase of IFQ halibut or IFQ sablefish landed at some previous time.

* * * * *

IFQ standard ex-vessel value means the total U.S. dollar amount of IFQ halibut or IFQ sablefish landings as calculated by multiplying the number of landed IFQ equivalent pounds by the appropriate IFQ standard price determined by the Regional Administrator.

IFQ standard price means a price, expressed in U.S. dollars per IFQ equivalent pound, for landed IFQ halibut and IFQ sablefish determined annually by the Regional Administrator and documented in an IFQ standard price list published by NMFS.

* * * * *

Limited Access System Administrative Fund (LASAF) means the administrative account used for depositing cost recovery fee payments into the U.S. Treasury as described in the Magnuson-Stevens Act under section 304(d)(2)(C)(i) and established under section 305(h)(5)(B).

* * * * *

NMFS Person Identification Number means a unique number assigned by NMFS to any person who applied for, or who has been issued, a certificate, license, or permit under any fishery management program administered by the Alaska Region for purposes of the

NMFS/Alaska Region Integrated Regional Data System.

* * * * *

3. In § 679.4, paragraph (a)(5) is revised and paragraph (d)(7) is added to read as follows:

§ 679.4 Permits.

(a) * * *

(5) *Sanctions and denials*. Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904. Such procedures are required for enforcement purposes, not administrative purposes.

* * * * *

(d) * * *

(7) *Validity*. An IFQ permit issued under this part is valid only if all IFQ fee liability of the IFQ permit holder that is due as a result of final agency action has been paid as specified in §§ 679.45 and 679.5(l)(7)(ii).

* * * * *

4. In § 679.5, paragraph (l)(7) is added to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(l) * * *

(7) *IFQ cost recovery program*—(i) *IFQ buyer report.*

(A) *Applicability.* An IFQ registered buyer that also operates as a shoreside processor and receives and purchases IFQ landings of sablefish or halibut must submit annually to NMFS a complete IFQ Buyer Reportas described in this paragraph (l) and as provided by NMFS for each reorting period, as described at § 679.5 (l)(7)(i)(E), in which the registered buyer receives IFQ fish.

(B) *Due date.* A complete IFQ Buyer Report must be postmarked or received by the Regional Administrator not later than October 15 following the reporting period in which the IFQ registered buyer receives the IFQ fish.

(C) *Information required.* A complete IFQ Buyer Report must include the following information:

(*1*) *IFQ registered buyer identification,* including:

(*i*) Name,

(*ii*) Registered buyer number,

(*iii*) Social Security number or tax identification number,

(*iv*) NMFS person identification number (if applicable),

(*v*) Business address,

(*vi*) Telephone number,

(*vii*) Facsimile telephone number,

(*viii*) Primary registered buyer activity,

(*ix*) Other registered buyer activity, and

(*x*) Landing port location;

(*2*) *Pounds purchased and values paid*. (*i*) The monthly total weights, represented in IFQ equivalent pounds by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;

(*ii*) The monthly total gross ex-vessel value, in U.S. dollars, of IFQ pounds, by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;

(*3*) *Value paid for price adjustments*. (*i*) The monthly total U.S. dollar amount of any IFQ retro-payments (correlated by IFQ species, landing month(s), and month of payment) made in the current year to IFQ permit holders for landings made during the previous calendar year;

(*ii*) *Certification*, including the signature of the individual authorized by the IFQ registered buyer to submit the IFQ Buyer Report, and date of signature.

(D) *Submission address*. A complete IFQ Buyer Report must be received at the following address by mail or facsimile transmission: Administrator, Alaska Region, NMFS, Attn: RAM Program, P.O. Box 21668, Juneau, AK 99802–1668, Facsimile: (907) 586–7354.

(E) *Reporting period*. The reporting period of the IFQ Buyer Report shall extend from October 1 through September 30 of the following year, inclusive.

(ii) *IFQ permit holder Fee Submission Form*—(A) *Applicability*. An IFQ permit holder who holds an IFQ permit against which a landing was made must submit to NMFS a complete IFQ permit holder Fee Submission Form provided by NMFS.

(B) *Due date and submittal*. A complete IFQ permit holder Fee Submission Form must be postmarked or received by the Regional Administrator not later than January 31 following the calendar year in which any IFQ landing was made.

(C) *Contents of an IFQ Fee Submission Form*. For each of the sections described here, a permit holder must provide the specified information.

(*1*) *Identification of the IFQ permit holder*. An IFQ permit holder with an IFQ landing must accurately record on the identification section of the IFQ Fee Submission Form the following information:

(*i*) The printed name of the IFQ permit holder;

(*ii*) The NMFS person identification number;

(*iii*) The Social Security number or tax ID number of the IFQ permit holder;

(*iv*) The business mailing address of the IFQ permit holder; and

(*v*) The telephone and facsimile number (if available) of the IFQ permit holder.

(*2*) *IFQ landing summary and estimated fee liability*. NMFS will provide to an IFQ permit holder an IFQ Landing Summary and Estimated Fee Liability page as required by § 679.45(a)(2). The IFQ permit holder must either accept the accuracy of the NMFS estimated fee liability associated with his or her IFQ landings for each IFQ permit, or calculate a revised IFQ fee liability in accordance with paragraph (l)(7)(ii)(C)(*2*)(*i*) of this section. The IFQ permit holder may calculate a revised fee liability for all or part of his or her IFQ landings.

(*i*) *Revised fee liability calculation*. To calculate a revised fee liability, an IFQ permit holder must multiply the IFQ percentage in effect by either the IFQ actual ex-vessel value or the IFQ standard ex-vessel of the IFQ landing. If parts of the landing have different values, the permit holder must apply the appropriate values to the different parts of the landings.

(*ii*) *Documentation*. If NMFS requests in writing that a permit holder submit documentation establishing the factual basis for a revised IFQ fee liability, the permit holder must submit adequate documentation by the 30th day after the date of such request. Examples of such documentation regarding initial sales transactions of IFQ landings include valid fish tickets, sales receipts, or check stubs that clearly identify the IFQ landing amount, species, date, time, and ex-vessel value or price.

(*3*) *Fee calculation section*—(*i*) *Information required*. An IFQ permit holder with an IFQ landing must record the following information on the Fee Calculation page: The name of the IFQ permit holder; the NMFS person identification number; the fee liability amount due for each IFQ permit he or she may hold; the IFQ permit number corresponding to such fee liability amount(s) due; the total price adjustment payment value for all IFQ halibut and/or sablefish (e.g., IFQ retro-payments) received during the reporting period for the IFQ Fee Submission Form as described in § 679.5(l)(7)(ii)(D); and the fee liability amount due for such price adjustments.

(*ii*) *Calculation of total annual fee amount*. An IFQ permit holder with an IFQ landing must perform the following calculations and record the results on the Fee Calculation page: add all fee liability amount(s) due for each IFQ permit and record the sum as the sub-total fee liability for all permits; multiply price adjustment payment(s) received for each IFQ species by the fee percentage in effect at the time the payment(s) was received by the IFQ permit holder; add the resulting fee

liability amounts due for all price adjustment payments for each IFQ species, then enter the sum as the sub-total fee for price adjustments; add the sub-total fee liability for all permits and the sub-total fee for price adjustments, then enter the resulting sum as the total annual fee amount on the Fee Calculation page and on the Fee Payment page.

(*4*) *Fee payment and certification section*—(*i*) *Information required*. An IFQ permit holder with an IFQ landing must provide his or her NMFS person identification number and must sign and date and have notarized by a Notary Public the Fee Payment section and record the following: his or her printed name; the total annual fee amount as calculated and recorded on the Fee Calculation page; the total of any pre-payments submitted to NMFS that apply to the total annual fee amount; the remaining balance fee; and the enclosed payment amount.

(*ii*) *Calculation of balance fee payment*. An IFQ permit holder with an IFQ landing must perform the following calculation on the Fee Payment section of the Fee Submission Form: Subtract from the total annual fee amount the total of all pre-payments made (if any) to NMFS and any credits held by NMFS that are applicable to that year's total IFQ cost recovery fees, and record the result as the balance of the fee amount due.

(D) *Reporting Period*. The reporting period of the IFQ Fee Submission Form shall extend from January 1 to December 31 of the year prior to the January 31 due date described in § 679.5(l)(7)(ii)(B).

* * * * *

5. In § 679.41, paragraph (c)(8) is revised and paragraph (c)(9) is added to read as follows:

§ 679.41 Transfer of quota shares and IFQ.

* * * * *

(c) * * *

(8)(i) The person applying to make or receive the IFQ or QS transfer has paid all IFQ fees that have become due as a result of an initial administrative determination.

(ii) The person applying to make or receive the IFQ or QS transfer who has not paid all IFQ fees that are due (as provided under § 679.45(a)) has timely appealed the administrative determination that IFQ fees have not been paid in full and has submitted to NMFS an amount sufficient to satisfy any disputed liability pending a final agency action.

(9) Other pertinent information requested on the Application for Transfer has been supplied to the satisfaction of the Regional Administrator.

* * * * *

6. Section 679.45 is added to Subpart D to read as follows:

§ 679.45 IFQ cost recovery program.

(a) *Cost recovery fees*—(1) *Responsibility*. The person documented on the IFQ permit as the permit holder at the time of an IFQ landing must comply with the requirements of this section. Subsequent transfer of QS or IFQ does not affect the permit holder's liability for noncompliance with this section.

(2) *IFQ Fee Liability Determination*. After each IFQ fishing year, the Regional Administrator will issue each IFQ permit holder a summary of his or her IFQ pounds landed during that IFQ fishing year for each permit as part of the IFQ Landing and Estimated Fee Liability page described at § 679.5(l)(7)(ii)(C)(*2*). The summary will include an estimated IFQ fee liability based on the standard ex-vessel values of the landings. The summary and estimated fee liability will include details of IFQ equivalent pounds landed by permit, port or port-group, species, date, and IFQ standard prices. The permit holder must either accept NMFS's estimate of IFQ liability or revise NMFS's estimate of IFQ fee liability using the Fee Submission Form described at § 679.5(l)(7)(ii). If the permit holder revises NMFS's estimate of his or her fee liability, NMFS may request in writing that the permit holder submit documentation establishing the factual basis for the revised calculation. If the permit holder fails to provide adequate documentation by the 30th day after the date of such request, NMFS will determine the IFQ permit holder's fee liability based on standard ex-vessel values.

(3) *Fee Collection*. An IFQ permit holder with an IFQ landing is responsible for self-collecting his or her own fee during the calendar year in which the IFQ fish is harvested.

(4) *Payment*—(i) *Payment due date*. An IFQ permit holder must submit his or her IFQ fee liability payment(s) to NMFS at the address provided in this section at paragraph (a)(4)(iii) of this section not later than January 31 of the year following the calendar year in which the IFQ landings were made.

(ii) *Payment recipient*. Make payment payable to NMFS.

(iii) *Payment address*. Mail payment and related documents to: Administrator, Alaska Region, NMFS, Attn: RAM Program, P.O. Box 21668, Juneau, AK 99802–1668, Facsimile: (907) 586–7354.

(iv) *Payment method*. Payment must be made by personal check drawn on a U.S. bank account, money order, or bank certified check.

(b) *IFQ ex-vessel value determination and use*—(1) *General*. An IFQ permit holder must use either the IFQ standard ex-vessel value or the IFQ actual ex-vessel value when determining the IFQ fee liability based on ex-vessel value. An IFQ permit holder must base all fee liability calculations on the ex-vessel value that correlates to landed IFQ fish that is recorded in IFQ equivalent pounds.

(2) *IFQ actual ex-vessel value*. An IFQ permit holder that uses actual ex-vessel value, as defined in § 679.2, to determine IFQ fee liability must document actual ex-vessel value for each IFQ permit.

(c) *IFQ standard ex-vessel value determination and use*—(1) *Use of standard price*. An IFQ permit holder that uses standard ex-vessel value to determine the IFQ fee liability as part of a revised IFQ fee liability submission must use the corresponding standard price(s) as published in the **Federal Register**.

(2) *Duty to publish list*—(i) *General*. Each year the Regional Administrator will publish IFQ standard prices in the **Federal Register** during the last quarter of each calendar year. The standard prices will be described in U.S. dollars per IFQ equivalent pound, for IFQ halibut and sablefish landings made during the current calendar year.

(ii) *Effective duration*. The IFQ standard prices will remain in effect until revised by the Regional Administrator by notification in the **Federal Register** based upon new information of the type set forth in this section. IFQ standard prices published in the **Federal Register** by NMFS shall apply to all landings made in the same calendar year as the IFQ standard price publication and shall replace any IFQ standard prices previously provided by NMFS that may have been in effect for that same calendar year.

(iii) *Determination*. NMFS will calculate the IFQ standard prices to reflect, as closely as possible by month and port or port-group, the variations in the actual ex-vessel values of IFQ halibut and IFQ sablefish landings based on information provided in the IFQ Buyer Reports as described in § 679.5(l)(7)(i). The Regional Administrator will base IFQ standard prices on the following types of information:

(A) Landed pounds by IFQ species, port-group, and month;

(B) Total ex-vessel value by IFQ species, port-group, and month; and

(C) Price adjustments, including IFQ retro-payments.

(d) *IFQ fee percentage.*—(1) *Default percentage.* The IFQ fee percentage is 3 percent (0.03) unless adjusted by the Regional Administrator by publication in the **Federal Register** in accordance with § 679.45(d)(3).

(2) *Calculating fee percentage value.* Each year the Regional Administrator will calculate the fee percentage.

(i) *Factors.* In making the calculations the Regional Administrator will consider the following factors:

(A) The catch to which the IFQ fee will apply;

(B) The projected ex-vessel value of that catch;

(C) The costs directly related to the management and enforcement of the IFQ program;

(D) The funds available for the IFQ program in the Limited Access System Administrative Fund (LASAF); and

(E) Nonpayment of fee liabilities.

(ii) *Methodology.* In making the calculation, the Regional Administrator will use the methodology described here.

[100 x (DPC - AB) / V] / (1 -NPR)

where:

DPC is the direct program costs for the IFQ fishery for the previous fiscal year,

AB is the projected end of the year LASAF account balance for the IFQ program,

V is the projected ex-vessel value of the catch subject to the IFQ fee for the current year, and

NPR is the fraction of the fee assessments that is expected to result in nonpayment.

(3) *Adjustments.* (i) *General.* During or before the last quarter of each year, the Regional Administrator will consider adjusting the IFQ fee percentage. Consideration will be based on the calculations described in § 679.45(d)(2). The Regional Administrator may reduce the IFQ fee percentage at any time based on new information of the type set forth in § 679.45(d)(2).

(ii) *In-season effective period.* An in-season reduction in the IFQ fee percentage supersedes the IFQ fee percentage previously in effect for the calendar year and remains in effect through the end of the calendar year in which it was determined unless otherwise adjusted by the Regional Administrator.

(4) *Publication.* The Regional Administrator will publish notification in the **Federal Register** any adjustment of the IFQ fee percentage.

(5) *Applicable percentage.* The IFQ permit holder must use the IFQ fee percentage in effect at the time an IFQ landing is made to calculate his or her fee liability for such landed IFQ pounds unless the percentage is subsequently adjusted as described in § 679.45(d)(3). The IFQ permit holder must use the IFQ percentage in effect at the time an IFQ retro-payment is received by the IFQ permit holder to calculate his or her IFQ fee liability for the IFQ retro-payment.

(e) *Non-payment of fee.* If an IFQ permit holder does not submit a complete Fee Submission Form and corresponding payment by the due date described in § 679.45(a)(2) and (3), the Regional Administrator may:

(1) At any time thereafter send an IAD to the IFQ permit holder stating that the IFQ permit holder's estimated fee liability, as calculated by the Regional Administrator and sent to the IFQ permit holder pursuant to § 679.45(a)(2) is the amount of IFQ fee due from the IFQ permit holder.

(2) Disapprove any transfer of IFQ or QS to or from the IFQ permit holder in accordance with § 679.41(c)(8)(i). Upon final agency action determining that an IFQ permit holder has not paid his or her IFQ fee liability, any IFQ fishing permit held by the IFQ permit holder is not valid until all IFQ fee liabilities are paid. If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(f) *Underpayment of IFQ fee.* (1) When an IFQ permit holder has incurred a fee liability and made a timely payment to NMFS of an amount less than the NMFS estimated IFQ fee liability, the Regional Administrator will review the Fee Submission Form and related documentation submitted by the IFQ permit holder. If the Regional Administrator determines that the IFQ permit holder has not paid a sufficient amount, the Regional Administrator may disapprove any transfer of IFQ or QS to or from the IFQ permit holder in accordance with § 679.41(c)(4). The Regional Administrator will notify the IFQ permit holder by letter that an insufficient amount has been paid and that the IFQ permit holder has 30 days from the date of the letter to either pay the amount determined to be due or provide additional documentation to prove that the amount paid was the correct amount. The Regional Administrator will evaluate any additional documentation submitted by an IFQ permit holder in support of his or her payment. If the Regional Administrator determines that the additional documentation does not meet the IFQ permit holder's burden of proving his or her payment is correct, the Regional Administrator will send the permit holder an IAD indicating that the permit holder did not meet the burden of proof to change the IFQ fee liability as calculated by the Regional Administrator based upon the IFQ standard ex-vessel value.

(2) After expiration of the 30-day period, the Regional Administrator will issue an IAD and notify the IFQ permit holder. The IAD will set out the facts and indicate the deficiencies in the documentation submitted by the permit holder. An IFQ permit holder who receives an IAD may appeal pursuant to § 679.43. In an appeal of an IAD made under this section, the IAD permit holder has the burden of proving his or her claim.

(3) If the permit holder fails to file an appeal of the IAD pursuant to § 679.43, the IAD will become the final agency action. If the IAD is appealed and the final agency action is a determination that additional sums are due from the IFQ permit holder, the IFQ permit holder must pay any IFQ fee amount determined to be due not later than 30 days from the issuance of the final agency action. Once a fee liability determination becomes final, any IFQ fishing permit held by the IFQ permit holder will be deemed not valid until all IFQ fee liabilities have been paid. If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(g) *Over payment.* Upon issuance of final agency action, any amount submitted to NMFS in excess of the IFQ fee liability determined to be due by the final agency action will be returned to the IFQ permit holder unless the permit holder requests the agency to credit the excess amount against the IFQ permit holder's future IFQ fee liability.

(h) *Appeals and requests for reconsideration.* An IFQ permit holder who receives an IAD may either appeal the IAD pursuant to § 679.43 or request reconsideration. Within 60 days from the date of issuance of the IAD, the Regional Administrator may undertake a reconsideration of the IAD on his or her own initiative. If a request for reconsideration is submitted or the Regional Administrator initiates a reconsideration, the 60-day period for appeal under § 679.43 will begin anew upon issuance of the Regional Administrator's reconsidered IAD. The Regional Administrator may undertake only one reconsideration of the IAD, if any. If an IFQ permit holder fails to file an appeal of the IAD pursuant to § 679.43, the IAD will become the final agency action. In any appeal or reconsideration of an IAD made under this section, an IFQ permit holder has the burden of proving his or her claim.

(i) *Annual report.* NMFS will publish annually a report describing the status of the IFQ Cost Recovery Program.

[FR Doc. 00–6674 Filed 3–14–00; 4:53 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000211039–0039–01; I.D. 031000A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 outside the Shelikof Strait conservation area in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the pollock total allowable catch (TAC) for Statistical Area 620 outside the Shelikof Strait conservation area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 15, 2000, until 1200 hrs, A.l.t., August 20, 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.

In accordance with § 679.20(c)(3)(ii), the B season allowance of pollock TAC in Statistical Area 620 outside the Shelikof Strait conservation area is 273 metric tons (mt) as established by the Final 2000 Harvest Specifications for Groundfish (65 FR 8298, February 18, 2000) and subsequent correction (65 FR 11909, March 7, 2000).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the B season allowance of the pollock TAC in Statistical Area 620 outside the Shelikof Strait conservation area will be reached and is necessary as incidental catch to support other anticipated groundfish fisheries. Consequently, the Regional Administrator establishes the B season directed fishing allowance as zero. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 outside 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 Statistical Area 620 outside 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: March 15, 2000.

Gary C. Matlock,

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

[FR Doc. 00–6831 Filed 3–15–00; 2:31 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 54
Monday, March 20, 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 AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 360

[Docket No. 98–064–1]

RIN 0579–AB07

Noxious Weed Regulations; Update of Current Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: We are considering revising the noxious weed regulations issued under the Federal Noxious Weed Act in order to maximize their effectiveness. We believe changes may be necessary to improve control and limit the spread of invasive weed species that are not covered under the current noxious weed regulations. We are considering categorizing weeds according to geographic, regulatory, and other criteria. This notice solicits public comment on these categories and on the criteria for assigning weeds to each category. We are also asking the public to help us determine how to prioritize funding resources for existing and future programs. After evaluating public comment on the issues presented in this document, we will determine whether to propose changes to our regulations.

DATES: We invite you to comment on this docket. We will consider all comments we receive by May 19, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 98–064–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 98–064–1.

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

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

FOR FURTHER INFORMATION CONTACT: Ms. Polly Lehtonen, Botanist, Scientific Services, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–8896.

SUPPLEMENTARY INFORMATION:

Background

The noxious weeds regulations, contained in 7 CFR part 360 and referred to below as the regulations, were established in 1976 under the authority of the Federal Noxious Weed Act (FNWA) of 1974 (7 U.S.C. 2801 *et seq.*). The FNWA authorizes the Animal and Plant Health Inspection Service (APHIS) to regulate the movement of noxious weeds into or through the United States, and interstate, in order to prevent the artificial spread of noxious weeds into noninfested areas of the United States.

APHIS lists noxious weeds in § 360.200 of the regulations.[1] In this section, weeds are divided into three categories: Aquatic weeds, parasitic weeds, and terrestrial weeds. In order for a weed to be listed, it must meet the definition contained in the FNWA for ''noxious weed.'' The FNWA defines a ''noxious weed'' as

> ''* * * any living stage (including but not limited to, seeds and reproductive parts) of any parasitic or other plant of a kind, or subdivision of a kind, which is of foreign origin, is new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation or the fish or wildlife resources of the United States or the public health * * *''

[1] This list is also available on the Internet at http://www.aphis.usda.gov/ppq/bats/fnwsbycat-e.html. Copies of the lsit are also available by contacting Polly Lehtonen at the address listed under **FOR FURTHER INFORMATION CONTACT**.

In simple terms, for a weed to be listed in § 360.200:

- It must have demonstrated that it is harmful to crops, other plants, livestock, poultry, or other interests of agriculture, including irrigation, navigation, the fish or wildlife resources of the United States, or the public health.
- It must be a species of plant that is not native to the United States.
- It must be new to or not be widely prevalent in the United States.

Under the current regulations, listed Federal noxious weeds are only eligible to be moved into and through the United States, or interstate, under a permit granted by APHIS. Persons who move noxious weeds under permit must follow all the conditions contained in the permit with regard to storage, shipment, cultivation, and propagation.

APHIS actively participated in developing the National Strategy for Invasive Plant Management, endorsed and supported by Federal and State Government agencies and nongovernmental private sector interests. The strategy outlines a nationwide effort to address the problem of invasive plant species in the United States. Invasive plant species are plants that are defined as ''noxious weeds'' under the FNWA, as well as other plant species that are, or may be, harmful to crops, other plants, livestock, poultry, fish and wildlife resources, natural areas, or the public health. Effective regulation is a crucial part of the strategy's first goal: effective prevention.

Consistent with that goal and with Executive Order 13112 of February 3, 1999, ''Invasive Species,'' in this document we are informing the public that we are considering revising the Federal noxious weed regulations by creating two categories in which weeds would be grouped according to their distribution. We are also considering, among other things, creating additional weed lists for informational purposes that would contain weeds that are not currently defined as Federal noxious weeds. We are requesting public comment on this initiative.

Requests To Amend the Weed List

In recent years, scientists, State governments, environmental groups, trade groups, and farmers, among others, have requested that APHIS adopt new measures to provide additional safeguards against the introduction and

spread of noxious weeds in the United States. These groups and individuals have expressed concern with the limitations of our current weed-listing policy. They have requested that APHIS provide additional guidance in the identification and control of plants that may not meet the FNWA's definition of ''noxious weed'' but that are known to cause damage to crops, livestock and poultry, and natural ecosystems, and that could otherwise be defined as invasive plant species. These stakeholders perceive that the formal listing of such weeds would be a catalyst for creating awareness and encouraging participation by, and cooperation between, State and local governments and natural resource organizations to establish effective control initiatives.

How the Weed List Could Be Amended

In order to direct safeguarding resources appropriately, we are considering revising the current noxious weed list to categorize noxious weeds according to their distribution. The existing list of Federal noxious weeds would be divided into two categories: (1) Weeds that do not exist in the United States, and (2) weeds that do exist in the United States. For Category 1 weeds, resources would be directed towards exclusion and early detection. For Category 2 weeds, resources would be directed towards exclusion, delimiting surveys, eradication, and containment and/or control.

Further, in order to better address the threat posed to crops, other useful plants, livestock, poultry, fish and wildlife resources, natural areas, and the public health by ''widespread'' native and nonnative weeds, we are considering creating two additional categories of plants that are not currently regulated under the FNWA, but are regulated as noxious weeds by at least one State, or that are believed to be invasive plant species.

Category 1

In developing the Category 1 list, we listed a weed based on the following criteria:

- It is currently listed as a Federal noxious weed (i.e., it has demonstrated that it is harmful to crops, other plants, livestock, poultry, or other interests of agriculture, including irrigation, navigation, the fish or wildlife resources of the United States, or the public health).
- It is not known to exist in the United States.

Weeds that would be listed in this category are known to be harmful and invasive in their native regions or other regions. Additional weeds could be added to this list under the same conditions currently used to identify new or unlisted Federal noxious weeds. The following table lists the weeds currently contained in the Federal noxious weed list that we believe would meet the above criteria.

CATEGORY 1

Federal noxious weed	Common name
Aeginetia spp.	aeginetia.
Alectra spp.	alectra.
Azolla pinnata	mosquito fern, water velvet.
Carthamus oxyacantha	wild safflower.
Caulerpa taxifolia (Mediterranean clone)	caulerpa.
Cuscuta spp. (other than native or introduced species)	dodder.
Digitaria abyssinica	African couchgrass.
Drymaria arenarioides	lightning weed.
Lagarosiphon major	oxygen weed.
Leptochloa chinensis	Asian sprangletop.
Lycium ferocissimum	African boxthorn.
Mikania cordata	mile-a-minute.
Monochoria hastata	monochoria.
Nassella trichotoma	serrated tussock.
Opuntia aurantiaca	jointed prickl pear.
Oryza longistaminata	red rice.
Oryza punctata	red rice.
Prosopis alpataco	mesquite.
Prosopis argentina	mesquite.
Prosopis articulata	mesquite.
Prosopis burkartii	mesquite.
Prosopis caldenia	mesquite.
Prosopis calingastana	mesquite.
Prosopis campestris	mesquite.
Prosopis castellanosii	mesquite.
Prosopis denudans	mesquite.
Prosopis elata	mesquite.
Prosopis ferox	mesquite.
Prosopis fiebrigii	mesquite.
Prosopis hassleri	mesquite.
Prosopis humilis	mesquite.
Prosopis kuntzei	mesquite.
Prosopis palmeri	mesquite.
Prosopis rojasiana	mesquite.
Prosopis ruizlealii	mesquite.
Prosopis ruscifolia	mesquite.
Prosopis sericantha	mesquite.
Prosopis torquata	mesquite.
Sparganium erectum	exotic bur-reed.
Spermacoce alata	borreria.
Striga spp. (other than S. asiatica and S. Gesnerioides)	witchweed.

Once again, the weeds listed above are weeds that we believe do not exist in the United States. If you believe that any of the weeds listed above exists in your area, or in another area of the United States, please submit a written comment to the address listed under **ADDRESSES**.

Category 2

In developing the Category 2 list, we listed a weed based on the following criteria:

• It is currently listed as a Federal noxious weed (*i.e.,* it has demonstrated that it is harmful to crops, other plants, livestock, poultry, or other interests of agriculture, including irrigation, navigation, the fish or wildlife resources of the United States, or the public health; it is not a species of plant native to the United States; and it is new to or not widely prevalent in the United States).

• It occurs (or is suspected to occur) somewhere in the United States.

For a weed to be considered ''new to or not widely prevalent,'' it must not exist in more than a few States. Generally, we have considered weeds that were known to exist in only a few States at the time of listing as eligible for inclusion in the Federal noxious weed list. However, we make exceptions to this policy for weeds that have spread beyond a few States prior to listing if we believe such weeds occupy only a fraction of their full potential range and present a serious threat to other plants, crops, livestock, poultry, or other interests of agriculture.

The table below lists noxious weeds currently listed in the regulations that are known to exist in some areas of the United States. For each listed weed, we have also indicated the State(s) where that weed is believed to exist.

CATEGORY 2

Federal noxious weeds, introduced	Common name	Suspected distribution
Ageratina adenophora	crofton weed	HI, CA
Alternanthera sessilis	sessile joyweed	HI, PR, FL, MD, GA, LA, VI, TX, MS, SC, Al
Asphodelus fistulosus	onionweed	CA, TX, NM
Avena sterilis	animated or wild oat	PA, NJ, CA, OR, VT
Chrysopogon aciculatus	Pilipiliula	HI
Commelina benghalensis	Benghal dayflower	FL, HI, GA, CA, LA
Crupina vulgaris	common crupina	ID, OR, WA, CA, MA
Digitaria velutina	velvet fingergrass TX	
Eichhornia azurea	anchored waterhyacinth	PR, FL
Emex australis	three-comered jack	CA
Emex spinosa	devil's thorn	HI, CA, MA, NJ, TX
Galega officinalis	goatsrue	UT, NY, PA, CT, ME, MA, NE, CO, MD, WA
Heracleum mantegazzianum	giant hogweed	NY, WA, ME, PA, MI
Hydrilla verticillata	hydrilla	widespread (16 States)
Hygrophila polysperma	Miramar weed	FL, VA, TX
Imperata brasiliensis	Brazilian satintail	AL, FL, LA, MS, SC, PR
Imperata cylindrica	cogongrass	AL, FL, GA, HI, MS, OR, LA, SC
Ipomoea aquatica	Chinese waterspinach	CA, FL, TX, HI, PR
Ischaemum rugosum	murain-grass	MD
Limnophila sessiliflora	ambulia	FL, TX, GA
Malaleuca quinquenervia	melaleuca	FL, CA, HI, PR
Melastoma malabathricum	melastoma	HI
Mikania micrantha	mile-a-minute	PR
Mimosa invisa (now in Mimosa diplotrichia)	giant sensitive plant	PR
Mimosa pigra	catclaw mimosa	FL, TX, PR
Monochoria vaginalis	monochoria	CA, HI
Orobanche minor	small broomrape	WA, OR, FL, GA, SC, NC, VA, WV, MD, DE, NJ, PA, NY
Orobanche ramosa	branched broomrape	CA, TX, NC, IL, KY, NJ
Oryza rufipogon	red rice	FL, CA
Ottelia alismoides	duck-lettuce	CA, LA, TX
Paspalum scrobiculatum	Kodo-millet	HI, FL, NJ, TX, MD
Pennisetum clandestinum	Kikuyugrass	CA, HI, AZ, PR
Pennisetum macrourum	African feathergrass	CA, HI
Pennisetum pedicellatum	kyasuma-grass	FL
Pennisetum polystachion	missiongrass	HI, PR, FL
Prosopis farcta	mesquite	AZ
Prosopis pallida	mesquite	HI, PR, VI
Prosopis reptans	mesquite	TX
Prosopis strombulifera	mesquite	CA
Rottboelia cochinchinensis	itchgrass	AL, AR, FL, GA, IN, LA, MS, NC, PR, TX
Rubus fruticosus	wild blackberry complex	NC, SC, VA, WV
Rubus moluccanus	wild blackberry	HI
Saccharum spontaneum	wild sugarcane	FL, HI, PR
Sagittaria sagittifolia	arrowhead	HI
Salsola vermiculata	wormleaf salsola	CA
Salvinia auriculata	giant salvinia	PR
Salvinia molesta	giant salvinia	TX, LA, SC, MS, AL, FL, HI, NC
Setaria pallide-fusca (=S. pumila ssp. pallidifusca).	cattail grass	LA, OR, TX, FL, MD, CA
Solanum tampicense	wetland nightshade	FL
Solanum torvum	turkey berry	FL, HI, PR, CA, AL, MD, VI
Solanum viarum	tropical soda apple	FL, LA, MS, GA, AL, TN, PR
Striga asiatica	witchweed	NC, SC

CATEGORY 2—Continued

Federal noxious weeds, introduced	Common name	Suspected distribution
Striga gesnerioides	indigo witchweed	FL
Tridax procumbens	coat buttons	FL, HI, PR, TX, VI
Urochloa panicoides	liverseed grass	TX, NM, MD

Distributions derived from: PLANTS database, USDA, NRCS, 1997 (http://plants.usda.gov), and Biota of North America Program (BONAP) North Carolina Botanical Garden at UNC Chapel Hill (http://www.cdsl.tamu.edu/FLORA/b98/check98.htm).

If you believe that the distribution of any Category 2 weed listed above is incorrect, please submit a comment to the address provided under **ADDRESSES.**

Category 3

In developing the Category 3 list, we listed a weed based on the following criteria:

• It is not currently listed as a Federal noxious weed.

• It is listed as a weed in at least one State's plant protection regulations.

We would publish this list periodically in the **Federal Register** and on the Internet as an informational service to States, other Federal agencies, and various interest groups. This list would serve as a reference for the public, containing a comprehensive listing of all applicable weeds and the States that list them as noxious weeds. The most current Category 3 list is available on the Internet at http://www.aphis.usda.gov/ppd/rad/noxweeds.html. Copies are also available by contacting Ms. Polly Lehtonen at the address listed under **FOR FURTHER INFORMATION CONTACT.** As stated earlier in this document, weeds listed in Category 3 would not be subject to Federal regulation, and the importation or interstate movement of such weeds would not be restricted.

Category 4

We have not yet developed a Category 4 list, but a weed would likely be listed in Category 4 based on the following, and perhaps other criteria:

• It is not currently listed as a Federal noxious weed.

• It is not listed as a weed in any State's plant protection regulations.

• It has been documented to be an invasive plant species.

We would publish this list periodically in the **Federal Register** and on the Internet as an informational service to States, other Federal Agencies, and various interest groups. This list would serve as a reference for the public, containing a comprehensive listing of all applicable weed species that are not listed in Federal or State regulations, but that are believed to be an invasive plant species. As stated earlier in this document, weeds listed in Category 4 would not be subject to Federal or State regulation.

We would like your comments regarding any additional criteria that you think should be used to determine which weeds should be included in the Category 4 list, including whether we should base the Category 4 list on lists of invasive plant species maintained by scientists in the private sector, such as *Alien Plant Invaders of Natural Areas.*[2] What weed lists should we base the Category 4 list on? If we base the Category 4 list on such weed list(s), should we exclude listed weeds if the weeds are economically valuable to domestic or international trade? What criteria, economic or otherwise, should we base such exclusions on?

Questions—New Weed Categories

We would like your comments as to whether and how these new categories would improve our efforts to control and limit the spread of Federally listed noxious weeds and other weed species. In particular, we would like you to address as many of the following questions as you can:

• Should we divide the current Federal noxious weed list into two categories (Category 1, Federal noxious weeds that do not exist in the United States, and Category 2, Federal noxious weeds that exist in some areas of the United States)?

• Regarding Category 2: Is our listing of the distribution of Federal noxious weeds accurate? Do listed noxious weeds exist in States other than those listed? Have we listed States where a weed is not known to exist?

• As shown in the Category 2 list above, several of the weeds currently listed have spread beyond a few States since their listing (some to as many as 16 States). Should we continue to list weeds that have spread beyond a few States since the time they were originally listed as Federal noxious weeds? At what point should a noxious weed be deleted from Federal regulation by removing it from Category 2? Should any weeds currently listed in Category 2 be moved into Category 3 or Category 4? How should we interpret the part of the FNWA definition of ''noxious weed'' that states that weeds must be ''new to, or not widely prevalent in the United States''? How new is ''new to''? Within the last century? Within the last decade? Rather than consider the number of States a weed occurs in, APHIS could consider whether a weed occupies its full potential biological range. ''Not widely prevalent'' could be defined as ''not yet widely prevalent throughout the weed's potential biological range.'' The difficulty with such an interpretation is that we do not know the potential biological range for most of the weeds already listed. Phytotron studies are expensive and time consuming, and the software for estimating range has limitations. What criteria should APHIS use to determine if a weed is or is not widely prevalent?

• Should we make available and maintain the Category 3 and Category 4 lists as outlined above? Would these lists be useful to States and the public, even though they would not have any binding effect, and would not be accompanied by additional funding to State and local weed control programs?

• In the Category 1 and Category 2 lists, we could continue to group weeds according to their habitat (i.e., aquatic, terrestrial, parasitic). Should there be other divisions within any of the four categories? Should there be fewer than four categories? Should the criteria for listing in any of the categories be modified?

States maintain unique noxious weed lists that often include weeds that do not meet the definition of a Federal noxious weed, but that are of local concern. We would provide a summary of these lists as an informational service. We would make no endorsement regarding the listings, nor would we sanction actions of States pursuant to the listings. Since each State has unique restrictions regarding noxious weeds, we ask that the public please refrain

[2] *Alien Plant Invaders of Natural Areas*—a developing list based on a variety of sources, including those produced or published by The Nature Conservancy (John M. Randall, 1995), California Exotic Pest Plant Council, Florida Exotic Pest Plant Council, Tennessee Exotic Pest Plant Council, University of Hawaii (Hawaii Ecosystems at Risk Project), Faith T. Campbell, Maryland Natural Heritage Program, the University of Florida, and University of Georgia (Kim D. Coder). Available on the World Wide Web at http://www.nps.gov/plants/alien/scie-d.thm.

from commenting on the individual weed listings contained in Category 3. We are unable to address questions or comments regarding the individual Category 3 listings, especially questions or comments regarding particular State regulations and/or restrictions on particular weeds. Such concerns should be addressed to the appropriate State plant board. State officials are requested to submit amendments to their weed list that have been made since the drafting of this rule.

Other Questions

Sterile Cultivars of Federal Noxious Weeds

Imperata cylindrica, a listed Federal noxious weed, has sterile cultivars that are widely planted in the United States and extensively sold in the nursery trade. The wild, seed-producing biotype is clearly undesirable, but many in the nursery trade consider the sterile cultivars to be well-behaved ornamentals. Should there be a category of Federal noxious weeds where only seed producing cultivars are regulated, such that sterile cultivars would be exempt from the regulations? *Imperata cylindrica* would be moved into this category, and other species, such as *Vetiveria zizanioides,* vetiver grass, could be listed in this category as well. Seeds of weeds in this category (and by extension, the commodities they reside in) would be prohibited from entering the United States or moving interstate, but vegetatively produced sterile stock could be moved without restriction.

Weeds for Human Consumption

Some of the currently listed Federal noxious weeds are valued as foods by various groups. For example, *Ipomoea aquatica* (Chinese water spinach) was imported in large quantities before it was listed as a Federal noxious weed and is now widely available in specialty markets around the United States. Should APHIS issues permits for the importation and interstate movement of certain weeds for consumption only? If so, under what conditions?

Pest Risk Assessments

APHIS uses pest risk assessments (PRA's) as a basis for weed exclusion decisions. Individuals with an interest in seeing a particular plant species listed as a Federal noxious weed (Category 1 or Category 2) may submit draft risk assessments for review and consideration. Some of the Category 3 and Category 4 weeds might also be candidates to be listed as Federal noxious weeds, and proponents may submit draft risk assessments for review. The PRA guidelines for weeds are available on the Internet at ''http://www.aphis.usda.gov/ppq/weeds/weedsrisk99.html''. The main components of a risk assessment include:

1. Taxonomy and description of the plant species.
2. Distribution.
3. Local, State, or other control efforts in the United States.
4. Determination of the consequences of introduction by considering risk elements 1–4.
   Risk element 1. Habitat suitability in the United States.
   Risk element 2: Spread potential after establishment, dispersal potential.
   Risk element 3: Economic impact.
   Risk element 4: Environmental impact.
5. Determination of the likelihood of introduction or spread.
6. Citation of references.

We welcome comments related to risk assessment guidelines and the process itself.

Allocation of Resources and Funding

Given that APHIS has limited resources for weed programs, should we focus all our resources on the exclusion of weeds not yet introduced into the United States (Category 1) and on the control and eradication of introduced weeds of limited distribution (Category 2)? Which programs should receive the highest priority for funding? Should we also provide additional guidance on controlling widespread weeds (Category 3 and Category 4)? What kind of guidance should we provide regarding the Category 3 and Category 4 lists?

APHIS conducts the following activities under the weed program. In what order of priority should limited resources be devoted? Which of these activities should receive highest priority? Which should receive lowest?

- Port of entry inspection and detection.
- Eradication of incipient infestations.
- Review of weed permit applications and issuance of weed permits.
- Survey and early detection of noxious weeds.
- Risk assessment to support new listings or delistings.
- Devitalization studies (for example, heat, radiation, and microwave treatments for commodities infested with noxious weeds).
- Weed control technology, development and transfer.
- Regulation review and revision (regulations promulgated under the Federal Noxious Weed Act, Federal Seed Act, and Federal Plant Pest Act).
- Data management.
- Public education.
- Integrated management of introduced weeds (*e.g.,* through biological control), in cooperation with other agencies.

We invite comments on these topics. We also welcome ideas as to different approaches we might take to improve our weed programs. In responding to the questions posed in this notice, commenters are urged to include economic reasons and data supporting their positions, whenever possible.

Authority: 7 U.S.C. 2803 and 2809; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 15th day of March 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–6825 Filed 3–17–00; 8:45 am]

BILLING CODE 3410–34–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM–26–1–6944b; FRL–6561–7]

Approval and Promulgation of Implementation Plan for New Mexico: Transportation Conformity Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a revision to the New Mexico State Implementation Plan (SIP) that contains the transportation conformity rule. If EPA approves this transportation conformity SIP revision, the New Mexico Environment Department will be able to implement and enforce the Federal transportation conformity requirements at the State level per regulations on Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. This proposed action would streamline the conformity process and allow direct consultation among agencies at the local levels. The proposed approval is limited to regulations on Transportation Conformity. The EPA approved the SIP revision for conformity of general Federal actions on September 9, 1998 (61 FR 48407).

The EPA is proposing to approve this SIP revision under sections 110(k) and 176 of the Federal Clean Air Act. The EPA has given its rationale for the

proposed approval and other information in the Final Rules section of this **Federal Register**.

In the ''Rules and Regulations'' section of **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial revision and anticipate no adverse comment. The EPA has explained its reasons for this approval in the preamble to the direct final rule. If EPA receives no adverse comment, EPA will not take further action on this proposed rule. If EPA receives adverse comment, EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: We must receive your comments on this proposed rule in writing, by April 19, 2000. If we do not receive any adverse comment, then the direct final rule will be effective on May 19, 2000.

ADDRESSES: You should send your written comments to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PDL) at the address given below. You may inspect copies of the State's SIP revision and other relevant information during normal business hours at the following locations. If you wish to examine these documents, you should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone: (214) 665–7214.

New Mexico Environment Department, Harold Runnels Building, 1190 St. Francis Drive, P.O. Drawer 226110, Santa Fe, New Mexico, telephone: (505) 827–4200.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E. or Mr. Ken Boyce; Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone (214) 665–7247 or (214) 665–7259, respectively. *behnam.jahanbakhsh@epamail.epa.gov* or *boyce.kenneth@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION: If you wish to obtain additional information, you should read the Direct Final rule which is located in the Rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Transportation conformity, Transportation-air quality planning, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671 *et seq.*

Dated: March 8, 2000.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

[FR Doc. 00–6564 Filed 3–17–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Great Basin Redband Trout as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the Fish and Wildlife Service (Service), announce a 12-month finding for a petition to list the Great Basin redband trout (*Oncorhynchus mykiss* ssp.) as threatened or endangered pursuant to the Endangered Species Act of 1973, as amended (Act). Great Basin redband trout maintain viable and self-sustaining populations in the Catlow, Fort Rock, Harney, Goose Lake, Warner, and Chewaucan Basins that make up Oregon's Great Basin. Great Basin redband trout densities are moderate to high in each of these basins. After review of all available scientific and commercial information, we find that listing the Great Basin redband trout is not warranted at this time.

DATES: The finding announced in this document was made on March 13, 2000.

ADDRESSES: You may submit questions concerning this petition finding to the Field Supervisor, U.S. Fish and Wildlife Service, Oregon State Office, 2600 SE. 98th Ave., Suite 100, Portland, Oregon 97266. You may obtain copies of the status review for Great Basin redband trout from the above address. The complete administrative file for this finding is also available for inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Antonio Bentivoglio, at the above address, or telephone (503) 231–6179.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending listing proposals of higher priority. Such 12-month findings are to be published promptly in the **Federal Register**.

The processing of this petition finding 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 lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of this petition finding is a Priority 4 action and is being completed in accordance with the current Listing Priority Guidance.

On September 8, 1997, we received a formal petition to list the Great Basin redband trout as threatened or endangered throughout its range in southeastern Oregon, northeastern California, and northwestern Nevada. Specifically the petition addressed the redband trout populations in Catlow, Fort Rock, Harney, Goose Lake, Warner, and Chewaucan Basins (together these six closed basins make up the Great Basin as described in the petition). The petition also requested the designation of critical habitat concurrent with listing. Petitioners included the Oregon Natural Desert Association (ONDA), Oregon Trout, Native Fish Society, and the Oregon Council of Trout Unlimited.

At the time the petition was received, we were operating under the final listing priority guidance for fiscal year 1997, published December 5, 1996 (61 FR 64475), and an extension of that listing priority guidance published October 23, 1997 (62 FR 55268). Based on biological considerations, the guidance established a ''multi-tiered approach that assigned relative priorities, on a descending basis, to

actions carried out under section 4 of the Act'' (61 FR 64479).

On September 24, 1997, we sent a letter to the main petitioner, ONDA, acknowledging receipt of the Great Basin redband trout petition and stating our intent to proceed with a 90-day finding according to the listing priority guidance issued on December 5, 1996 (61 FR 64475). On November 10, 1997, we sent a letter to ONDA informing them that we had done a preliminary review of the petition (as described in 61 FR 64475) and no emergency existed for listing the Great Basin redband trout and, therefore, that the petition fell into the Tier 3 category as described in 61 FR 64475.

We further indicated that our Oregon Fish and Wildlife Office (which was assigned the responsibility for processing the petition) in Portland, Oregon, would continue to direct personnel and budget toward accomplishment of ongoing Tier 2 and Tier 3 activities for species judged to be in greater need of the Act's protection than Great Basin redband trout. As these higher priority activities were accomplished, and personnel and funds became available, we would proceed with the 90-day finding on the petition for Great Basin redband trout.

On January 13, 1998, we received a notice of intent to sue from the petitioners for failure to respond to the Great Basin redband trout petition within 90 days. On March 13, 1998, a lawsuit was filed asking for declaratory judgment that we failed to make a 90-day finding on the petition to list the Great Basin redband trout.

On May 8, 1998, we published the final listing priority guidance for fiscal years 1998 and 1999 (63 FR 25502). This new guidance changed the four-tier priority system to a three-tier system. Under the three-tier system, first priority (Tier 1) was completion of emergency listings for species facing the greatest risk to their well-being. Second priority (Tier 2) was processing final decisions on pending proposed listings; processing new proposals to add species to the list; processing 90-day and 12-month administrative findings on petitions to add species to the lists, and petitions to delist or reclassify species; and delisting or downlisting actions on species that have achieved or are moving toward recovery. Third priority (Tier 3) was processing petitions for critical habitat designations and preparing proposed and final critical habitat designations. Under the new guidance, the processing of the Great Basin redband trout petition was a Tier 2 action.

On November 16, 1998, we published a 90-day finding (63 FR 63657) that the petition provided substantial information indicating that the listing of the Great Basin redband trout as threatened or endangered may be warranted. At the time, we initiated a status review for the Great Basin redband trout with a request for information and public comment with a closing date of January 15, 1999. On January 6, 1999 (64 FR 821), the public comment period was extended until March 16, 1999. Public information meetings were held in Lakeview, Oregon, on February 2, 1999, and in Burns, Oregon, on February 3, 1999.

On November 23, 1998, Earthlaw filed a notice of intent to sue for violation of the Act. On March 22, 1999, a lawsuit was filed by the Southwest Center for Biological Diversity for failure to complete a 12-month finding on the Great Basin redband trout. On November 17, 1999, the Court ordered us to complete the 12-month finding by March 15, 2000.

Status Review

A status review team consisting of our biologists was appointed to prepare the status review for Great Basin redband trout and make appropriate recommendations in response to the petitioned listing action.

Redband trout are related to the more widely distributed rainbow trout (*Oncorhynchus mykiss*). Great Basin redband trout occur in Oregon's Great Basin, which comprises six closed basins in southeastern Oregon, and small portions of northeastern California and northwestern Nevada. These six basins have no direct connection to the ocean. Several of these basins have semipermanent lakes or marshes that redband trout occupy when they contain water. Severe drought in the early 1990s dried up most of these lakes, restricting the redband trout to streams. Great Basin redband trout have a distinctive red stripe on both sides, and smaller individuals have parr marks (dark lateral marks typical of immature trout) (Hendricks 1995). These trout are adapted to the dry, hot summers of eastern Oregon and can withstand short periods of time at peak water temperatures of 24–27° C (75–80° F), which would be lethal to most other trout (Bowers *et al.* 1979).

Petitioners' Assertions

The petitioners asserted that non-anadromous redband trout populations in the Great Basin and Columbia Plateau are extinct in 72 percent of their historic range, and strong populations remain in only 10 percent of their historic habitat. The petitioners indicated that habitat degradation from improper livestock grazing practices, irrigation, stream channel manipulation, and timber harvest impact redband trout by increasing erosion of stream banks, increasing sedimentation, reducing stream bottom complexity, widening and shallowing the stream cross-sections, increasing stream temperatures, reducing streamside vegetation, fragmenting populations, dewatering streams, reducing water tables, and reducing the amount of large, woody debris. The petitioners presented the effects of such degradation for each individual basin and as widespread occurrences in the Great Basin.

The petitioners provided evidence that introgression and competition by introduced fishes are threats to the continued existence of Great Basin redband trout. Introgression resulting from Great Basin redband trout interbreeding with stocked hatchery rainbow trout reduces the native redband offspring's ability to survive harsh Great Basin conditions; introduced nonnative fishes (both hatchery rainbow trout (*Oncorhynchus mykiss*) and species like brook trout (*Salvelinus fontinalis*), carp (*Cyprinus carpio*), bass (*Micropterus* spp.), catfish (*Ictalurus* spp.), and crappie (*Pomoxis* spp.) feed on or compete with native redband for resources and can degrade the habitat.

The petitioners asserted that threats to Great Basin redband trout remain because of the inadequacy of existing regulations. They also asserted that emergency fishing regulations, conservation/protective designations by government agencies and professional societies, water quality protection measures, and other current and planned conservation measures have failed to stop the decline of Great Basin redband trout.

Petition Finding

In response to our 90-day finding notice, we received information on Great Basin redband trout from State fish and wildlife departments, the U.S. Forest Service (USFS), the Bureau of Land Management (BLM), and private corporations, as well as private citizens, organizations, species experts, and other entities. We also reviewed information on Great Basin redband trout obtained from peer-reviewed journal articles, agency reports and file documents, and telephone interviews and written correspondence with natural resources managers familiar with Great Basin redband trout.

For the purposes of the status review, we assumed that trout classified by State fish and wildlife departments in the six basins as redband trout represent the Great Basin redband trout, even though the precise genetic characteristics of those stocks may not be known. In addition, we evaluated Great Basin redband trout status solely on the basis of Great Basin redband trout stocks that currently occur within the historic range of the subspecies.

Distinct Vertebrate Population Segment Analysis

Species is defined in the Act as ''any subspecies of fish or wildlife or plants, and any distinct population segment (DPS) of any species of vertebrate fish or wildlife that interbreeds when mature.'' Thus, DPSs are eligible for protection under the Act. One of the purposes of defining species to include subspecies and DPSs is to conserve genetic diversity that is found in a taxon smaller than a species.

On February 7, 1996, we published a joint policy with the National Marine Fisheries Service to clarify our interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying species under the Act (61 FR 4721). This policy consists of three elements to be considered in a decision regarding the status of a possible DPS as endangered or threatened under the Act—(1) the discreteness of the population segment in relation to the remainder of the species or subspecies to which it belongs; (2) the significance of the population segment to the species or subspecies to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing.

The petitioners stated their belief that grouping the redband trout populations from the six basins qualified as a DPS. They also stated that they would not object to identifying as a DPS each of the populations in the six basins specified in the petition. To determine the most appropriate grouping, we analyzed existing scientific information for designation of the redband trout in the six basins as one DPS, as six individual DPSs, or as any number between one and six DPSs.

The first criterion to be fulfilled in designating a DPS is discreteness of the taxon in question. As defined in our policy (61 FR 4721), discreteness may include physical, physiological, ecological, or behavioral factors showing a marked separation from other populations. The information summarized in the status report (Service 2000) provides evidence of a mosaic of mixing and isolation that has led to the redband trout that we see today in the Great Basin.

As a whole, the redband trout in the Great Basin show many similarities, which make them distinct from surrounding redband populations. Evident in all of the six basins are similar climatic conditions and fish species assemblages. The current fish assemblages in the Great Basin probably arose from other basins (Snake, Klamath, or Sacramento basins). Similarities in the fish assemblages of the six basins making up the Great Basin, combined with knowledge of past connections and mixing of fishes, make determination of which basin(s) transferred fish to which other basin(s) difficult. However, for approximately the past 10,000 years, the fishes in the Great Basin have largely been isolated from the Sacramento, Snake, and Klamath basins. Extremes in temperature and harsh climatic conditions have forced all redband trout in the Great Basin to adapt in similar ways, and all redband trout in the Great Basin have retained a high degree of flexibility in their life-history characteristics, to take best advantage of the habitats that occur in these six basins. Morphologically, all Great Basin redband trout share an increase in the number of gill rakers that is not as prevalent in redband from basins outside the Great Basin. Geologically, all six basins are closed basins, with the extremely rare exception of the Goose Lake basin, which can drain into the Pit River Basin. This is a one-way movement of fish out of Goose Lake since no fish can move from the Pit River into Goose Lake.

The naturally closed nature of these basins creates a unique ecological setting not found in other basins where redband exist. Behnke (1999) notes, ''The significance aspect of the DPS [question] fittingly characterizes the Great Basin redband trout.'' For these reasons, we recognize the redband trout in the six basins, Fort Rock, Chewaucan, Goose Lake, Warner, Catlow, and Harney, as a single DPS, which we will collectively refer to as Great Basin redband trout.

We, therefore, find that the most appropriate grouping of Great Basin redband from these six basins is as a single group encompassing all populations as was petitioned for listing. This finding recognizes that using only a limited set of information, such as only genetics, other groupings of the redband forms could be defined as discrete and thus possibly qualify as a DPS. However, as described above, a single group encompassing all six basins has the most compelling support of all the available evidence.

Summary of the Species Status

In the context of the Act, the term ''threatened species'' means any species (or subspecies or DPS for vertebrate organisms) that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The term ''endangered species'' means any species that is in danger of extinction throughout all or a significant portion of its range. The Act does not indicate threshold levels of historic population size at which, as the population of a species declines, listing as either threatened or endangered becomes warranted. Instead, the principal considerations in the determination of whether a species warrants listing are the threats that currently confront the species and the likelihood that the species will persist in the foreseeable future. Thus, listing of a species may be warranted when the species still occupies much of its historic range but confronts significant, widespread threats. In contrast, if not confronted by significant threats, a species occupying only a small portion of its historic range may be considered to be neither threatened nor endangered. Similarly, a species that has experienced past reductions but has since increased in abundance may not warrant listing under the Act.

In the case of Great Basin redband trout, at least two major declines in population numbers and distribution apparently occurred in historic times. Undoubtedly a prehistoric major reduction occurred around 2,000 years ago when the pluvial lakes dried to current levels, but no available data to demonstrate this occurrence. Good anecdotal evidence suggests that during the latter part of the 19th century and into the first part of the 20th century, widespread habitat destruction occurred that undoubtedly correlated with reduced redband trout numbers and distribution. A good example is presented in the Upper Chewaucan Watershed Assessment (USFS 1999) that probably is representative of most of the other basins. In 1909, 110,000 sheep, and 26,000 cattle and horses were allowed to graze Fremont National Forest lands in the Chewaucan Basin. By 1929, these numbers dropped to 78,000 sheep and 10,996 cattle and horses but the habitat was reported to be in a deplorable state. For example, a tributary of Coffeepot Creek was described as having drastically reduced vegetation that resulted in severe bank erosion and downcutting. By 1959,

numbers had been reduced to 31,210 sheep and 12,392 cattle and horses. In the 1960s, sheep were removed; currently, there are about 12,500 cattle in the Upper Chewaucan watershed.

These degraded habitat conditions were exacerbated by droughts in 1926 and from 1929 to 1934 that dried up Goose Lake (dry in 1926 and virtually dry 1929–1934) and Malheur Lake (dry in 1926 and 1934 and virtually dry 1931–1933). Despite half a decade of drought conditions, the redband trout survived and have increased their numbers and distribution in all six basins.

More recently the Great Basin experienced a drought from 1987 to 1992, with 1994 also being a very dry year. The drought caused Goose Lake, Hart Lake (Warner basin), and Malheur Lakes to go dry in 1992. This second drought eliminated the lake habitat and, consequently the lacustrine redband trout that made spawning runs up connected creeks. This drought also undoubtedly reduced the available stream habitat. However, despite this recent drought, the numbers of redband trout in all basins appear to have rebounded. As an example, in 1995 no fish were found in Skull Creek (Catlow basin), whereas in 1997, 16 fish representing 3 different age classes were found after sampling 263 square meters.

An analysis of historic and current distributions based on area concluded that Great Basin redband trout currently occupy 59 percent of their historic distribution. Specific stream surveys in 1999 (Dambacher 1999) determined densities of Great Basin redband trout in each of the six basins. The densities were 0.423 fish per meter square in the Catlow basin, 0.372 fish per meter square in the Harney basin, 0.216 fish per meter square in the Warner basin, 0.171 fish per meter square in the Fort Rock basin, 0.143 fish per meter square in the Chewaucan basin, and 0.140 fish per meter square in the Goose Lake basin. These densities correspond with moderate and high categories according to Dambacher and Jones (in press). Dambacher and Jones (in press) analyzed 80 redband trout density estimates from the Great Basin between 1968 and 1995 and determined qualitative ranges for densities. They concluded that a low density was less than 0.059 fish per meter square, moderate density was between 0.06 and 0.19 fish per meter square, and high density was over 0.2 fish per meter square. Based on this analysis, Catlow, Harney, and Warner basins had high densities of redband trout, and Fort Rock, Goose Lake, and the Chewaucan Basins had moderate densities. Because redband trout populations in all basins have rebounded, the effects of any potential threats to the Great Basin redband trout and the likelihood of extinction of the species is substantially reduced.

The petition identified general threats causing changes to ecological processes that result in habitat degradation. We agree that habitat degradation is present in all six basins. Historic overgrazing combined with water withdrawal, building of dams and roads, timber harvest, and draining of marshes and wetlands has reduced the habitat available for the Great Basin redband trout. However, the data on Great Basin redband trout abundance and distribution reflect an aquatic habitat that provides enough of the ecological parameters necessary for spawning, rearing, and survival to have supported an increasing population since the end of the drought. Therefore, the current level of threat from aquatic habitat destruction or modification or curtailment in range does not place the Great Basin redband trout in danger of extinction or make it likely to become so in the foreseeable future.

Furthermore, a Conservation Agreement (CA) in the Catlow Basin and a Conservation Strategy (CS) in the Goose Lake basin are improving habitat for redband trout. The goal of both the CA and CS is to identify the threats to the native fishes (including Great Basin redband trout) and implement projects to remove threats and enhance habitat. These cooperative efforts among private, State, and Federal entities are largely responsible for habitat or fish population improvements in the Catlow and Goose Lake basins.

Based on the Catlow CA 1999 Progress Report (Catlow Valley CA Signatories *in litt.* 1999), most of the originally identified actions, and numerous, additional ''adaptive management'' actions, have been initiated or completed. Of the 74 actions identified in the Catlow CA, 36 were completed, 33 other long-term projects were well under way and showing success, and only 5 were not initiated (often because they were to be initiated at a later date, after preliminary data were collected). In addition, 22 new conservation actions were identified by CA participants, and of these, only 1 was either not completed or initiated as of the summer of 1999.

Significant habitat restoration has occurred within the Catlow basin due to the Catlow CA. During 1998, vegetation objectives were reached on 95 percent of redband streams, and in 1999 alternate grazing sites were found so that almost all of the streams covered by the Catlow CA were rested. These actions significantly increased riparian recovery. Threemile Reservoir had filled with sediment since Kunkel's (1976) report. The reservoir was dredged in 1998 and enlarged in 1999 to again provide a lacustrine habitat for redband trout and connection with Threemile Creek. Numerous fences and water enhancement projects were installed that benefitted cattle management and overall upland and riparian health. A road in Upper Skull Creek was closed and multiple fire rehabilitation and juniper encroachment projects were completed. The Oregon Department of Fish and Wildlife conducted fish surveys and habitat monitoring throughout the Catlow basin in 1997 through 1999 and found that redband trout densities had increased significantly from the surveys in 1995, when densities were depressed due to the drought. Based on the cooperation between private, State and Federal parties, most if not all of the current threats to redband trout in the Catlow Basin are being or will be addressed.

Due to a continuing drought (1987–1994) affecting the water level of Goose Lake and its tributaries, a group of concerned individuals from private, State, and Federal agencies formed the Goose Lake Fishes Working Group (GLFWG) in 1991. The GLFWG signed a Memorandum of Understanding in July 1994 to protect and reestablish native fishes in the Goose Lake basin in California and Oregon. On May 22, 1995, the GLFWG completed the Goose Lake Fishes Conservation Strategy (GLFCS 1996). The goal of this strategy was to conserve all native fishes in Goose Lake by reducing threats, stabilizing population numbers, and maintaining the ecosystem. The Conservation Strategy identified factors in each stream that were affecting fish and provided a list of actions since 1958 that were implemented to benefit potential problems.

Since publication of the GLFCS in 1996, a number of additional projects have been completed or long-term projects begun. These include 2 culvert improvements, 11 diversion or passage projects, 10 fencing projects, 16 habitat improvement projects, 11 fish surveys, and road improvement project to reduce sedimentation. Based on the conscientious efforts of the GLFWG, threats to redband in the Goose Lake basin are being addressed. The Goose Lake basin is a much larger system than the Catlow basin with many more interested parties and specific projects needed to benefit redband trout. Recent projects have substantially benefitted redband trout but more resources and

time will be needed to complete all of the projects identified in the GLFCS.

Existing CAs have had a large influence in protecting redband trout and the habitat they require for survival. These efforts continue to improve habitat, provide for passage over barriers, screen diversions, and survey for redband trout. Cooperative efforts involving all parties are excellent avenues for restoring habitat and species.

We have carefully assessed the best available scientific and commercial information available, and we find that listing the Great Basin redband trout as a threatened or endangered species is not warranted at this time because it is not in danger of extinction or likely to become so within the foreseeable future. This conclusion is based on information on Great Basin redband trout populations within the historic range of redband trout, as reported and summarized in the Great Basin redband trout status review (Service 2000). However, in the event that conditions change and the species becomes imperiled due to the factors discussed in this finding, or other unforeseen factors, we could propose to list the species under the Act or, if circumstances warranted, invoke the emergency listing provisions of the Act.

References Cited

Behnke, R. J. 1992. Native trout of western North America. American Fisheries Society Monograph 6.

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Bowers, W., B. Hosford, A. Oakley and C. Bond. 1979. Wildlife habitats in managed rangelands—the Great Basin of southeastern Oregon, Native Trout. USDA Forest Service General Technical Report PNW–84. 1979.

Dambacher, J. 1999. Assessment of Stream Populations and Habitat of Great Basin Redband Trout (*Oncorhynchus mykiss*).

Dambacher, J., and K. Jones. (In press). Regional and Basin-Wide Patterns of Abundance of Redband Trout (*Oncorhynchus mykiss*) in Oregon Streams.

Hendricks, S. 1995. Fishes found in the tributaries of Goose Lake. California Department of Fish and Game. Inland Fisheries Division. Endangered Species Project. February 1, 1995.

U.S. Forest Service. 1999. Upper Chewaucan Watershed Assessment. Prepared for the Upper Chewaucan Watershed Council, September 1999, Paisley, OR.

U.S. Fish and Wildlife Service. 2000. Status Review for Great Basin Redband Trout. U.S. Department of the Interior, Fish and Wildlife Service, Region 1, Portland, Oregon. January 2000.

Author:

The primary author of this document is Antonio Bentivoglio, Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

AUTHORITY

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 13, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–6864 Filed 3–17–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018—AE30

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status for the Southern California Distinct Population Segment of the Mountain Yellow-Legged Frog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: We, the Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), reopen the comment period on the proposed rule to list the southern California distinct population segment (DPS) of the mountain yellow-legged frog (*Rana muscosa*) as an endangered species. The comment period is reopened in response to requests from the public for additional time to obtain biological information regarding the frog and formulate comments on the proposed rule. In addition, reopening of the comment period will allow further opportunity for all interested parties to submit comments on the proposal, which is available (see **ADDRESSES** section). We are seeking comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: The reopened comment period closes April 19, 2000.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, California, 92008. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Glen Knowles at the above address, telephone 760–431–9440; facsimile 760–431–9618.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1999, the Service published a rule proposing endangered status for the southern California DPS of the mountain yellow-legged frog (*Rana muscosa*) in the **Federal Register** (64 FR 71714). The original comment period closed on February 22, 2000. The comment period now closes on April 19, 2000. Written comments should be submitted to the Service (see **ADDRESSES** section).

The mountain yellow-legged frog is a true frog in the family Ranidae. The southern California mountain yellow-legged frog can still be found in four small streams in the San Gabriel mountains, San Bernardino mountains, and the San Jacinto mountains. In addition to predation from trout and other widespread factors, the few remaining frogs are threatened by recreation (i.e. suction dredging, campgrounds, day use areas), the introduction of non-native competitors and predators, and demographics associated with small populations. Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location and status of any additional occurrences of this species and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species;

(4) Current or planned activities in the subject area and their possible impacts on the mountain yellow-legged frog or its habitat.

Author:

The primary author of this notice is Glen Knowles (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: March 10, 2000.

Elizabeth H. Stevens,

Acting Manager, California/Nevada Operations Office.

[FR Doc. 00–6795 Filed 3–17–00; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 65, No. 54

Monday, March 20, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections being Reviewed by the Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning (a) Whether the proposed or continuing collections 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 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.

DATES: Send comments on this information collection on or before May 5, 2000.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, D.C., 20523, (202) 712–1365 or via e-mail bjohnson@usaid.gov.

SUPPLEMENTARY INFORMATION:

OMB No.: OMB 0412–0017.

Form No.: AID 1440–3.

Title: Contractor's Certificate and Agreement with the Agency for International Development/Contractor's Invoice and Contract Abstract.

Type of Review: Renewal of Information Collection.

Purpose: USAID finances host country contracts, for technical and professional services and for the construction of physical facilities, between the contractors for such services and entities in the country receiving assistance under loan or grant agreements with the recipient country. USAID is not a party to these contracts, and the contracts are not subject to the FAR. In its role as the financing agency, USAID needs some means of collecting information directly from the contractors supplying such services so that it may take appropriate action in the event that the contractor does not comply with applicable USAID regulations. The information collection, recordkeeping, and reporting requirements are necessary to assure that USAID funds are expended in accordance with statutory requirements and USAID policies.

Annual Reporting Burden

Respondents: 18.

Total annual responses: 216.

Total annual hours requested: 126 hours.

Dated: March 8, 2000.

Joanne Paskar,

Acting Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 00–6583 Filed 3–17–00; 8:45 am]

BILLING CODE 6116–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections 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 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.

DATES: Send comments on this information collection on or before May 5, 2000.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, Agency for International Development, Room 2.07–106, RRB, Washington, D.C., 20523, (202) 712–1365 or via e-mail bjohnson@usaid.gov.

SUPPLEMENTARY INFORMATION:

OMB No.: OMB 0412–0020.

Form No.: AID 1450–4.

Title: Supplier's Certificate and Agreement with the Agency for International Development for Project Commodities/Invoice and Contract Abstract.

Type of Review: Renewal of Information Collection.

Purpose: When USAID is not a party to a contract which it finances, it needs some means of collecting information directly from the suppliers of such commodities and related services to enable it to take appropriate action in the event that they do not comply with applicable USAID regulations. The information collection, recordkeeping, and reporting requirements are necessary to assure that USAID funds are expended in accordance with statutory requirements and USAID policies. It also allows for positive identification of transactions where overcharges occur.

Annual Reporting Burden

Respondents: 50.

Total annual responses: 300.

Total annual hours requested: 196 hours.

Dated: March 8, 2000.

Joanne Paskar,

Acting Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 00–6584 Filed 3–17–00; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 00–003N]

Meeting on HACCP-Based Inspection Models Project

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS) is holding a public meeting to discuss its HACCP-based Inspection Models Project (HIMP) for slaughter plants. The purpose of this meeting, the latest in a series, is to present new inspection procedures and performance standards that the Agency is developing through the project for plants that slaughter young chickens. The Agency will also describe the rulemaking process that it intends to follow to implement these new inspection procedures and performance standards for all young chicken slaughter plants under Federal inspection should the data developed in the project support such an action. The meeting will conclude with an open discussion period.

DATES: The meeting will be held on March 30, 2000 from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn Rosslyn at Key Bridge, 1900 North Fort Myer Drive, Arlington, Virginia 22209, (703) 807–2000.

FOR FURTHER INFORMATION CONTACT: To register for the meeting, contact Mr. Ron Niemeyer, of the FSIS Planning Staff at (202) 501–7247 or FAX (202) 501–7642 or e-mail: *ron.niemeyer@usda.gov.* Attendees who require a sign language interpreter or other special accommodations should contact Mr. Niemeyer at the above numbers by March 21, 2000. For technical information, contact Michael Grasso at (202) 205–0025, fax (202) 205–0058, email: *Mike.Grasso@usda.gov.*

SUPPLEMENTARY INFORMATION: The HACCP-based Inspection Models Project (HIMP) is an outgrowth of the Agency's Pathogen Reduction/Hazard Analysis and Critical Control Point (PR/HACCP) Systems Final Rule, published on July 25, 1996. The PR/HACCP rule calls for the establishment of a HACCP-based food safety system to reduce the risk of foodborne illness from meat and poultry products. In a **Federal Register** Notice of June 10, 1997, FSIS requested public comments on the design and development of new inspection models for slaughter and processing in a HACCP environment (62 FR 31553). This notice summarized recommendations by the National Academy of Sciences and the General Accounting Office that FSIS reduce its reliance on organoleptic (sensory) inspection and redeploy its resources by using inspection methods that are based on the risks inherent in meat and poultry slaughter operations. To accomplish these objectives, new inspection methods are being developed and tested that are consistent with the meat and poultry products inspection laws and the systems now required by the PR/HACCP rule. The HACCP-based Inspection Models Project is designed to help define the respective responsibilities of FSIS and the regulated industry in slaughter establishments operating under HACCP systems and to develop new approaches to inspection in plants slaughtering young, healthy, and uniform animals. A public meeting was held in Washington DC on July 27, 1998 (63 FR 39068, July 21, 1998) to discuss the project. Another public meeting on the project was held in Washington DC on December 2, 1998 (63 FR 63827, November 17, 1998) to discuss results from baseline testing in initial plants and projected activities.

The March 30, 2000 meeting will specifically address activities in young chicken slaughter plants and will include the final report of baseline data collection results under current inspection procedures in young chicken slaughter plants participating in the project. The Agency will present performance standards for food safety and non-food safety concerns in HIMP young chicken plants. These performance standards are drawn from the baseline data collection results and will provide the terms by which HIMP young chicken plants will be measured. New inspection procedures are being designed to provide verification that plants are meeting these performance standards. FSIS intends to institute rulemaking to adopt new inspection procedures and performance standards for all young chicken slaughter plants under Federal inspection if the data developed in HIMP support such action.

Additional Public Notification

Pursuant to Departmental Regulation 4300–4, ''Civil Rights Impact Analysis,'' dated September 22, 1993, FSIS has considered the potential civil rights impact of this notice on minorities, women, and persons with disabilities. Therefore, to better ensure that these groups and others are made aware of this meeting, FSIS will announce it and provide copies of the **Federal Register** publication in the FSIS Constituent Update. The Agency provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding Agency policies, procedures, regulations, **Federal Register** Notices, FSIS public meetings, recalls and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals and other individuals that have requested to be included. Through these various channels, the Agency is able to provide information with a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Office of Congressional and Public Affairs, at (202) 720–5704.

Transcripts of this meeting will be made available in the FSIS Docket Room, Room 102 Cotton Annex, 300 12th Street SW, Washington, D.C.

Done in Washington, DC, on: March 14, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–6824 Filed 3–17–00; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

BS–3a Caernarvon Diversion Outfall Management Project Plaquemines Parish, Louisiana

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Caernarvon Diversion Outfall Management Project, Plaquemines Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service, 3737 Government

Street, Alexandria, Louisiana 71302; telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of the federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald W. Gohmert, State Conservationist, has determined that preparation and review of an environmental impact statement is not needed for this project.

The project will promote better utilization of available freshwater and nutrients from the Mississippi River, via the Caernarvon Diversion, for the maintenance of project area marshes. Benefits will include increasing freshwater retention time and allowing river water dispersion into interior marshes during periods of low diversion discharges from the Caernarvon Diversion Structure. This will reduce saltwater intrusion and salinity variation within the project area. The project is expected to protect and enhance existing marshes, increase the occurrence of emergent and submergent marsh vegetation, and improve fish and wildlife habitat on 18,200 acres of intermediate marsh and shallow open water bodies.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data collected during the environmental assessment are on file and may be reviewed by contacting Donald W. Gohmert.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

Donald W. Gohmert,

State Conservationist.

[FR Doc. 00–6735 Filed 3–17–00; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alabama Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m. on April 11, 2000, at the Four Points Sheraton Hotel, 1000 Glen Hearn Boulevard, Huntsville, Alabama 35824. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 9, 2000.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 00–6737 Filed 3–17–00; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Kansas and Missouri Advisory Committees

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a community forum of the Kansas and Missouri Advisory Committees to the Commission will convene at 10:00 a.m. and adjourn at 8:00 p.m. on Thursday, April 27, 2000, at the Holiday Inn South, 5701 Longview Road, Kansas City, Missouri 64137. The purpose of the community forum is to collect data on hate crimes and racial profiling in the states of Kansas and Missouri.

Persons desiring additional information, or planning a presentation to the Committees, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 9, 2000.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 00–6738 Filed 3–17–00; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Ohio Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 2:00 p.m. on Tuesday, April 4, 2000, at the Crowne Plaza Hotel, 33 East Fifth Street, Dayton, Ohio 45402. The purpose of the meeting is to hold a press conference to release the Committee's report, Employment Opportunities for Minorities in Montgomery County, Ohio, and to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Altagracia Ramos, 614–466–6715, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 9, 2000.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 00–6736 Filed 3–17–00; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Report of Sample Shipments of Chemical Weapon Precursors.

Agency Form Number: None.

OMB Approval Number: 0694–0086.

Type of Request: Renewal of an existing collection.

Burden Hours: 23 hours.

Average Time Per Response: 35 minutes per response.

Number of Respondents: 40 respondents.

Needs and Uses: This collection of information will be used to monitor

sample shipments of chemical weapon precursors in order to facilitate and enforce provisions of the EAR that permit limited exports of sample shipments without a validated export license. The reports will be reviewed by the Bureau of Export Administration to monitor quantities and patterns of shipments that might indicate circumvention of the regulation by entities seeking to acquire chemicals for chemical weapons purposes.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, Office of the Chief Information Officer (202) 482–3272, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: March 15, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–6870 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–853]

Notice of Postponement of Preliminary Antidumping Duty Determination: Circular Seamless Stainless Steel Hollow Products From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Constance Handley and Charles Riggle, Office 5, DAS Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–0631 or (202) 482–0650, respectively.

Postponement of Preliminary Determination

The Department of Commerce (the Department) is postponing the preliminary determination in the antidumping duty investigation of circular seamless stainless steel hollow products from Japan. The deadline for issuing the preliminary determination in this investigation is now April 24, 2000.

On November 15, 1999, the Department initiated an antidumping investigation of circular seamless stainless steel hollow products from Japan. *See Initiation of Antidumping Duty Investigation: Circular Seamless Stainless Steel Hollow Products From Japan,* 64 FR 62385, (November 19, 1999). The notice stated that the Department would issue its preliminary determinations no later than 140 days after the date of initiation (*i.e.*, April 3, 2000).

The Department has now concluded, consistent with section 733(c)(1)(B) of the Act, that this case is extraordinarily complicated, and that additional time is necessary to issue the preliminary determination due to the complexity of certain issues raised in this case, including issues of affiliation, sales reporting, and product coverage. *See* Memorandum from Gary Taverman to Holly Kuga dated March 14, 2000. Therefore, in light of the fact that a party to this proceeding has been cooperating, pursuant to section 733(c)(1) of the Act, the Department is postponing the deadline for issuing this determination 21 days (*i.e.*, until April 24, 2000).

This extension is in accordance with section 733(c) of the Act and 19 CFR 351.205(b)(2).

Dated: March 14, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–6868 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–063]

Certain Iron-Metal Castings From India: Extension of Time Limit for Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit for Final Results of Countervailing Duty Administrative Review.

EFFECTIVE DATE: March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Copyak at (202) 482–2786, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days and for the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of the publication of the preliminary results.

Background

On November 30, 1998, the Department published a notice of initiation of administrative review of the countervailing duty order on certain iron-metal castings from India, covering the period January 1, 1997, through December 31, 1997 (63 FR 65748). On November 12, 1999, (64 FR 61592), we published the preliminary results of review. In our notice of preliminary results, we stated our intention to issue the final results of this review no later than March 13, 2000.

Extension of Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit. Therefore the Department is extending the time limits for completion of the final results until no later than May 10, 2000. *See* Decision Memorandum from John Brinkman to Holly A. Kuga, dated March 13, 2000, which is on file in the Central Records Unit.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: March 13, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 00–6869 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Docket No. [000202024–0024–01; I.D. No. 011000C]

RIN: [0648–ZA79]

Announcement of Funding Opportunity for the South Florida Ecosystem Restoration Prediction and Modeling Program and the South Florida Living Marine Resources Program

AGENCIES: Center for Sponsored Coastal Ocean Research/Coastal Ocean Program (CSCOR/COP), the National Ocean Service (NOS); the Southeast Fisheries Science Center (SEFSC), the National Marine Fisheries Service (NMFS); the National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of Funding Opportunity for financial assistance for project grants.

SUMMARY: The purpose of this notice is to advise the public that CSCOR and SEFSC are soliciting 1 to 2-year proposals for the South Florida Ecosystem Restoration Prediction and Modeling Program (SFERPM) and South Florida Living Marine Resources Program (SFLMR) to begin in FY 2000, contingent on the availability of funds.

These programs are two of a number of Federal and state programs that together comprise the Interagency Florida Bay (IFB) and Adjacent Marine Waters Science Program. The overall goal of this interagency effort is to develop the information and policies necessary for restoring the Everglades, Florida Bay, and adjacent marine ecosystems.

DATES: The deadline for receipt of proposals at the COP office is 3:00 p.m., EST. April 19, 2000. It is anticipated that projects funded under this announcement will have a July 1, 2000 start date.

ADDRESSES: Submit the original and 19 copies of your proposal to Coastal Ocean Program Office (SFERPM 2000), SSMC#3, 9th Floor, Station 9700, 1315 East-West Highway, Silver Spring, MD 20910. NOAA Standard Form Applications with instructions are accessible on the following COP Internet Site: http://www.cop.noaa.gov under the COP Grants Support Section, Part D, Application Forms for Initial Proposal Submission.

FOR FURTHER INFORMATION CONTACT: Technical Information:

Larry Pugh, SFERPM 2000 Program Manager, COP Office, 301–713–3338/ext 117, Internet: Larry.Pugh@noaa.gov; or Dr. Nancy Thompson, SFLMR 2000 Program Manager, SEFSC, 305–361–4284, Internet: Nancy.Thompson@noaa.gov; Business Management Information: Leslie McDonald, COP Grants Administrator, 301–713–3338/ext 137, Internet: Leslie.McDonald@noaa.gov.

Specific information about the ongoing SFERPM program, including descriptions of presently funded projects and the data management policy can be obtained from htttp://www.aoml.noaa.gov/ocd/sferpm. Reference is made to SFERPM Data Policy requirements later in this document under Part II: Further supplementary Information, paragraph (14) Other Requirements, subsection (b).

For complete information about the Interagency Florida Bay web sites and Adjacent Marine Systems Science Program Management Committee (PMC) (discussed later in this document under **SUPPLEMENTARY INFORMATION**); its Scientific Oversight Panel; copies of the Abstracts of its Annual Conferences; reports from its numerous topical workshops and research team meetings as well as the most recent overall Strategic Science Plan, consult http://www.aoml.noaa.gov/flbay/; or contact the IFB Program's Executive Officer: William Nuttle, Executive Officer, Interagency Science Center, 98630 Overseas Highway, Key Largo, FL 33037.

The Florida Keys National Marine Sanctuary (FKNMS) resources trusteeship and management activities discussed later in this document under **SUPPLEMENTARY INFORMATION** can be viewed on http://www.fknms.nos.noaa.gov. The geographic scope and the subregions encompassed referred to later in this document under **SUPPLEMENTARY INFORMATION** can be found at: http://www.aoml.noaa.gov/ocd/sferpm/sub.html.

Detailed information regarding South Florida Ecosystem Restoration discussed later in this document under **SUPPLEMENTARY INFORMATION**, subparagraph, the Research Program, can be viewed at http://www.sfrestore.org.

To view Important Documents including the Florida Bay Interagency Program Management Committee (PMC) comments on the RESTUDY Draft Feasibility Report and the Feasibility report referenced later in this document under **SUPPLEMENTARY INFORMATION**, subparagraph, The Research Program, see the COP or SFERPM websites listed earlier in this section.

SUPPLEMENTARY INFORMATION:

Background

Program Description

For complete Program Description and Other Requirements criteria for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual notification in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

The SFERPM and SFLMR programs are two of a number of Federal and state programs that together comprise the IFB Program. The interagency program supports monitoring, research and modeling activities designed to understand the effects of South Florida Ecosystem Restoration upon coastal ecosystems including the FKNMS.

It is intended to provide some of the information required by an iterative restoration process through which management alternatives are developed and selected, alternatives implemented and physical and biological responses assessed. It is further anticipated that this evaluation process will be repeated as restoration proceeds since decisions will be driven by the best available scientific information.

The activities conducted to restore the South Florida ecosystem occur predominately upstream of Florida Bay and the restoration impacts may not be direct or immediate. Therefore, improving our capability to predict these impacts is the ultimate goal of the IFB Science Program. Attaining this predictive capability implies a better understanding of the physics and ecology of Florida Bay and the larger coastal ecosystem.

The SFLMR program focuses upon research on fishery resources, protected resources, and higher trophic level organisms and the interactions with living marine resources. Living marine resources include: fishery resources, both recreational and commercial, and protected resources—including endangered species, marine mammals, corals, and species that are candidates for listing under the Endangered Species Act (ESA) and their habitats. Research results will allow for the projection of the impacts of changes in freshwater delivery on living marine resources.

The Florida Bay Science Program was initially based upon the 1994 Florida Bay Science Plan developed for the Florida Bay Interagency Working group, as specifically suggested by a scientific panel convened at the request of the Secretary of the Interior. That Science Plan identified research deficiencies and unanswered questions concerning the condition and ecological history of Florida Bay and established the Florida

Bay PMC and its formal administrative process.

The PMC, explicitly linked to and sanctioned by the South Florida Restoration Task Force through its Working Group and Science Coordination Team, consists of designated representatives of the state and Federal agencies conducting or funding research in this part of the South Florida coastal marine ecosystem. The PMC is charged with providing policy makers reliable scientific information and science-based recommendations, including timely evaluation of the effects that different upstream management alternatives might have upon the ecosystem within Florida Bay and the adjacent coastal marine ecosystem.

To accomplish its objectives the PMC:

(1) Developed a Strategic Science Plan in March 1997 for Florida Bay to guide individual agency implementation plans and to prioritize allocation of resources;

(2) Evaluates individual agency implementation plans to avoid redundancy and assures research efforts are complementary; and together, to make the best use of the technical and financial resources being made available for South Florida coastal ecosystem restoration science;

(3) Sponsors an Annual Science Conference to which all funded investigator teams in all the various agencies are required to participate;

(4) Sponsors topical workshops on critical scientific issues;

(5) Established a Scientific Oversight Panel composed of distinguished, knowledgeable, but financially disinterested, scientists from outside this region. This panel is asked to attend the Annual Science Conference; to chair or participate in topical workshops that require technical panel input; and to recommend to the PMC any changes in the science program to assure it is meeting the requirements of the South Florida Ecosystem Restoration Process;

(6) Established research teams consisting of funded investigators and interested experts to review and integrate plans and sampling protocols of related projects including data management; and

(7) Established an administrative infrastructure consisting of an Executive Officer, a Florida Bay Research Coordinator, and an Outreach/Education Office.

Additional Program Description

SFERPM's contribution to the Interagency Science Program has been to focus upon the larger oceanographic, atmospheric, geological and fisheries context within which Bay restoration will proceed. This has implied studying the Bay's interaction and exchange with the adjacent Atlantic and Gulf of Mexico coastal marine ecosystems and its regulation by large scale atmospheric and meteorological processes that so intimately link the coastal marine to the coastal terrestrial systems in South Florida.

The SFLMR Program began in 1996 with funding through the NMFS. Funding of research projects beginning in FY 2000 will result from this competitive process. The focus of this program is on living marine resources, especially those that are commercially and recreationally important, or are protected, and their habitats.

SFERPM directly addresses the linkage between Florida Bay and the Florida Keys, thus complementing other NOAA South Florida Ecosystem Restoration Initiative related activities such as the NMFS-lead Protection of Living Marine Resources/Threatened and Endangered Species studies, NOS-led Integrated Florida Bay and Florida Keys Ecosystem Monitoring programs, FKNMS resources trusteeship and management activities. Detailed information including the most recent SFERPM Implementation Plan for the program and other program documents can be obtained from the address/homepage address listed earlier in this document under **FURTHER INFORMATION.**

Program Goals

The overall goals of the Interagency Program were outlined as five management related central questions in the Strategic Science Plan for Florida Bay. These are:

(1) How, and at what rates, do storms, changing freshwater flows, sea level rise, and local evaporation/precipitation influence circulation and salinity patterns within Florida bay and outflows from the Bay to adjacent waters?

(2) What is the relative importance of the influx of external nutrients and of internal nutrient cycling in determining the nutrient budget of Florida Bay? What mechanisms control the sources and sinks of the Bay's nutrients?

(3) What regulates the onset, persistence and fate of planktonic algal blooms in Florida Bay?

(4) What are the causes and mechanisms for the observed changes in the sea grass community of Florida Bay? What is the effect of changing salinity, light, and nutrient regimes on these communities?

(5) What is the relationship between environmental and habitat change and the recruitment, growth, and survivorship of animals in Florida Bay?

The NOAA role has been to focus on the larger oceanographic, atmospheric, geological, and biological aspects of these questions. As noted earlier, detailed descriptions of past projects supported and their findings to date can be found on the SFERPM website under Funded Projects. The geographic scope and the subregions encompassed can be found at the address/homepage listed earlier in this document under **FURTHER INFORMATION.** Where essential to describe the linkages between Florida Bay and the adjacent waters, some projects have had a still wider geographic scope.

The Research Program

The Interagency Science Program has been underway for several years and is now entering an Implementation Phase at which it is being asked to deliver information directly to the Restoration Management Community concerning minimum flow levels to Florida Bay; restoration performance measures; and ecological success criteria. See the South Florida Ecosystem Restoration Website for additional details at the address/homepage listed earlier in this document under **FURTHER INFORMATION.**

Moreover, water quality and physical modeling efforts are relatively mature but require validation and verification. Using these models to evaluate restoration scenarios will require continued data assimilation. Ecological models of upper and lower trophic levels are also in development and will have similar data requirements.

To date, restoration targets relative to Florida Bay have been posed purely in terms of flow delivery to points well upstream of Florida Bay. These are deemed by the PMC to be good first steps but ultimately inadequate. See the CSCOR or SFERPM websites listed earlier in this document under **FURTHER INFORMATION** to view Important Documents including PMC Comments on the RESTUDY Draft Feasibility Report and the Feasibility report itself.

In its review of the Restudy, the PMC committed itself to providing ecologically based restoration targets and performance measures for use in evaluating restoration scenarios and actions. Given the advice and recommendations of the PMC and Florida Bay Science Oversight Panel (FBSOP), NOAA's trustee and other management responsibilities in the region, and the likely funding of our Federal and state agency partners, CSCOR and NMFS/SEFSC anticipate funding SFERPM projects in the following research areas:

(1) *Nutrient Dynamics*: Includes phosphorous and nitrogen cycles within

the water column, exchange between the water column and benthos, and governing biogeochemical processes;

(2) *Water Column Biology*: Includes trophic linkages, benthic-pelagic coupling, and the potential impact of Bay water quality upon living marine resources and the FKNMS;

(3) *Physical Science*: Includes circulation within the Bay, improving estimates of critical processes (i.e., evaporation, precipitation and wind stress), and providing data assimilation

model based boundary conditions to bay circulation and hydrological models;

(4) *Ecosystem Modeling Studies*: Includes modeling of trophic relationships of recruitment pathways;

(5) *Higher trophic levels*: Monitoring and research are needed to provide answers to question 5 in the Strategic Science Plan. Results obtained should be directed at determination of the effects of changes in water quality and quantity and patterns on higher trophic level organisms especially important commercial and recreational fishery resources and mass protected resources, such as sea turtles, marine mammals and species listed as candidates for listing under the ESA.

Research Areas

(1) Nutrients

The growth of both sea grasses and planktonic algae blooms depends upon the supply of plant nutrients. In Florida Bay these are introduced by freshwater runoff, groundwater seepage, atmospheric deposition, resuspension of bottom sediments and exchange with the Southwest Florida shelf. A quantitative understanding of the relative importance of these various processes and how they effect algal blooms has been the goal of SFERPM Nutrient Chemistry projects. Proposals are now solicited that refine our understanding of phosphorous and nitrogen cycles within the water column as well as between the water column and benthos and biogeochemical processes governing nutrient availability including atmospheric flux and the microbial loop.

(2) Water Column Biology

Florida Bay is both a nursery ground and primary habitat for numerous commercially and recreationally significant fisheries species. The principal food of the young of many of these species is zooplankton that, in turn, consume planktonic algae. Moreover, many fisheries species have early stages living in the plankton. Planktonic animals are very sensitive to changes in water quality. Predicting the consequences of Restoration upon this ecosystem has been a goal of SFERPM Water Column Biology projects.

The health of the coral reef community of the Florida Keys National Marine Sanctuary (FKNMS) depends upon the water quality (temperature, salinity, nutrients, and chemical contaminants) of the waters that flow over them. With Restoration, not just water quantity but water quality throughout South Florida coastal waters will be changed. Proposals are now solicited that address trophic relationships between biological communities, ecosystem changes directly or indirectly related to Bay habitat changes, algal bloom causation and fate, benthic-pelagic coupling, and the impact of Bay water quality upon living marine resources and the FKNMS.

(3) Physical Science

Unless we have a detailed understanding of circulation, temperature, and salinity within the Bay and how the Bay is linked to the surrounding waters of the South West Florida shelf and the FKNMS, we will be unable to predict the physical effects of Restoration i.e., what parts of the Bay will be affected by altered water flows and how they will be changed.

Similarly, unless we have a detailed understanding of the wind field over the Bay, and the rainfall and evaporation distribution over the entire Peninsula, we will be unable to predict which parts of the Bay will be affected by altered water flows and what the resultant changes will be. Providing estimates of these critical parameters and how they will be locally and regionally altered by the major land use changes implicit in Restoration has been a goal of the SFERPM physical oceanography and atmospheric science projects. Proposals are now solicited characterizing circulation and flow within the Bay (including improving estimates of basin residence and turnover times), improving estimates of critical physical processes (especially evaporation and precipitation) and providing the meteorological boundary conditions required by circulation and hydrological models.

(4) Ecosystem Modeling Studies

Over the past several decades we have seen fundamental changes in the Bay ecosystem; and with Restoration, we can expect the rate of change to accelerate. The goal of SFERPM Ecological Modeling has been to use the physical, chemical and biological information being generated by SFERPM and other projects to predict how the underlying ecology of Florida Bay will change with restoration.

Proposals are now solicited that contribute to the Interagency Upper Trophic Level modeling program including the modeling of recruitment pathways within the FKNMS and/or between the FKNMS and Florida Bay. The PMC website should be consulted for the results of PMC sponsored workshops entitled: Higher Trophic Level Initiative for the Florida Bay Program and Progress Review of Florida Bay Models: Report of the Model Evaluation Group.

(5) Higher Trophic Level Research and Monitoring

The success of restoration is measured in part by the sustainability of fishery and protected resources. It is imperative that models be developed which will provide information on how changes in water quality, including salinity levels and contaminants, will effect the population and trophic dynamics of living marine resources and their habitats. These models require data.

Proposals are now solicited to conduct research and monitoring to define both qualitatively and quantitatively the mechanisms controlling growth, reproduction, recruitment and age/stage specific survivorship of commercially and recreationally important species and protected resources, such as sea turtles and bottle nosed dolphins are encouraged.

For protected resources in particular, proposals which provide population estimates and the relative importance of South Florida coastal waters to recovery are encouraged. Information generated by research projects directed at the other four questions in the Strategic Science Plan is expected to be integrated with the proposed research in so far as it effects the dynamics of individual species and protected resources and their habitats.

Part I: Schedule and Proposal Submission

The guidelines for proposal preparation provided here are mandatory. Proposals received after the published deadline or proposals that deviate from the prescribed format will be returned to the sender without further consideration. This announcement and additional background information will be made available on the COP home page.

Full Proposals

Applications submitted in response to this announcement require an original

proposal and 19 proposal copies at time of submission. This includes color or high-resolution graphics, unusually-sized materials (not 8.5'' x 11'' or 21.6 cm x 28 cm), or otherwise unusual materials submitted as part of the proposal. For color graphics, submit either color originals or color copies. The stated requirements for the number of original proposal copies provide for a timely review process because of the large number of technical reviewers. Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

Required Elements

All recipients are to closely follow the instructions and guidelines in the preparation of the standard NOAA Application Forms and Kit requirements listed in Part II: Further Supplementary Information, paragraph (10) of this document. Each proposal must also include the following seven elements:

(1) *Signed Summary title page*: The title page should be signed by the Principal Investigator (PI) and the institutional representative. The Summary Title page identifies the project's title starting with the acronym SFERPM 2000, a short title (<50 characters), and the lead PI's name and affiliation, complete address, phone, FAX, and E-mail information. The requested budget for each fiscal year should be included on the Summary Title page. Multi-institution proposals must include signed Summary Title pages from each institution.

(2) *One-page abstract/project summary*: The Project Summary (Abstract) Form, which is to be submitted at time of application, shall include an introduction of the problem, rationale, scientific objectives and/or hypotheses to be tested, and a brief summary of work to be completed. The prescribed COP format for the Project Summary Form can be found on the COP Internet site under the COP Grants Support Section, Part D.

The summary should appear on a separate page, headed with the proposal title, institution(s), investigator(s), total proposed cost, and budget period. These should be written in the third person. The summary is used to help compare proposals quickly and allows the respondents to summarize these key points in their own words.

(3) *Statement of work/project description:* The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the goals of the SFERPM Program, and its scientific priorities. The project description section (including Relevant Results from Prior Support) should not exceed 15 pages.

Project management should be clearly identified with a description of the functions of each PI within a team. It is important to provide a full scientific justification for the research; do not simply reiterate justifications presented in this document. Both page limits are inclusive of figures and other visual materials, but exclusive of references and milestone chart. This section should also include:

(a) The objective for the period of proposed work and its expected significance;

(b) The relation to the present state of knowledge in the field and relation to previous work and work in progress by the proposing principal investigator(s);

(c) A discussion of how the proposed project lends value to the program goals, and

(d) Potential coordination with other investigators.

NOAA has specific requirements that environmental data be submitted to the National Oceanographic Data Center.

(e) References cited: Reference information is required. Each reference must include the name(s) of all authors in the same sequence in which they appear in the publications, the article title, volume number, page numbers, and year of publications. While there is no established page limitation, this section should include bibliographic citations only and should not be used to provide parenthetical information outside of the 15–page project description.

(4) *Milestone chart*: Time lines of major tasks covering the 12 to 24-month duration of the proposed project.

(5) *Budget*: At time of proposal submission, all applicants shall submit the Standard Form, SF–424 (Rev 7–97), Application for Federal Assistance, to indicate the total amount of funding proposed for the whole project period. In lieu of the Standard Form 424A, Budget Information (Non-Construction), at time of original application, all proposers are required to submit a COP Summary Proposal Budget Form for each fiscal year increment (i.e., 2000, 2001). Multi-institution proposals must include budget forms from each institution.

Use of this budget form will provide for a detailed annual budget and the level of detail required by the COP program staff to evaluate the effort to be invested by investigators and staff on a specific project. The COP budget form is compatible with forms in use by other agencies that participate in joint projects with COP, and can be found on the COP home page under COP Grants Support, Part D.

All applicants shall include a budget narrative/justification that supports all proposed budget object class categories. The program office will review the proposed budgets to determine the necessity and adequacy of proposed costs for accomplishing the objectives of the proposed grant. Ship time needs must be identified in the proposed budget. The SF–424A, Budget Information (Non-Construction) Form, shall be requested from only those recipients subsequently recommended for award.

(6) *Biographical sketch*: Abbreviated curriculum vitae, two pages per investigator, are sought with each proposal. Include a list of up to five publications most closely related to the proposed project and up to five other significant publications. A list of all persons (including their organizational affiliation), in alphabetical order, who have collaborated on a project, book, article, or paper within the last 48 months should be included. If there are no collaborators, this should be so indicated. Students, post-doctoral associates, and graduate and postgraduate advisors of the PI should also be disclosed. This information is used to help identify potential conflicts of interest or bias in the selection of reviewers.

(7) *Proposal format and assembly*: Clamp the proposal in the upper left-hand corner, but leave it unbound. Use one inch (2.5 cm) margins at the top, bottom, left and right of each page. Use a clear and easily legible type face in standard 12 points size.

Part II: Further Supplementary Information

(1) *Program authorities*: For a list of all program authorities for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page. Specific authority cited for this announcement is 33 U.S.C. 1442 *et seq*.

(2) *Catalog of Federal Domestic Assistance Numbers*: 11.478 for the Coastal Ocean Program and 11.472 for the National Marine Fisheries Service, Southeast Fisheries Science Center.

(3) *Program description*: For complete COP program descriptions, see the annual COP General Document (64 FR 49162, September 10, 1999).

(4) *Funding availability*: Funding is contingent upon receipt of fiscal years 2000–2001 Federal appropriations. The anticipated maximum annual funding

for SFERPM and SFLMR activities is $1.9 million.

If an application is selected for funding, NOAA has no obligation to provide any additional prospective funding in connection with that award in subsequent years. Renewal of an award to increase funding or extend the period of performance based on satisfactory performance and is at the total discretion of the funding agency.

Publication of this document does not obligate NOAA to any specific award or to any part of the entire amount of funds available. Recipients and subrecipients are subject to all Federal laws and agency policies, regulations, and procedures applicable to Federal financial assistance awards.

(5) *Matching requirements*: None.

(6) *Type of funding instrument*: Project grants

(7) *Eligibility criteria*: For complete eligibility criteria for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page under General Announcement.

Federal researchers in successful multi-investigator proposals will be funded through NOAA. Proposals deemed acceptable from Federal researchers will be funded through a mechanism other than a grant or cooperative agreement, where legal authority allows for such funding. Non-NOAA Federal applicants are required to submit certification or documentation which clearly shows that they can receive funds from the Department of Commerce (DoC) for research (i.e., legal authority exists allowing the transfer of funds from DoC to the non-NOAA Federal applicant's agency).

(8) *Award period*: Full Proposals should cover a project period of 1 to 2 years, from FY 2000–01 to FY 2001–02.

(9) *Indirect costs*: If indirect costs are proposed, the following statement applies: The total dollar amount of the indirect costs proposed in an application must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award.

(10) *Application forms*: For complete information on application forms for the Coastal Ocean Program, see COP's General Grant Administration Terms and Conditions annual document in the **Federal Register** (64 FR 49162, September 10, 1999); the COP home page; and the information given earlier in this document under Required Elements, paragraph (5) Budget.

(11) *Project funding priorities*: For description of project funding priorities, see COP's General Grant Administration Terms and Conditions annual document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

(12) *Evaluation criteria*: For complete information on evaluation criteria, see COP's General Grant Administration Terms and Conditions annual document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

(13) *Selection procedures*: For complete information on selection procedures, see COP's General Grant Administration Terms and Conditions annual document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

(14) *Other requirements*: As participants in the Interagency Science Program, funded principal investigators will be expected to:

(a) Participate in meetings for planning and coordination of the Interagency Program. This includes attending and contributing to the Annual Interagency Florida Bay Science Program Conference, Research Team Meetings, and other relevant technical workshops sponsored by the PMC at the request of the SFERPM Coordinating Office.

(b) Promptly quality control their data and make them readily available through the SFERPM Data Management Office in accordance with the SFERPM Data Policy, which is referenced earlier in this document under **FURTHER INFORMATION.**

(c) Assist the SFERPM Coordinating Office and the Interagency PMC in the synthesis and interpretation of research results and the development of products of value to restoration and resource managers. For a complete description of other requirements, see COP's General Grant Administration Terms and Conditions annual document in the **Federal Register** (64 FR 49162, September 10, 1999) and at the COP home page.

(15) Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

(16) Pursuant to Executive Orders 12876, 12900 and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in, and benefit from, Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

(17) This notification involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF-LLL have been approved by the Office of Management and Budget (OMB) under control numbers 0348–0043, 0348–0044, 0348–0040 and 0348–0046.

The COP Grants Application Package has been approved by OMB under control number 0648–0384 and includes the following information collections: a Summary Proposal Budget Form, a Project Summary Form, standardized formats for the Annual Performance Report and the Final Report, and the submission of up to 20 copies of proposals. Copies of these forms and formats can be found on the COP Home Page.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: March 13, 2000.

Ted I. Lillestolen,

Deputy Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration.

Dated: March 3, 2000.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–6852 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031400A]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Mackerel Stock Assessment Panel (MSAP).

DATES: This meeting will begin at 1:00 p.m. on Monday, April 3, 2000 and will conclude by 12:00 noon on Friday, April 7, 2000.

ADDRESSES: The meeting will be held at the National Marine Fisheries Service Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, Florida.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; 813–228–2815.

SUPPLEMENTARY INFORMATION: The MSAP will convene to review a full stock assessment for Gulf group king mackerel. The MSAP will also review stock assessment updates for the Atlantic group king mackerel and Gulf and Atlantic migratory groups of Spanish mackerel. The MSAP will consider available information, including but not limited to, commercial and recreational catches, natural and fishing mortality estimates, recruitment, fishery-dependent and fishery-independent data, and data needs. These analyses will be used to determine the condition of the stocks and the levels of acceptable biological catch for the 1999–2000 fishing year. The MSAP will also review available stock assessment data for dolphin and wahoo. The MSAP may also review estimates/proxies for maximum sustainable yield management targets, and rebuilding schedules.

Although non-emergency issues not contained in this agenda may come before the MSAP for discussion, those issues may not be the subject of formal MSAP action during this meeting. MSAP action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency. A copy of the MSAP agenda can be obtained by calling (813) 228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: March 14, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–6811 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030100E]

Marine Mammals; File No. 763–1534–00

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the National Zoological Park, Smithsonian Institution, Washington, D.C. 20008–2598 [Principal Investigator: Dr. Daryl Boness], has been issued a permit to import/export grey seal specimen and other non-endangered marine mammal specimen for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930, (978/281–9250).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On December 30, 1999, notice was published in the **Federal Register** (64 FR 73523) that a request for a scientific research permit to collect samples from grey seals and import/export samples taken opportunistcally from non-endangered marine mammals of the Orders Pinnipedia (except walrus) and Cetacea had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Dated: March 10, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–6810 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 013100B]

Marine Mammals; File No. 376–1520–00

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. James H.W. Hain, Holder/Principal Investigator, Associated Scientists of Woods Hole, Box 721, 3 Water Street, Woods Hole, Massachusetts 02543, has been issued a permit to take marine mammals for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930, (978/281–9250); and

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (813/570–5312).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On June 23, 1999, Notice was published in the **Federal Register** (64 FR 33470) that a request for a scientific research permit to take various cetacean species, harbor and grey seals, and sea turtles during aerial/vessel surveys, collect stomach contents and baleen, and conduct passive acoustic activities had been submitted by the above-named individual. A modified version of the permit request has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as

amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226). The take of right whales and sea turtles, and collection of stomach contents/baleen was not authorized.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: March 10, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–6838 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Electronic Filing System (EFS) Pilot

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce (DoC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, 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 May 19, 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 the Internet (LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Diane Lewis, EFS Project Staff, Search Information Resources Administration, Arlington, VA 22202, by telephone at (703) 305–9892, or by e-mail at EFS@uspto.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Patent and Trademark Office (PTO) has started a pilot program that enables applicants to expand upon the use of the Electronic Filing System (EFS) to file new utility patent applications electronically via the Internet. The EFS pilot program is currently limited to nine participants, however, the PTO expects to increase participation in August 2000. Electronic filing under this pilot is currently limited to new utility patent applications. Once the PTO moves into production, the electronic filing capability will be expanded to include filings of additional information after the initial filing of the new utility patent application. The PTO plans to put EFS into full production no later than February 2001.

In order to file a new utility patent application through the EFS, the applicant uses two different components—the EFS Specification Authoring Template and the electronic Packaging and Validation Engine (ePAVE). The authoring template enables the applicant to create an electronically tagged patent application specification document that is one part of a new utility patent application. The ePAVE desktop software enables applicants to author information related to the submission of a new utility patent application, as well as securely bundle and transmit all new patent application parts and information to the PTO via the Internet. The EFS Specification Authoring Template facilitates the authoring of the narrative that discloses the technical description of the invention. The template does not produce a form document, but rather a multi-line electronic document with tagged elements that may or may not have drawings. The template creates the XML tags that are necessary for the electronic document to be filed using the Internet and ensures that all of the information needed to process the application is provided by the applicant.

The EFS Specification Authoring Template allows the applicant to create a structured, extensible Mark-up Language (XML) tagged specification document using a commercially available word processing package. This document may also contain one or more TIFF (tagged image file format) files containing the scanned image of the drawing figure(s), oaths or declarations, and small entity statements.

The ePAVE software transmits the documents created by the EFS Specification Authoring Template to the PTO via the Internet. The ePAVE software enables the applicant to create the rest of the information required for a new utility patent application submission. The applicant attaches the XML-tagged specification document file and TIFF images (*e.g.* declaration, drawings) and creates an XML fee transmittal document that calculates the filing fees. The ePAVE software captures the applicant's signature, validates the submission, confirms with the applicant that the submission is correct, uploads it to the PTO, and sends an Acknowledgment Screen. The ePAVE software saves a copy of all of the electronic files associated with the electronic filing of a new utility patent application. The ePAVE software compresses the electronic files prior to transmission to the PTO, so filers do not need to compress their files when submitting applications via the Internet using EFS.

The PTO will not accept executable files (.exe) as part of an application filed electronically through the Internet. In order to use EFS to file the utility patent applications, applicants must have a digital certificate. Applicants can obtain an application for a digital certificate through the PTO Electronic Business Center website, http://pto-ebc.uspto.gov. Currently, applications in the biotechnology arts, design patent applications, provisional applications, and those involving color are not suitable for filing. Applicants do not have to use the EFS Specification Authoring Template to create specification documents, but if they plan on using EFS to file a new utility patent application, they must use the authoring template.

II. Method of Collection

Electronically through the ePAVE software via the Internet.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: New collection.

Affected Public: Individuals or households; businesses or other for-profit organizations; not-for-profit institutions; farms; state, local or tribal governments; and the Federal Government.

Estimated Number of Respondents: The PTO estimates that 30,000 new utility patent applications will be filed electronically via the Internet per year once EFS moves into full production. At this time, participation in the pilot is limited to nine participants. In August, the PTO plans to steadily increase the participation in the pilot to a wider audience.

Estimated Time Per Response: It is estimated to take approximately 13.25 hours to read the instructions and the user guide, gather the necessary data, complete, and submit a new utility patent application using the EFS

Specification Authoring Template and ePAVE. This includes 10.75 hours to gather the information, read the instructions and user guides, and prepare the specification document using the EFS Specification Authoring Template, and 2.5 hours for tagging the elements and submitting the application electronically.

Estimated Total Annual Burden Hours: 397,500 hours per year.

Estimated Total Annual Cost Burden: The PTO provides the EFS specification authoring template and ePAVE software to the customer. However, some participants have voluntarily purchased a word processing license or upgrade to their word processing package to take full advantage of the authoring template. In light of this, the PTO estimates a possible capital start-up cost ranging from $100 to $200. The PTO has determined from the pilot that a mix of attorneys and paraprofessional clerical personnel have been creating and submitting the new utility patent applications using EFS. Using the average of the professional hourly rate for associate attorneys in private firms ($175) and paraprofessional/clerical ($30), the PTO estimates $40,942,500 for salary costs associated with respondents.

Format/data entry screens	PTO form number	Estimated time for response	Estimated annual burden hours	Estimated annual responses
EFS Pilot Specification Authoring Template	No Forms Associated	10.75	397,500	30,000
ePAVE		2.5		
Totals			397,500	30,000

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 will 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, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.,* the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 14, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–6764 Filed 3&–17&–00; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Patent Cooperation Treaty

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, 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 May 19, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, D.C. 20230 or via the Internet *(LEngelme@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Rafael Bacares by telephone at (703) 308–6312, by facsimile transmission at (703) 308–6459, or by e-mail at *rbacares@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the provisions of the Patent Cooperation Treaty (PCT), a United Nations Treaty that was signed on June 19, 1970 by the 20 member states of the Paris Union for the Protection of Industrial Property (of which the United States is a member). The general purpose of the PCT is to simplify the filing of patent applications for the same invention in different countries. This treaty standardizes the filing procedures and the format of the application, and enables an applicant to file one international application in one location, in one language and pay one initial set of fees. The international application receives an international filing date (priority date) that is considered to be the actual filing date in the various designated countries. The PCT has streamlined the filing process and made it more efficient. The PCT became operational in June of 1978, and is administered by the World Intellectual Property Organization (WIPO) in Geneva, Switzerland.

The United States Patent and Trademark Office (PTO) acts in the capacity of the United States Receiving Office (RO/US) for international applications filed by residents and nationals of the United States. While applicants send most of their correspondence directly to the PTO, they also can file certain documents directly with the International Bureau (IB). The PTO also serves in the capacity of an International Searching Authority (ISA) and an International Preliminary Examining Authority (IPEA).

The PCT allows for the introduction of electronic filing of the international application, as long as the confidentiality requirements are met. The PTO currently has various electronic filing efforts underway. One of these, the Patent Cooperation Treaty (PCT) Operations Workflow and Electronic Review (POWER), will allow for the electronic filing of international applications. POWER is being implemented in two phases. Phase I, which the PTO released in October 1999, allows the PTO to electronically process international applications. The second phase of POWER, currently in development, will allow applicants to file their international applications electronically. The PTO estimates that Phase II will be released in late FY 2000.

II. Method of Collection

The current method of collection of the PCT application by the PTO is either by mail or hand delivery. Follow-up communications (e.g. amendments, petitions, etc.), except for drawings, may, in addition to the above methods, be transmitted to the PTO by facsimile.

III. Data

OMB Number: 0651–0021.

Form Numbers: Form PCT/RO/101, Form PCT/RO/101 (Annex), PTO/1382, Form PCT/Model of power of attorney, Form PCT/Model of general power of attorney, Form PCT/RO/134, Form PCT/RO/144, Form PCT/IPEA/401, Form PCT/IPEA/401 (Annex), and Form PCT/IB/328. Not all of the information required by this collection is collected from the public by using forms. It is not mandatory that an applicant use these forms to provide the PTO with the necessary information. However, the PTO advises applicants to use these forms to ensure that all of the necessary information is provided and to assist the PTO in processing the international applications quickly and efficiently.

Type of Review: Renewal with change.

Affected Public: Individuals or households, business or other for-profit organizations; not-for-profit institutions, farms, Federal Government, and state, local, or tribal government.

Estimated Number of Respondents: 467,103 responses per year. Of this total, 48,149 responses are due to additional requirements overlooked in previous submissions. The PTO estimates that 29,367 requests to the IB to transmit copies of an international application; 3,305 withdrawals of internal applications, designations of the state, demands, election, and priority claims; 522 requests/authorizations to access international applications; and 14,955 translations will be submitted per year.

Estimated Time Per Response: The PTO estimates that it will take the public from 15 minutes to 4 hours to gather the information required by this information collection. In addition, the PTO estimates that it will take the public from 15 minutes to 2 hours to provide the information for the information requirements overlooked in the previous submissions. The time estimates for the forms include the amount of time that the PTO estimates that it will take an applicant to read and understand the instructions, gather the necessary information, complete the forms, prepare the necessary attachments, and submit the forms to the PTO.

Estimated Total Annual Burden Hours: 467,103 hours per year.

Estimated Total Annual Cost Burden: $0 (no capital start-up or maintenance expenditures are required). Using the professional hourly rate of $175.00 for associate attorneys in private firms, the PTO estimates $81,743,025 for salary costs associated with respondents.

Item	PTO form number	Estimated time for response (hours)	Estimated annual burden hours	Estimated annual responses
Request and Fee Calculation	PCT/RO/101	1	30,305	30,305
Description/claims/drawings/ abstracts	Not Applicable	3	91,000	273,000
Transmittal letter to the RO/US	PTO/1382	0.25	21,214	5,304
PCT/Model of Power of Attorney	Same as Title	0.25	20,000	5,000
PCT/Model of General Power of Attorney	Same as Title	0.25	2,729	682
Extensions of time	Not Applicable	0.25	24,244	6,061
Priority documents	Not Applic able	0.25	45,000	11,250
Indications/deposited microorganisms	PCT/RO/134	0.25	303	76
Response to invitation to correct defects	Not Applicable	2	91,000	182,000
Request for rectification of obvious errors	Not Applicable	0.5	2,174	1,087
Notice/confirmation/precautionary designations	PCT/RO/144	0.25	3,305	826
Demand (Annex and Notes)	PCT/IPEA/40/1	1	14,151	14,151
Amendments	Not Applicable	1	12,028	12,028
Notice Effecting Later Elections	PCT/IB/328	0.25	47,621	11,905
Fee Authorization	Not Applicable	0.25	12,122	3,031
Petitions	Not Applicable	4	1,758	7,032
Requests to transmit copies of international application	Not Applicable	0.25	29,367	7,342
Withdrawal of international application/designations of the state/ demands/elections/priority claims.	Not Applicable	0.25	3,305	826
Request/authorization to access international application	Not Applicable	0.25	522	131
Translations	Not Applicable	2	14,955	29,910
TOTALS			467,103	601,947

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 will 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, *e.g.,* the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 14, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–6765 Filed 3–17–00; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0149]

Proposed Collection; Comment Request Entitled Subcontract Consent

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0149).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Subcontract Consent. This OMB Clearance expires on June 30, 2000.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Comments may be submitted on or before May 19, 2000.

ADDRESSES: Comments including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Office of Federal Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

The objective to consent to subcontract, as discussed in FAR Part 44, is to evaluate the efficiency and effectiveness with which the contractor spends Government funds, and complies with Government policy when subcontracting. The consent package provides the administrative contracting officer a basis for granting, or withholding consent to subcontract.

B. Annual Reporting Burden

Number of Respondents: 4,252.
Responses Per Respondent: 3.61.
Total Responses: 15,349.
Average Burden Hours Per Response: .87.
Total Burden Hours: 13,353.
Obtaining Copies of Proposals: Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0149, Subcontract Consent, in all correspondence.

Dated: March 14, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 00–6725 Filed 3–17–00; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0007]

Proposed Collection; Comment Request Entitled Summary Subcontract Report

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension of an existing OMB clearance (9000–0007).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Summary Subcontract Report. This OMB Clearance expires on June 30, 2000.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Comments may be submitted on or before May 19, 2000.

ADDRESSES: Comments including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), Room 4035 1800 F Street, NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Federal Acquisition Policy Division, GSA (202) 501–4764.

SUPPLEMENTARY INFORMATION:

A. Purpose

In accordance with the Small Business Act (15 U.S.C. 631, *et seq.*), contractors receiving a contract for more than $10,000 agree to have small and small disadvantaged business concerns participate in the performance of the contract as far as practicable. Contractors receiving a contract or a modification to a contract expected to exceed $500,000 ($1 million for construction) must submit a subcontracting plan that provides maximum practicable opportunities for small and small disadvantaged business concerns. Specific elements required to be included in the plan are specified in section 8(d) of the Small Business Act and are implemented in FAR 19.7.

Number of Respondents: 4,253.
Responses Per Respondent: 1.66.
Total Responses: 7,060.
Average Burden Hours Per Response, 12.90.
Total Burden Hours: 91,074.
Obtaining Copies of Justifications: Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0007, Summary Subcontract Support, in all correspondence.

Dated: March 14, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 00–6726 Filed 3–17–00; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 19, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 14, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Performance Report for the Ronald E. McNair Postbaccalaureate Achievement Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 1.

Burden Hours: 702.

Abstract: The Ronald E. McNair Postbaccalaureate Achievement Program grantees are required to submit the report annually. The reports are used to monitor the performance of grantees prior to awarding continuation funds and to assess a grantee's prior experience at the end of each budget period. The Department will also aggregate the data to provide descriptive information and analyze program impact.

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. Written comments or questions regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266. 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. 00–6763 Filed 3–17–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration [1]

Record of Decision: Conveyance and Transfer of Certain Land Tracts Administered by the Department of Energy and Located at Los Alamos National Laboratory, Los Alamos and Santa Fe Counties, New Mexico

AGENCY: Department of Energy.

ACTION: Record of decision.

SUMMARY: The U.S. Department of Energy (DOE) is issuing this Record of Decision on the conveyance and transfer of certain land tracts previously identified as being potentially suitable for this action as required by Public Law 105–119, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, Fiscal Year 1998 (Section 632, 42 United States Code [U.S.C.] § 2391; the Act). This Record of Decision is based upon the requirements for DOE action as stated in the Act and upon the information contained in the Environmental Impact Statement for the Conveyance and Transfer of Certain Land Tracts Administered by the Department of Energy and Located at Los Alamos National Laboratory, Los Alamos and Santa Fe Counties, New Mexico, DOE/EIS–0293. DOE has decided to implement the Preferred Alternative, i.e., seven tracts will be conveyed or transferred in full, and three tracts (Airport, TA–21, and White Rock Y) will be conveyed or transferred in part, based on DOE's continuing or future need for an individual tract, or a portion of the tract, to meet the national security mission support function at the Los Alamos National Laboratory (LANL). In the ''Conveyance and Transfer'' EIS discussion of the Preferred Alternative, DOE identified the potential partial transfer of the White Rock Y Tract due to the developing proton radiography project, and the tract was considered as one of the tracts that would be conveyed in whole or in part by 2007. In this Record of Decision, DOE is conveying or transferring only part of the White Rock Y Tract because of the potential national security mission need. Should DOE's siting of the proposed proton radiography project not require a part of the White Rock Y Tract as a buffer area, DOE will reassess the need to retain any buffer areas and amend this Record of Decision, as needed.

Additionally, the disposition of each tract, or portion of a tract, will be subject to the ability of DOE to complete any necessary environmental restoration or remediation. DOE will convey to the Incorporated County of Los Alamos and/or transfer to the Department of the Interior, in trust for the San Ildefonso Pueblo, ten tracts, in whole or in part, totaling about 4,046 acres. Pursuant to the Allocation Agreement between the County of Los Alamos and the San Ildefonso Pueblo submitted to the Secretary of Energy on January 7, 2000, all lands are to be received by the County of Los Alamos except for portions of the TA–74 Tract, the White Rock Y Tract, and the White Rock Tract.

FOR FURTHER INFORMATION CONTACT: For further information on the Conveyance and Transfer EIS or to receive a copy of this EIS or other information related to this Record of Decision, contact: Elizabeth Withers, Document Manager, U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544, (505) 667–8690.

[1] The National Nuclear Security Administration was established by the National Defense Authorization Act for Fiscal Year 2000, Public Law 106–65, Title XXXII, Oct. 5, 1999, 113 Stat. 953 *et seq.*

For information on the DOE National Environmental Policy Act (NEPA) process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

DOE prepared this Record of Decision pursuant to the regulations of the Council on Environmental Quality for implementing NEPA (40 CFR parts 1500–1508) and DOE's NEPA Implementing Procedures (10 CFR part 1021). This Record of Decision is based on several factors such as national security mission need, estimated costs and cleanup durations and the technical feasibility of achieving restoration and remediation, and on information provided in the Environmental Impact Statement for the Conveyance and Transfer of Certain Land Tracts Administered by the Department of Energy and Located at Los Alamos National Laboratory, Los Alamos and Santa Fe Counties, New Mexico (DOE/EIS–0293) (Conveyance and Transfer EIS).

LANL is one of several national laboratories that supports DOE's responsibilities for national security, energy resources, environmental quality, and science. LANL is located in north-central New Mexico, about 60 miles (97 kilometers) north-northeast of Albuquerque, and about 25 miles (40 kilometers) northwest of Santa Fe. The small communities of Los Alamos townsite, White Rock, Pajarito Acres, the Royal Crest Mobile Home Park, and San Ildefonso Pueblo are located in the immediate vicinity of LANL. LANL occupies an area of approximately 27,832 acres (11,272 hectares), or approximately 43 square miles (111 square kilometers). DOE also has administrative control over other properties and land within Los Alamos County that total about 915 acres (371 hectares).

In 1943, the Federal Government began acquiring land in the general area of Los Alamos, New Mexico, for the location of a secret research and development facility for the world's first nuclear weapon, known originally as ''Project Y of the Manhattan Project'' (now known as LANL). DOE is the Federal agency with current administrative responsibility for LANL. In 1949, the New Mexico Legislature created the County of Los Alamos (the County) from portions of Santa Fe and Sandoval Counties. However, most of the County remained under the control of the Federal Government until the 1950s.

Under the Atomic Energy Community Act (AECA) of 1955 (42 U.S.C. 2301–2394), the Federal Government recognized its responsibility to provide support for a specified period to agencies or municipalities that were strongly affected by their proximity to facilities that are part of the nation's nuclear weapons complex while these communities achieved self-sufficiency. Los Alamos, New Mexico, was established as a such a wholly government-owned community in which the Federal Government provided all municipal, educational, medical, housing, and recreational facilities. The AECA set forth the policies and obligations of the Federal Government to these communities, including provisions related to financial assistance payments. These policies were directed at terminating Federal Government ownership and management of the communities by facilitating the establishment of local self-government, providing for the orderly transfer to local entities of municipal functions, and providing for the orderly sale to private purchasers of property within these communities. The establishment of self-government and transfer of infrastructure and land were intended for the purpose of encouraging self-sufficiency of the communities through the establishment of a broad base for economic development. DOE's predecessor agency leased and disposed of some of the Federal lands under its management to the County, other government agencies, and to private parties in the late 1950's and early 1960's. In 1967, DOE's predecessor agencies began to transfer ownership of land tracts, roads, buildings, and some of the utility systems managed by DOE to the County to be made available for public use. The land that was released at that time was primarily located within the Los Alamos townsite and had been used for civilian housing and community support functions. A relatively small amount of land was auctioned to individuals and private developers to establish the Royal Crest Mobile Home Park, the White Rock and Pajarito Acres communities, and to develop areas in and around the Los Alamos townsite. Additionally, a number of various leases for small tracts of land within the County were entered into during this period. The release of these lands from Federal Government use in the late 1960's enabled them to be developed for a variety of uses, ranging from preservation to urban development.

Over the years, the LANL boundaries have changed and have been reduced extensively as a result of several land transfer efforts. Today, only about 38 percent of the total land that historically comprised the LANL reserve remains under DOE's administrative control. The bulk of this remaining land is occupied by LANL, with the University of California as DOE's current Management and Operating contractor conducting day-to-day operation of the site. Currently, LANL is bounded by the lands of several landowners and stewards with a variety of land uses.

On November 26, 1997, Congress passed Public Law 105–119, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, Fiscal Year 1998 (''the Act''). Section 632 of the Act (42 U.S.C. 2391) directs the Secretary of Energy (the Secretary) to convey to the Incorporated County of Los Alamos, New Mexico, or to the designee of the County, and transfer to the Department of the Interior, in trust for the San Ildefonso Pueblo, parcels of land under the jurisdictional administrative control of the Secretary at or in the vicinity of LANL. Such parcels, or tracts, of land must meet suitability criteria established by the Act. The purpose of the conveyances and transfers is to fulfill the obligations of the United States with respect to Los Alamos, New Mexico, under sections 91 and 94 of the Atomic Energy Community Act of 1955 (AECA) (42 U.S.C. 2391, 2394). Upon the completion of the conveyance or transfer, the Secretary of Energy shall make no further financial assistance payments with respect to LANL under the AECA.

The Act sets forth the criteria, processes, and dates by which the tracts will be selected, titles to the tracts reviewed, environmental issues evaluated, and decisions made as to the allocation of the tracts between the two recipients. DOE's responsibilities under the Act include identifying potentially suitable tracts of land according to criteria set forth in the law (Land Transfer Report, April 1998); conducting a title search on each tract of land (Title Report, September 1998); identifying any environmental restoration and remediation that would be needed for each tract of land (Environmental Restoration Report, August 1999); conducting National Environmental Policy Act of 1969 (NEPA) review of the proposed conveyance or transfer of the land tracts (the Conveyance and Transfer EIS,

October 1999, distributed in January 2000); reporting to Congress on the results of the Environmental Restoration Report review and the final Conveyance and Transfer EIS (Combined Data Report, January 2000); and preparing a plan for conveying or transferring land according to the allocation agreement of parcels for Congress (Conveyance and Transfer Plan, planned for April 2000). The Act further states that the Secretary must, to the maximum extent practicable, conduct any needed environmental restoration or remediation activities within 10 years of enactment (by November 26, 2007), and convey and transfer the tracts meeting the suitability criteria. Under the Act, DOE has no role in the designation of recipients nor how the parcels of land will be allocated between the recipients.

As required by the Act, DOE identified 10 tracts of land as being potentially suitable for conveyance and transfer. The 10 tracts are the subject of DOE's Land Transfer Report submitted to Congress in April 1998. These 10 tracts of land are as follows (all acreages given are approximate and have been adjusted herein to include some rights-of-ways that were inadvertently excluded from the original April 1998 report):

The Rendija Canyon Tract consists of about 910 acres (369 hectares). The canyon is undeveloped except for the shooting range (the Sportsman's Club) that serves the local community; the shooting range is currently under lease from DOE to the community.

The DOE Los Alamos Area Office (LAAO) Tract consists of about 15 acres (6 hectares). It is within the Los Alamos townsite. DOE employees occupy offices at the site.

The Miscellaneous Site 22 Tract is a small, Los Alamos townsite parcel located on the edge of the mesa overlooking Los Alamos Canyon. It consists of less than 0.5 acre (0.2 hectare) of disturbed land that is undeveloped and currently is used as an unsanctioned vehicle parking area.

The Miscellaneous Manhattan Monument Tract consists of less than 0.5 acre (0.02 hectare). The Manhattan Monument is a small, rectangular site located within Los Alamos County land and adjacent to Ashley Pond, where most of the first Los Alamos laboratory work was conducted. A small log structure occupies the site.

The DP Road Tract (North, South and West) consists of about 50 acres (20 hectares). It is generally undeveloped except for the West section where the LANL archives are currently located in one of two buildings.

The TA–21 Tract consists of about 260 acres (105 hectares) and is located east of the Los Alamos townsite. This occupied site is remote from the main LANL area; University of California workers occupy offices at the site, and LANL operations are conducted at facilities there.

The Airport Tract consists of about 205 acres (83 hectares). Located east of the Los Alamos townsite, it is close to the East Gate Business Park. The Los Alamos Airport is located on part of the tract, while other portions of the tract are undeveloped.

The White Rock Y Tract consists of about 540 acres (219 hectares). It is undeveloped and is associated with the major transportation routes connecting Los Alamos with northern New Mexico.

The TA–74 Tract consists of about 2,715 acres (1,100 hectares). It is a large, remote site located east of the Los Alamos townsite and is largely undeveloped.

The White Rock Tract consists of about 100 acres (40 hectares). It is undeveloped except for utility lines, a water pump station, and a small building in use by the County.

As required by the Act, DOE conducted a review of its ownership for each of the 10 tracts of land identified as being potentially suitable for conveyance and transfer. The results of this search (in the form of formal Title Reports) for any claims, liens, or similar instruments affecting DOE's title to its interests in the real property for each of the 10 subject tracts were submitted to Congress in September 1998. No ''clouds on the titles'' were discovered during the search.

DOE identified the environmental restoration and remediation necessary before it can dispose of the subject tracts in the Environmental Restoration (ER) Report, as required by the Act. Descriptions of the type and extent of known tract contamination, the regulatory status of the site contamination, potential waste generation associated with environmental restoration activities, the estimated costs and durations for cleanup, and other site concerns are included in the report; it also identifies areas where no site data is yet available.

The LANL ER Project has its own process of site investigation, data analysis, public and stakeholder involvement and remediation that occurs under auspices of an Administrative Authority (either the New Mexico Environment Department or DOE). LANL is regulated under the *Resource Conservation and Recovery Act* (RCRA). The activities under the LANL ER Project are subject to DOE review for compliance with NEPA at the time that proposals for actions become ripe for decision, which is typically after public input and Administrative Authority agreement to pursue specific types of cleanup activities. To the extent that this information was known or that reasonably bounding data has been developed, the information was presented and used in the Conveyance and Transfer EIS analysis. Additional DOE NEPA review will be necessary for the majority of the activities yet to be undertaken at most of the subject tracts.

The review of environmental impacts of the conveyance or transfer of each parcel, as required by the Act, is the subject of the Conveyance and Transfer EIS. The NEPA compliance process, the general document scope, the purpose and need for DOE action, the decisions supported by the impact analysis, a description of the alternatives analyzed, and a brief discussion and comparison of the impacts likely to occur from implementing the alternatives analyzed are included in the Conveyance and Transfer EIS.

As required by the Act, a report (Combined Data Report) presenting information regarding the environmental restoration or remediation required for the subject tracts (including estimated costs and cleanup durations), and the potential environmental impacts associated directly, indirectly, and cumulatively with conveyance and transfer of the subject tracts was submitted to Congress on January 24, 2000. This report makes recommendations for the conveyance or transfer of each of the subject tracts, either in whole or in part, with regard to the likelihood of DOE being able to meet the suitability criteria established in the Act.

The Incorporated County of Los Alamos and San Ildefonso Pueblo, as required by the Act, have reached an agreement on the allocation of parcels between them and submitted their agreement to the Secretary of Energy on January 7, 2000. Under that agreement, all subject lands are to be received by the County of Los Alamos except for portions of the TA–74 Tract, the White Rock Y Tract, and the White Rock Tract.

As required by the Act, DOE must submit a plan outlining how it will proceed with the actual conveyance or transfer of each of the subject tracts, in whole or in part, to the two recipients pursuant to their agreement of allocation. This plan will be submitted to Congress in April 2000. DOE shall convey or transfer parcels in accordance with the allocation agreement between the two recipients, subject to the requirements of the Act for retention of

lands needed for DOE to meet its national security mission and/or the requirements for environmental restoration or remediation (providing these requirements can be met within the 10-year period beginning on the date of enactment of the Act, which ends November 26, 2007), and subject to the decisions in this Record of Decision.

This Record of Decision considers, and the Conveyance and Transfer Plan will consider: the need for land to support its national security mission requirements, estimated costs and cleanup durations and the technical feasibility of achieving restoration and remediation to the maximum extent practical, as required under the Act, for one of the three uses established by PL 105–119; the information on environmental impacts associated with the subject tracts as a result of conveyance and transfer; and other factors discussed later in this Record of Decision.

Alternatives Considered

DOE analyzed two alternatives in the Conveyance and Transfer EIS: the No Action Alternative and the Proposed Action Alternative.

Alternative 1—No Action

The No Action Alternative reflects the conditions that would prevail if DOE did not convey or transfer the subject tracts of land. Under this alternative, DOE would continue its administrative control of each or all of the individual tracts tentatively identified as a candidate for conveyance and transfer, and conveyance or transfer actions for each or all of the tracts would not occur. The subject lands would continue to be used as they are currently. Individual tracts would continue to be used to either support LANL uses (as undeveloped programmatic activity buffer zones; historic, cultural, or environmental preservation areas; or future growth areas) or in support of ongoing or similar mission support functions. DOE would continue to lease properties to the County and others for continuance of their current public relations, recreational, and commercial purposes. Under this alternative, land might not be restored or remediated in the same manner or time frame as under the Proposed Action Alternative. LANL ER Project activities would be conducted on the tracts as they become funded in accordance with either existing or similar plans. Neither the County nor San Ildefonso Pueblo would gain additional land to promote self-sufficiency or diversification of their income basis.

Alternative 2—Proposed Action Alternative

Under the Proposed Action Alternative, each of the 10 tracts of land identified as potentially suitable in DOE's Land Transfer Report (April 1998) would individually be either conveyed or transferred, in whole or in part, to either the County or the Secretary of the Interior, in trust for San Ildefonso Pueblo. DOE actions associated with the conveyance and transfer of these land tracts would involve certain ''paper transactions,'' and some tenant relocation activities. DOE actions would result in potential direct impacts because of various resources passing out of the administrative responsibility and protection of DOE. Additionally, indirect impacts could result from the development and use of the tracts by the two recipient parties. Potential cumulative impacts from the actions of other local and regional past, present, and future reasonably anticipated actions could also result from conveying and transferring the land tracts and their subsequent recipient uses.

Environmental restoration or remediation of the subject tracts potentially identified for conveyance and transfer would be the responsibility of DOE and are expected to be accomplished as currently considered by DOE in its plan entitled Accelerating Cleanup: Paths to Closure (DOE 1998) and similar plans. It is not anticipated that the cleanup efforts would differ much between the Proposed Action Alternative and the No Action Alternative, although there could be some areas of cleanup that may differ between the alternatives. These possible exceptions include the timing of some activities (cleanup of some tracts could be completed sooner under the Proposed Action Alternative than under the No Action Alternative); the decommissioning, decontamination, and demolition of buildings and structures currently in use; and some cleanup actions in flood plains. Therefore, most of the environmental restoration or remediation actions are not unique to the Proposed Action Alternative.

In considering the full suite of potential impacts that could result from DOE's action in implementing the conveyance and transfer of these parcels, DOE considered the planned uses of the land and the ensuing potential environmental impacts after the conveyance and transfer. Both the County and San Ildefonso Pueblo have expressed interest in pursuing uses of the parcels for the purposes established by the Act in ways that are potentially different from the manner in which DOE has used the land. Therefore, the Conveyance and Transfer EIS analysis focuses on subsequent property development and use contemplated by the County and by San Ildefonso Pueblo (including their tenants or other third parties) that could only occur if DOE conveys and transfers the subject land tracts.

Preferred Alternative

In both the draft and the final Conveyance and Transfer EIS, the Preferred Alternative is identified as a subset of the Proposed Action Alternative by each tract. The Preferred Alternative would convey or transfer seven tracts in whole and three (Airport, TA–21, and White Rock Y) in part. In the Conveyance and Transfer EIS discussion of the Preferred Alternative, DOE identified the potential partial transfer of the White Rock Y Tract due to the developing proton radiography project, and the tract was considered as one of the tracts that would be conveyed in whole or in part by 2007. In this Record of Decision, DOE is conveying or transferring only part of the White Rock Y Tract because of the potential national security mission need. As specified in PL 105–119, the actual disposition of each tract, or portion of a tract, would be subject to DOE's need for the individual tract, or a portion of the tract, to meet a national security mission support function, which could range from either direct or indirect activity involvement. Additionally, the disposition of each tract, or portion of a tract, would be subject to DOE's completion of any necessary environmental restoration or remediation required.

While both of these suitability criteria were considered in the formulation of the Preferred Alternative, the national security mission support criteria has led DOE to the recognition that portions of three tracts (the White Rock Y, TA–21 Tract and the Airport Tracts) may not be available for conveyance or transfer within the 10-year period specified by PL 105–119 because of the operational needs of two facilities within TA–21 and the need for surrounding areas to be retained as security, health, and safety buffer areas.

DOE additionally recognizes with regard to five of the tracts (Rendija Canyon, DOE LAAO, DP Road, TA–74, White Rock) that meeting the conveyance and transfer criteria within the mandated 10-year time frame may not be possible for all portions of these tracts. For example, the current national security mission support functions that

are conducted on DOE LAAO Tract and the DP Road Tract may require portions of the tracts to be retained for use beyond the 10-year time frame established by the Act, although this is considered to be unlikely. Similarly, there may be newly proposed activities at LANL facilities that could require the retention of portions of tracts for national security mission support reasons. One example of this is a proton radiography project that will be proposed for consideration through DOE's Fiscal Year 2002 budget request. DOE will evaluate this project over the next several months to determine whether to propose that the project should proceed. The project evaluation will include a NEPA analysis that considers various siting locations and engineering design controls and features, which will then be used to reach a project construction decision(s). Engaging in this project could result in an expanded security, health, and safety buffer area(s) being required that may intrude upon one or more of the tracts under consideration for disposal. Because the White Rock Y Tract is the nearest subject tract to one of the LANL locations that will likely be evaluated for the proton radiography project, DOE has reduced this tract to a partial status for disposition. Only essential areas will be retained, and the remainder of the tract will be conveyed or transferred. DOE will make every effort to minimize the portions of the tracts it retains.

In a like vein, some portions of the five tracts that have associated potential contamination issues may require restoration or remediation that could require more than the 10-year period established under the Act for completion of these actions. The LANL ER Project process, which includes input from stakeholders and approval by the Administrative Authority(ies), will proceed with the anticipation of completing the necessary environmental restoration and remediation actions by November 26, 2007, for all parcels except for TA–21. However, some tracts that have complex contamination issues will consume more time and resources, and be more expensive to complete cleanup because, for example, the cleanup technical strategy could change from those currently planned by the ER Project. Reaching agreement on the cleanup approach and conducting the necessary characterization and remedial action could take more time than anticipated in ER project plans. Thus, it may not be possible to complete the necessary actions within the allotted time frame.

The environmental impacts of the Preferred Alternative, based on the EIS, would be expected to be less than those of the Proposed Action Alternative and greater than those of the No Action Alternative for each tract.

Environmentally Preferable Alternative

The Council on Environmental Quality, in its ''Forty Most Asked Questions Concerning CEQ's NEPA Regulations,'' (46 FR 18026, 2/23/81) with regard to 40 CFR 1505.2, defined the ''environmentally preferable alternative'' as the alternative ''that will promote the national environmental policy as expressed in NEPA's Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources.'' After considering impacts to each resource area by alternative, DOE has identified the No Action Alternative as the environmentally preferable alternative. This Alternative was identified as having the fewest direct impacts to the physical environment and to cultural and historic resources. This is because tract disturbances would be at the lowest levels for the greatest number of acres under DOE's continued ownership, rather than under either the Proposed Action Alternative or the Preferred Alternative. Therefore the No Action Alternative would have the fewest impacts, and the Proposed Action would have the most.

Environmental Impacts of Alternatives

DOE analyzed the potential impacts that might occur for land resources; environmental restoration waste volumes; transportation; infrastructure requirements; noise; visual resources, socioeconomics; ecological resources; cultural resources; geological and soil conditions; water resources; air resources; global climate changes; human health; and environmental justice for each of the 10 tracts under the two different alternatives—No Action and Proposed Action. DOE considered the impacts that might occur from potential accidents associated with LANL operations on worker and residential populations that would be brought into closer proximity to LANL facilities. DOE considered the impacts of each contemplated land use associated with each alternative for each tract, the irreversible or irretrievable commitments of resources, and the relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity. The EIS shows important differences in potential environmental impacts among alternatives including: the potential for damage or degradation to ecological resources, including federally listed threatened or endangered species potential habitat areas, and to cultural and historic resources; land use changes; traffic volume changes; infrastructure requirements, including water use, electrical use, natural gas use, solid waste generation and disposal requirements and wastewater sewage generation, treatment and disposal needs, noise generation; changes to the visual character of the tracts; socioeconomic changes; surface water quality; air resource degradation; human health effects; and environmental justice impacts. A comparison of the impacts of the No Action Alternative and the impacts projected to result from implementation of the Proposed Action Alternative are discussed below for both direct and indirect impacts.

Direct Impacts

The potential direct impacts of the proposed conveyance and transfer of the subject tracts include those associated with the relocation of DOE operations and personnel who currently reside on the various tracts. DOE could move employees requiring relocation to existing buildings on other parts of LANL property, or could construct new buildings. These plans are not ripe for decision. Any decision regarding construction of new facilities would be preceded by appropriate NEPA review. There would be no difference in direct impacts between the Proposed Action and the No Action Alternatives in infrastructure, noise, visual resources, socioeconomics, geology and soils, water resources, or human health. The differences between the direct impacts of the Proposed Action and the No Action Alternatives in land use, transportation, ecological resources, cultural resources, and air resources are discussed by affected resource in the following paragraphs.

Under the No Action Alternative, no specific changes in direct impacts in land use are anticipated. Completion of environmental restoration activities, including decontamination, decommissioning, and possible demolition of DOE facilities may allow possible changes in future land use. Environmental restoration activities would proceed in accordance with existing and developing plans pursuant to the RCRA Corrective Action permit and DOE requirements. Worker impacts associated with environmental restoration activities cannot be projected at this time. Environmental restoration activities would be subject to their own

DOE NEPA review. Under the Proposed Action Alternative, no specific changes in direct impacts in land use are anticipated. In general, environmental restoration activities are independent of the conveyance and transfer process, but the conveyance and transfer scenarios may influence decisions on the timing, cleanup levels, and the inclusion of certain buildings in environmental restoration activities. The waste volume estimates would be approximately the same as for the No Action Alternative.

Under the No Action Alternative, no specific changes in direct impacts in *transportation* are anticipated. Under the Proposed Action Alternative, direct consequences of the conveyance and transfer of the tracts include small alteration of the overall daily commute. DOE and contractor personnel relocated from the DOE LAAO, TA–21, and DP Road Tracts would have to change their commuting routes. Some DOE and contractor personnel may have a shorter drive to work, such as those living in White Rock for example; but, most would have farther to travel.

Under the No Action Alternative, no specific changes in direct impacts to *ecological resources* are anticipated. Direct impacts of the Proposed Action Alternative are limited to the changes in responsibility for resource protection. Environmental review and protection processes and procedures for future activities could be different from those that are currently governing the subject tracts and may not be as rigorous. The LANL Threatened and Endangered Species Habitat Management Plan would no longer be in effect for those tracts occupied by or containing suitable habitat for endangered species.

Under the No Action Alternative, no specific changes in direct impacts to *cultural resources* are anticipated. Direct impacts of the Proposed Action Alternative are limited to the potential transfer of known and unidentified cultural resources and historic properties out of the responsibility and protection of DOE. Under the Criteria of Adverse Effects (36 CFR 800.5(a)(1), the transfer, lease, or sale of resources eligible for listing on the National Register of Historic Places (NRHP) is an adverse effect. NRHP eligible resources are present on nine of the ten tracts, and would be directly impacted by the Federal action. The disposition of some of the subject tracts also may affect the protection and accessibility to Native American sacred sites or sites needed for the practice of traditional religion by removing them from consideration under the *American Indian Religious Freedom Act, Religious Freedom Restoration Act*, and Executive Order 13007, ''Indian Sacred Sites.'' In addition, the disposition of the tracts could potentially affect the treatment and disposition of any human remains, funerary objects, sacred objects, and objects of cultural patrimony that may be discovered on the tracts, under the *Native American Graves Protection and Repatriation Act*.

Under the No Action Alternative, no specific changes in direct impacts in *air resources* or *global warming* are anticipated. Direct consequences of the Proposed Action Alternative include small alteration of the overall daily commute. As noted under the discussion of transportation, DOE and contractor personnel relocated from the DOE LAAO, TA–21, and DP Road Tracts would have to change their commuting routes. Some DOE and contractor personnel may have a shorter drive to work; but most would have farther to travel. This would result in slightly greater emissions.

Indirect Impacts

Indirect impacts are anticipated from the subsequent uses contemplated by the receiving parties for several of the 10 tracts (see Table S–3 at the end of this section). The receiving parties have identified a combination of contemplated uses for the tracts after conveyance or transfer. These uses include development of part or all of some of these tracts. Estimates of the development acreage reflect the best available information on the footprint of the contemplated developments. This acreage may include the redevelopment of disturbed land as well as the new use of relatively undisturbed areas. The EIS impact analysis assumes that these footprints represent an approximation of areas that would be developed but these estimates may not include all areas that would otherwise be disturbed. Likewise, the EIS does not quantify acreage estimates for land that may be disturbed or developed for land uses that include currently undefined improvements to utilities or recreational areas. These areas were qualitatively addressed in the impact analysis.

Under the No Action Alternative, no specific changes in indirect impacts in *land use* are anticipated. Under the Proposed Action Alternative, the potential indirect impacts include regional changes in land use, such as the development of forest, grazing, and open-space land for residential and commercial uses. Future land use patterns could change on several tracts. Approximately 826 acres (335 hectares) of the total acreage proposed for transfer and conveyance could be developed or redeveloped for other uses. There is the potential for the introduction of land uses that would be incompatible with adjacent landowners' resource protection efforts. There may be loss of recreational opportunities currently enjoyed on some tracts. While cumulative impacts to land use affect only a small percentage of the total region, many of the anticipated impacts are concentrated in the vicinity of Los Alamos, LANL, and White Rock and therefore could appear substantial.

Under the No Action Alternative, no specific changes in indirect impacts related to *transportation* are anticipated. Under the Proposed Action Alternative, the conveyance and transfer of the tracts, commercial, industrial, and residential developments would greatly increase the number of vehicle trips. Peak-hour traffic entering or exiting 6 of the 10 tracts could increase by a range of approximately 751 to 3,775 trips. There could be a positive regional traffic impact in that more LANL employees could live in Los Alamos and reduce overall commuter traffic from other areas. Potential cumulative impacts related to regional transportation include substantial increases in overall regional and local traffic that would require improvements to traffic controls, new roads, road widening, and bridges. The anticipated impacts related to transportation would be expected to be concentrated near the Los Alamos townsite and the immediate LANL area.

Under the No Action Alternative, the electrical *infrastructure* will remain the same, which is already at the limits of its capacity, and it often exceeds system capacity. Under the Proposed Action Alternative, the total estimated increases in utility usage associated with the development of the tracts would be as follows: Electricity use—32 gigawatt-hours (gwh); Peak power: 6 megawatts (mw); Natural Gas: 459 million cubic feet (mcf) (13,000 million liters per year [mly]); Water: 382 million gallons per year (mgy) (1,446 mly); Solid Waste: 2,385 tons per year (tpy) (2,163 metric tons per year [mty]). Increases in discharges to wastewater treatment plants could be 132 mgy (500 mly) for the Bayo Wastewater Treatment Plant and 41 mgy (155 mly) for the White Rock plant. The increase in peak electricity demand is in addition to the already anticipated exceedance of the capacity of the electrical power system. Water usage demand is projected to exceed water rights. The natural gas delivery systems may have to be upgraded to handle the increased demand. The existing wastewater treatment capacity is expected to be exceeded. Solid waste production is expected to reduce the expected life of

the regional landfill. However, given the conservative assumptions used in the calculations and the phased approach in the development of the tracts, the actual utility usage may not reach capacity limits within the next 10 years.

Under the No Action Alternative, no specific changes in indirect impacts from *noise* are anticipated. Under the Proposed Action Alternative, ambient noise levels would be expected to increase above current levels for most of the contemplated land uses. Ambient noise levels associated with cultural preservation may decrease, and noise levels associated with natural areas would be expected to remain the same or increase slightly. Noise associated with transportation and utility corridors would remain the same or could increase with additional infrastructure construction and use. Demolition and construction activities would be expected to temporarily elevate noise levels on the tracts from the No Action Alternative levels to a range of 74 to 95 decibels (dB) on the A-weighted scale (dBA). Residential uses typically would result in ambient noise levels between 50 and 70 dBA depending on traffic, density, and location. Commercial and industrial land uses typically would result in 60 to 70 dBA. Noise would be present during a greater part of the day than currently on the tracts that are developed for residential, commercial, and industrial land uses. Overall noise from vehicular traffic would increase.

Under the No Action Alternative, no specific changes in indirect impacts on *visual resources* are anticipated. Under the Proposed Action Alternative, most of the tracts would maintain their current level of visual aesthetic value after conveyance and transfer and any subsequent development. However, the development of currently undeveloped areas, such as the Rendija Canyon and White Rock Tracts, would typically degrade the visual landscape. The reduction in visual quality would not be substantial on a regional scale, but local diminished viewsheds could impact resources important to maintaining a positive visitor experience on adjacent National Park Service lands.

Under the No Action Alternative, no specific changes in indirect impacts in *socioeconomics* are anticipated. Under the Proposed Action Alternative, short-term economic gains would be expected from employment due to construction activities for new development. Long-term gains would depend on the intensity and success of the development. Depending on the scenarios implemented, 320 businesses could be developed on the tracts, employing up to 6,080 workers and generating a total of 8,957 jobs within the region of influence (ROI). As many as 2,360 residences could be placed on the tracts, increasing White Rock's and Los Alamos' population by 6,620 residents. Overall impacts to employment, income, population, and housing would be minor within the ROI, but would be concentrated in the Los Alamos area. Improvements would be expected in the Los Alamos County tax base but would probably not offset the loss of assistance payments, according to information provided by the County.

Under the No Action Alternative, no specific changes in indirect impacts in *ecological resources* are anticipated. Under the Proposed Action Alternative, development footprints for the 10 tracts include approximately 770 acres (312 hectares) of relatively undisturbed habitat, primarily ponderosa pine forest and pinyon-juniper woodland. Contemplated uses also would be expected to degrade large amounts of adjacent habitat, including preferred habitat for the American peregrine falcon and the Mexican spotted owl. Highly mobile wildlife would be forced to relocate to adjacent undeveloped areas. However, successful relocation may not occur due to increased competition for limited resources. For less-mobile species, direct mortality could occur during the actual construction or from habitat alteration. Habitat modification could affect several Federally-listed threatened and endangered species. Development in some tracts could result in direct loss of wetland structure and function with potential increased downstream and offsite sedimentation. The current lack of a natural resources management plan by either the County of Los Alamos or the San Ildefonso Pueblo would impede the development of an integrated, multiagency approach to short- or long-term natural resource management strategies. Additionally, transfer of the land tracts may result in a much less rigorous environmental review and protection review process for future activities because neither the County of Los Alamos nor the San Ildefonso Pueblo have regulations that would match the Federal review and protection process. Cumulatively, the development could result in fragmentation of habitat and disruption of wildlife migration corridors.

Under the No Action Alternative, no specific changes in indirect impacts in *cultural resources* are anticipated. Under the Proposed Action Alternative, the development of approximately 826 acres (335 hectares) and use of tracts for recreation could result in physical destruction, damage, or alteration of cultural resources on the subject tracts and in adjacent areas and disturbance of traditional religious practices.

Under the No Action Alternative, no specific changes in indirect impacts in *geology* and *soils* are anticipated. Under the Proposed Action Alternative, soil would be disturbed by development, new road building, and utilities. Removal of vegetation and increased runoff from new impermeable surfaces could increase erosion. The cumulative impacts to geology and soils would not be substantial.

Under the No Action Alternative, no specific changes in indirect impacts in *water resources* are anticipated. Under the Proposed Action Alternative, supplies of groundwater would be reduced, potentially accelerating draw down of the main aquifer. Placement of new water supply wells could impact groundwater quality. New development could potentially degrade the surface water quality by increasing the pollutant loads and surface runoff volumes from construction activity, and by creating additional impermeable surfaces such as roads and parking lots.

Under the No Action Alternative, no specific changes in indirect impacts on *air resources* are anticipated. Under the Proposed Action Alternative, there would be increases in criteria pollutants from mobile sources and homes using natural gas or propane. Slight increases in emissions of hazardous air pollutants would be expected from the development of new industrial facilities. The current contributions to *global climate* change from the land tracts would increase more than 25-fold over the No Action Alternative due to motor vehicle traffic and residential use of fossil fuels. Additional use of artificial lighting could impact the visibility of the night sky.

Under the No Action Alternative, no specific changes in indirect impacts in human health are anticipated. Under the Proposed Action Alternative, as many as 900 new residents could be brought into closer proximity to LANL facilities at the DOE LAAO and DP Road Tracts, and another 2,200 residents and lodgers could be brought closer at the White Rock Tract. Commercial development could bring as many as 6,000 private-sector employees into existing one-half mile radiation site evaluation circles at the DP Road, TA–21, and Airport Tracts (these ''circles'' are discussed in Chapter 4, Section 4.2.12.2, Conveyance and Transfer EIS). While the maximally exposed individual doses would not increase, these developments would mean increased total population exposures to radiological and chemical emissions from normal LANL

operations and hypothetical accidents due to the closer proximity of people to emission sources. A substantial increase in the public collective radiation dose and latent cancer fatalities could result although the estimates of effects are calculated using very conservative methods and actual observable effects would be expected to be less than those estimated. Under normal operating conditions, development of the subject tracts would not be expected to contribute substantially to human health impacts in the area. The estimated number of excess latent cancer fatalities that could result from the reasonably foreseeable radiologic accidents (events that have an estimated frequency of less than one in a million per year) could maximally increase from about 57 to about 98 excess cancer fatalities. Development of the tracts by the recipients would involve construction with its attendant risks to workers. Should the development include industrial activities, these activities would involve commensurately greater worker risks.

There would be no *environmental justice* indirect impacts anticipated under the No Action Alternative. Under the Proposed Action Alternative, indirect impacts to traditional cultural properties (TCPs) potentially may cause disproportionately high or adverse effects on minority or low-income communities, but these effects cannot be determined at this point in the consultation process. As part of the comments received in the draft Conveyance and Transfer EIS, the Homesteaders of the Pajarito Plateau and legal counsel for the San Ildefonso Pueblo expressed the belief that the conveyance or transfer and contemplated uses would have additional adverse environmental justice impacts on their populations.

Comments on the Final Environmental Impact Statement

DOE distributed approximately 300 copies of the final CT EIS to Congressional members and committees, the State of New Mexico, various American Indian Tribal governments and organizations, local governments, other Federal agencies, and the general public. DOE did not receive comments on the final Conveyance and Transfer EIS.

Decision Factors

DOE's decisions under Public Law 105–119 are based on the lack of need for the tracts, in whole or in part, to support its national security mission requirements, and DOE's ability to conduct necessary environmental restoration and remediation on portions of the tracts within the time frame established by the Act. There are currently three tracts (the TA–21 Tract, the LAAO Tract, and the DP Road Tract) that have structures that are occupied by activities that support DOE's mission responsibilities at LANL. Additionally, portions of the Airport Tract and the White Rock Y Tract are or may be needed to serve as health and safety buffer areas for LANL activities occurring both at TA–21 and elsewhere. With regard to environmental clean up, the Act states that the conduct of any needed environmental restoration or remediation be performed to the maximum extent practicable. DOE included in its decision the estimated cost of such actions and DOE's dedication of other resources to pursue these actions. Hence, DOE's decisions are based primarily in its mission responsibilities and the ability to perform environmental restoration activities in a timely and fiscally prudent manner.

Decisions

DOE has decided to implement the Preferred Alternative, which will allow for the conveyance and transfer of tracts of land, in whole or in part, in the near term and delay such conveyance and transfer of portions of tracts that either require environmental restoration or remediation activities, or that are being used or may be used for mission support activities before November 2007, the deadline established by the Act. DOE will pursue restoration and remediation activities, as well as relocation of workers and DOE mission support functions from the subject tracts, so that those portions so encumbered may be conveyed or transferred to the greatest extent practicable before November 2007. This alternative reflects DOE's efforts to meet the requirements of Public Law 105–119 to the best of its ability in a reasonable and prudent manner. It should be noted that the decisions in this Record of Decision will be reflected in DOE budget requests and management practices. However, the actual implementation of these decisions is dependent on DOE funding levels and allocations of the DOE budget across competing priorities.

For the tracts that are conveyed in part, DOE would continue to resolve outstanding national security mission support issues and contamination issues on the remaining portions of the tracts; so that conveyance or transfer of those portions could occur before the end of the 2007 deadline stated in the Act. DOE also may include deed restrictions, notices, and similar land use controls as deemed appropriate and necessary that are protective of human health and safety.

For each of the ten tracts analyzed for conveyance and transfer, DOE's decisions are presented below:

The Rendija Canyon Tract consists of about 910 acres (369 hectares). The canyon is undeveloped except for the shooting range (the Sportsman's Club) that serves the local community; the shooting range is currently under lease from DOE to the community. DOE will convey or transfer the entire tract.

The DOE LAAO Tract consists of about 15 acres (6 hectares) within the Los Alamos townsite. The DOE LAAO Tract is partially occupied by the DOE LAAO Building that currently houses about 120 DOE staff and contractor staff personnel in support of DOE's mission responsibilities at LANL. DOE will convey or transfer the entire tract upon relocation of its activities.

The Miscellaneous Site 22 Tract is a small, Los Alamos townsite parcel located on the edge of the mesa overlooking Los Alamos Canyon. It consists of less than 0.5 acre (0.2 hectare) of disturbed land that is undeveloped and currently is used as an unsanctioned vehicle parking area. DOE will convey or transfer the entire tract.

The Miscellaneous Manhattan Monument Tract consists of less than 0.5 acre (0.02 hectare). The Manhattan Monument is a small, rectangular site located within Los Alamos County land and adjacent to Ashley Pond, where most of the first Los Alamos laboratory work was conducted. A small log structure occupies the site. DOE will convey or transfer the entire tract.

The DP Road Tract consists of about 50 acres (20 hectares). It is generally undeveloped except for the West section, which is occupied by two large buildings that support DOE's mission responsibilities at LANL; one is used for the LANL archive storage and one is used as a support contractor facility. DOE will convey or transfer the entire tract upon relocation of its activities.

The TA–21 Tract consists of about 260 acres (105 hectares) and is located east of the Los Alamos townsite. This occupied site is remote from the main LANL area; University of California workers occupy offices at the site, and LANL operations are conducted at facilities there. Specifically, the DP East section of the TA–21 Tract currently houses the Tritium Systems Test Assembly and the Tritium Sciences and Fabrication Facility. These two research facilities are needed for the national security mission. There is currently no formal plan to relocate them; however, DOE is the early stages of assessing the

feasibility of relocating these operations to another facility within LANL. In any event, relocation of the tritium operations, decommissioning and decontamination of the buildings, and the necessary remediation and restoration for the whole tract will not be completed by 2007. At this time, DOE will only convey or transfer approximately 20 acres in the northwest section of the TA–21 Tract adjacent to the DP Road Tract.

The Airport Tract consists of about 205 acres (83 hectares), east of the Los Alamos townsite and near the East Gate Business Park. The Los Alamos Airport is located on the northern part of the tract, while other portions of the tract are undeveloped. Portions of the Airport Tract are needed to serve as health and safety buffer areas for the tritium activities within TA–21. At this time, DOE will only convey or transfer part of the tract, approximately 110 acres North of East Road. Should DOE shutdown its tritium activities at TA–21, DOE will reassess the need to retain any buffer areas and amend this Record of Decision, as needed.

The White Rock Y Tract consists of about 540 acres (219 hectares). It is undeveloped and is associated with the major transportation routes connecting Los Alamos with northern New Mexico. Portions of the White Rock Y Tract may be needed to serve as health and safety buffer areas for proposed LANL activities occurring elsewhere, such as the proposed proton radiography project, in support of the national security mission. In the Conveyance and Transfer EIS discussion of the Preferred Alternative, DOE identified the potential partial transfer of the White Rock Y Tract due to the developing proton radiography project, and the tract was considered as one of the tracts that would be conveyed in whole or in part by 2007. In this Record of Decision, DOE is only conveying or transferring only part of the White Rock Y Tract because of the potential national security mission need. At this time, DOE will only convey or transfer part of the White Rock Y Tract, approximately 125 (50 hectares) acres including the highway exchange and areas east of it. Should DOE's siting of the proposed proton radiography project not require a part of the White Rock Y Tract as a buffer area, DOE will reassess the need to retain any buffer areas and amend this Record of Decision, as needed.

The TA–74 Tract consists of about 2,715 acres (1,100 hectares). It is a large, remote site located east of the Los Alamos townsite and is largely undeveloped. DOE will convey or transfer the entire tract.

The White Rock Tract consists of about 100 acres (40 hectares). It is undeveloped except for utility lines, a water pump station, and a small building in use by the County. DOE will convey or transfer the entire tract.

Mitigation Measures

The Conveyance and Transfer Environmental Impact Statement included a discussion of mitigation measures both that are (a) within the scope of DOE's control and (b) those that DOE could recommend to the receiving parties. The following discussion outlines the mitigation measures that DOE will undertake to reduce the impacts of conveying and transferring the tracts and portions of tracts in accordance with the Preferred Alternative as outlined in this Record of Decision.

DOE Mitigations Prior to Conveyance or Transfer

Prior to conveyance or transfer of any of the land tracts, DOE will initiate cultural resource consultations with the affected Pueblos and tribal nations and the State Historic Preservation Office, and complete consultation regarding threatened or endangered species or their habitat with the U.S. Fish and Wildlife Service (USFWS). Consistent with the provisions of the Act, in the case of conveyance of land tracts to the County, DOE may include deed restrictions precluding any development within the 100-year flood plains or wetlands. DOE also may include other deed restrictions, notices, and similar land use controls as deemed appropriate and necessary that are protective of human health and safety. DOE will relocate any environmental monitoring stations after consultation with State regulators, as appropriate.

Recommended Mitigations With DOE Participation

DOE will engage in discussions, consultations, and similar planning activities with other organizations and land recipients. DOE will coordinate consultations with the New Mexico State Historic Preservation Office, the Advisory Council on Historic Preservation, the receiving parties, and other interested agencies and parties to ensure adequate consideration of impacts on cultural resources, as well as recreational resources *(e.g.,* historic trails), resulting from the conveyance and transfer of the subject tracts from the responsibility and protection of DOE. The goal of these consultations would be a formal Memorandum of Agreement (MOA) addressing the impacts of the potential loss of certain cultural resource protections and DOE responsibilities on the subject tracts and defining specific procedures and responsibilities for managing cultural resource concerns upon transfer to the receiving parties. These could include covenants to be developed for the protection of various cultural resources.

Specific issues to be discussed include, but are not limited to: minimize impacts to cultural resources in and adjacent to the subject tracts from the loss of responsibility and protection of DOE by delegating cultural resources preservation responsibilities and developing a process that parallels existing protections and procedures; minimize the adverse effect of the transfer or conveyance of NRHP-eligible properties out of the responsibility and protections of DOE by including adequate restrictions or conditions to ensure preservation of the properties' significant historic features or collection of appropriate data concerning the properties; minimize potential impacts to historic buildings from the loss of DOE responsibility and protection by completing an appropriate identification and evaluation effort for historic buildings on the subject tracts; ensuring that NRHP-eligible buildings continue to be used (to the maximum extent feasible) and maintained in a manner that preserves their historical value; and exploring the reuse of other NRHP-eligible buildings for activities that must be relocated; minimize potential impacts to traditional cultural properties (TCPs) by completing consultations to identify the presence and importance of these resources within the subject tracts, identifying any potential impacts of conveyance or transfer on access to TCPs in adjacent areas, and exploring methods to avoid disturbance to TCPs and traditional users; minimize potential impacts from the loss of DOE protections and guarantees regarding the preservation of Native American sacred sites and the rights of Native Americans to practice traditional religions on the subject tracts under the American Indian Religious Freedom Act and Executive Order 13007, ''Indian Sacred Sites,'' by allowing for the continuation of any traditional religious practices; minimize the potential impacts from the loss of DOE protection for archeological sites, the disposition of archeological materials and penalties for unauthorized excavation, vandalism, and trafficking of archeological materials; minimize the potential impacts from the loss of DOE responsibility for the protection and disposition of Native American sacred objects, objects of cultural patrimony,

and funerary objects under the Native American Graves Protection and Repatriation Act by establishing agreements outlining similar procedures for addressing the inadvertent discovery of Native American human remains or funerary objects and their disposition; provide for the loss of DOE responsibility for the curation of archaeological and cultural resource collections from these tracts under 36 CFR 79 by assigning these responsibilities and contracting for curation services; develop a natural resources management plan that is integrated and developed with the natural resources management plans of other adjacent land management agencies; continue involvement in the roles and responsibilities that have been established with the townsite of Los Alamos, County of Los Alamos, State of New Mexico, U.S. Department of Agriculture, Forest Service, for emergency response, including the notification processes for each of the response groups and mutual aid in the event of an emergency; explore the establishment of a proactive means toward developing future use options for transferred properties, in accordance with State law and the County Charter (participation in a Future Use Options Logistics and Support Working Group with the U.S. Forest Service, New Mexico Environment Department, U.S. Bureau of Land Management, Pueblos, and local citizens groups would be encouraged, as well as public involvement through the Citizens Advisory Board as instrumental steps in providing interim recommendations on future land use options); and coordinate with local jurisdictions, Native Americans, and State officials to explore methods to maintain a rigorous environmental review process for future development and other activities.

Potential Resource-Specific Mitigations

DOE outlined a variety of resource-specific mitigation issues in the Conveyance and Transfer EIS that are not within DOE's control. These mitigations are presented as recommendations for action by the recipients with the assistance of DOE as discussed in previous paragraphs. These recommendations are not discussed further herein.

Mitigation Action Plan

In accordance with 10 CFR 1021.331, DOE is preparing a Mitigation Action Plan that will identify specific actions needed to implement the mitigation measures identified that are within DOE's control and provide schedules for completion. These mitigation measures represent all practicable means to avoid or minimize harm from the alternative selected.

Conclusion

DOE has identified environmental impacts, stakeholder concerns, and national policy concerns with regard to the actions required of it by Public Law 105–119, and, to the extent allowed by that Act, have considered these in its decisions regarding the conveyance and transfer of the subject land tracts. The analysis contained in the Conveyance and Transfer EIS is both programmatic and site specific in detail. It is programmatic from the broad perspective and site specific in the detailed tract activity analysis in as much as these are known. The impacts identified in the Conveyance and Transfer EIS were based on conservative estimates and assumptions. In this regard, the analyses bound the impacts of the alternatives evaluated in the Conveyance and Transfer EIS. The Preferred Alternative was defined to include activities to implement the requirements of the Act inasmuch as they are known at this time. This Conveyance and Transfer EIS and the analyses it contains can be used to support future land owner or administrator decisions.

In accordance with the provisions of NEPA, its implementing procedures and regulations, and DOE's NEPA regulations, DOE has considered the information contained within the Conveyance and Transfer EIS to the extent that this information could be incorporated under the requirements of Public Law 105–119. Being fully apprised of the environmental consequences of the alternatives and other decision factors described above, DOE has decided to convey and transfer all or parts of the subject tracts as described.

Issued at Washington, DC, March 8, 2000.

Thomas F. Gioconda,

Acting Deputy Administrator for Defense Programs, Department of Energy.

[FR Doc. 00–6504 Filed 3–16–00; 9:44 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford; Meeting

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), Hanford Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 6, 2000: 9:00 a.m.–5:00 p.m.; Friday, April 7, 2000: 8:30 a.m.–4:00 p.m.

ADDRESSES: Red Lion Inn—Hanford House, 802 George Washington Way, Richland, WA, (509) 946–7611.

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA, 99352; Ph: (509) 373–5647; Fax: (509) 376–1563.

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

- Tri-Party Agreement (TPA)
  Brief history and purpose of TPA;
  Discussion of milestones (high level grouping) and identification of important milestones for the next 5 and 10 years (DOE and regulator perspecties); and
  Implications for the future.
- Fiscal Year 2002 Budget
  Overview of the FY 2000 and FY 2001 budgets; and
  FY 2002 draft budget: overview of budget priorities and criteria, overview of the Office of River Protection (non-privatization) budget, and overview of the Richland budget.
- Update and Potential Sounding Board
  Overview of 300 Area cleanup approach; and
  Update on 618 Tritium plume.
- Updates
  Briefing on offsite waste discussion;
  Report from Tank Waste Treatment Ad Hoc Committee; and
  K-Basins.

Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office 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 Officer 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 equal time to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to

Gail McClure, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling her at (509) 373–5647.

Issued at Washington, DC on March 14, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–6822 Filed 3–17–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1797–000]

Florida Power Corporation; Notice of Filing

March 14, 2000.

Take notice that on March 3, 2000, Florida Power Corporation (FPC), tendered for filing service agreements between Cargill-Alliant, L.L.C. and FPC and Tractebel Energy Marketing, Inc., and FPC and FPC's Market-Based Wholesale Power Sales Tariff (MR–1), FERC Electric Tariff, Original Volume No. 8. This Tariff was accepted for filing by the Commission on June 25, 1997, in Docket No. ER97–2846–000. The service agreement with Cargill-Alliant, L.L.C., proposed to be effective February 24, 2000, and the service agreement with Tractebel Energy Marketing, Inc., is proposed to be effective February 29, 2000.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 23, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–6755 Filed 3–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–6–000]

Gulfstream Natural Gas System, L.L.C.; Notice of Site Visit

March 14, 2000.

On March 21–23, 2000 the Office of Energy Projects (OEP) staff will inspect the Gulfstream Natural Gas System, L.L.C. (Gulfstream) proposed route and potential alternative routes in central Florida. The areas will be inspected by automobile and by aerial reconnaissance (March 22 only). Representatives of Gulfstream will accompany the OEP staff. Anyone interested in participating in the site visits must provide their own transportation.

For additional information, contact Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088.

David P. Boergers,

Secretary.

[FR Doc. 00–6759 Filed 3–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR00–12–000]

Louisiana Intrastate Gas Company, L.L.C.; Notice of Petition for Rate Approval

March 14, 2000.

Take notice that on March 3, 2000, Louisiana Intrastate Gas Company, L.L.C. (LIG) tendered for filing an application pursuant to 18 CFR 284.123(B)(2) of the Commission's regulations to justify the system-wide rate it proposes to charge for transporting natural gas pursuant to Section 311(a)(2) of the Natural Gas Policy Act commencing March 3, 2000.

LIG is seeking a maximum interruptible transportation rate of $.2134 per MMBtu, a maximum firm commodity charge of $.0000 per MMBtu with a monthly demand charge of $6.4914 per MMBtu, and a maximum overrun charge of $.2134 per MMBtu under Section 311(a)(2) transportation services.

LIG proposes to retain from its shippers a pro-rata share of gas consumed by LIG as compressor fuel, company use and unaccounted-for gas, as provided in relevant agreements, subject to a 2% maximum for such compressor fuel, company use and unaccounted-for gas.

LIG, a Louisiana limited liability company, is an intrastate pipeline, as that term is defined in the NGPA. LIG's pipeline system is located in Louisiana.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before March 29, 2000. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary

[FR Doc. 00–6756 Filed 3–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR00–13–000]

Transok, LLC; Notice of Filing

March 14, 2000.

Take notice that on March 3, 2000, Transok, LLC (Transok) submitted for filing a revised fuel factor for its Oklahoma Transmission System as calculated under the terms of Transok's filed fuel tracker.

Transok seeks an effective date of May 1, 2000. Transok has served notice of the filing and the revised fuel percentage on all current shippers and on the Oklahoma Corporation Commission.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before March 29, 2000. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may be viewed on the web at *http://*

www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 00–6757 Filed 3–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–91–000]

National Fuel Gas Supply Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Line AM–60 Replacement Project and Request for Comments on Environmental Issues

March 14, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Line AM–60 Replacement Project involving the construction and operation of facilities by National Fuel Gas Supply Corporation (National Fuel) in Elk, McKean and Warren Counties, Pennsylvania.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity. The application and other supplemental filings in this docket are available for viewing on the FERC Internet website (www.ferc.fed.us). Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and the follow the instructions.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representive about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right to eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice National Fuel provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

Summary of the Proposed Project

The project would be known as the AM–60 Replacement Project, and would replace 12.9 miles of 8-inch-diameter pipelines known as Lines A–M60 and S–1; abandon in place 18.9 miles of 8- and 10-inch-diameter pipeline; add 360 horsepower to the Roystone Compressor Station; and relocate, modify or abandon other appurtenant facilities. National Fuel proposes to replace Lines A–M60 and S–1 with a new 20-inch-diameter pipeline to be known as Line AM–60. Section 1 of Line AM–60 would be located within 6.3 miles of the existing Line S–1 right-of-way, but section 2 would need about 6.6 miles of additional permanent right-of-way to construct the balance of the replacement along the existing Line A–M60 segment.

The location of the project facilities is shown in appendix 1.

Land Requirements for Construction

Construction of the proposed facilities would require about 132.2 acres of land including 7.6 acres of permanent right-of-way (ROW), and 124.6 acres of temporary construction ROW that includes extra work spaces, staging areas and access roads. National Fuel proposes to use two 5-acre staging areas, and up to 11 access roads for construction. Extra work spaces would be used at road and railroad crossings, areas of steep side slopes, and in agricultural areas.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources and wetlands.
- Vegetation, fisheries and wildlife.
- Endangered and threatened species.
- Cultural resources.
- Land use.
- Air quality and noise.
- Public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or void impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 6 of this notice.

Currently Identified Environmental Issues

We have already identified the following issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by National Fuel. This preliminary list of issues may be changed based on your comments and our analysis.

- Twenty-six wetlands would be crossed by the project route, with 3.22 acres of potential wetland impacts.
- Thirteen perennial streams that are all high quality cold water systems would be crossed by the project route, including 3 between 10- and 25-feet-wide.
- Seven water supply wells would be within 150 feet of the construction ROW.

[1] National Fuel's application was filed with the Commission of February 22, 2000, under Sections 7(b and c) of the Natural Gas Act.

• Ten residences in the project area would be within 50 feet of the construction ROW.

• About 10.6 miles of forest would be crossed by the project route, and 38.8 acres of forest would be cleared. This includes areas of habitat potentially used by federally endangered Indiana bats for maternity roosting areas.

• About 5.0 of the 12.9 miles of AM–60 replacement pipeline, and all of the 18.9 miles of Line L pipeline to be abandoned in place, would be on federally owned land within the Allegheny National Forest.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

• Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE, Room 1A, Washington, DC 20426;

• Label one copy of the comments for the attention of the Gas Group 2;

• Reference Docket No. CP00–91–000; and

• Mail your comments so that they will be received in Washington, DC on or before April 13, 2000.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 00–6758 Filed 3–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Regional Transmission Organizations; Notice of Meeting

March 14, 2000.

In the matter of: RM99–2–000; EL00–20–000; EL96–37–000; EL96–45–000; EL99–91–000; EL00–32–000; ER97–2358–000; ER98–2351–000; ER97–2355–000; ER98–2322–000; ER97–2364–000; ER97–4235–000; ER98–497–000; ER98–2371–000; OA96–161–000; ER96–1456–000; ER96–697–000; ER97–4468–000; ER97–2355–000; ER98–1261–000; ER98–1685–000; ER99–3719–000; EC99–100–000; ER99–2332–000; ER99–2338–000; EL00–39–000; ER00–555–000; ER00–1239–000; ER00–1365–000; EC00–63–000; EL99–44–000; ER98–3594–000; ER99–4545–000; ER99–4462–000; ER99–3426–000; ER99–3713–000; EL99–50–000; ER99–3145–000; EL98–46–000; ER00–950–000; EL99–75–000; ER98–3760–000; EC96–19–000; ER96–1663–000; ER00–997–000; ER00–866–000; ER00–703–000; ER98–2843–000; ER98–2844–000; ER98–2883–000; ER98–2971–000; ER98–2972–000; ER00–1439–000; ER98–2977–000; ER98–3106–000; ER98–3416–000; ER98–3417–000; ER98–3418–000; ER98–4497–000; ER98–4498–000; ER99–1971–000; ER98–1028–000; ER98–1029–000; ER98–1030–000; ER98–1032–000; ER98–2499–000; ER98–3708–000; ER98–899–000; ER98–1923–000; ER98–1923–000; ER98–495–000; ER98–1614–000; ER98–2145–000; ER98–3603–000; ER98–496–000; ER98–2160–000; ER99–2730–000; EL99–67–000; ER99–1770–000; OA96–200–000; EL98–44–000; ER99–2326–000; EL99–68–000; SC97–2–000; ER99–28–000; EL99–38–000; ER99–945–000; ER99–3301–000; ER99–896–000; ER98–2550–000; ER98–917–000; ER98–2382–000; ER91–505–000; EL92–18–000; EL94–5–000; EL96–40–000; EL97–54–000; and OA96–28–000; Southern California Water Company, d/b/a Bear Valley Electric v. Southern California Edison Company; Pacific Gas & Electric Company; Modesto Irrigation District; Pacific Gas & Electric Company; Public Service Company of Colorado; Pacific Gas & Electric Company; Southern California Edison Company; San Diego Gas & Electric; Puget Sound Energy, Inc; Southern California Edison Company; Mountain West Independent System Administrator; Sierra Pacific Power Company and Nevada Power Company; Sierra Pacific Power Company; Nevada Power Company; Southwest Power Pool, Inc.; California Independent System Operator Corporation; California Independent System Operator Corporation; California Independent System Operator Corporation; Sierra Pacific Power Company; Nevada Power Company; Portland General Electric Company; Arizona Public Service Company v. Idaho Power Company; California Independent System Operator Corporation; California Independent System Operator Corporation; California Independent System Operator Corporation; San Diego Gas & Electric Company; Pacific Gas and Electric Company; Fresno Irrigation District; Pacific Gas and Electric Company; Laguna Irrigation District; California Power Exchange Corporation; California Electricity Oversight Board; California Independent System Operator Corporation; California Independent System Operator Corporation; California Independent System Operator Corporation; California Independent System Operator Corporation; AES Redondo Beach, L.L.C.; AES Huntington Beach, L.L.C.; AES Alamitos, L.L.C.; El Segundo Power, LLC; Long Beach Generation, LLC; Automated Power Exchange, Inc.; Ocean Vista Power Generation, L.L.C.; Mountain Vista Power Generation, L.L.C.; Alta Power Generation, L.L.C.; Oeste Power Generation, L.L.C.; Ormond Beach Power Generation, L.L.C.; Williams Energy Services Company; Duke Energy Oakland, L.L.C.; Duke Energy Morro Bay, L.L.C.; Duke Energy Moss Landing, L.L.C.; Sempra Energy Trading Corporation; San Diego Gas & Electric Company; California Independent System Operator Corporation; California Independent System Operator Corporation; California Independent System Operator Corporation; Pacific Gas & Electric Company; San Diego Gas & Electric Company; California Independent System Operator Corporation; California Independent System Operator Corporation; El Paso Electric Company; Southwestern Public Service Company v. El Paso Electric Company; Pacific Gas and Electric Company; City of Las Cruces, New

Mexico v. El Paso Electric Company; Sierra Pacific Power Company; California Independent System Operator Corporation; California Independent System Operator Corporation; El Segundo Power, LLC; Southwest Reserve Sharing Group; Montana Power Company; Pacific Gas and Electric Company; San Diego Gas & Electric Company v. Public Service Company of New Mexico; and Pacific Gas & Electric Company.

On December 20, 1999, the Commission issued Order No. 2000 to advance the formation of Regional Transmission Organizations (RTOs). Order No. 2000 announced the initiation of a regional collaborative process to aid in the formation of RTOs. To initiate the collaborative process, the Commission organized a series of regional workshops. These workshops are open to all interested parties. The third workshop is scheduled for March 23–24, 2000 in Las Vegas, Nevada. During the course of the Las Vegas workshop, discussion of the above-listed cases could arise. Any person having an interest in an above-listed case is invited to attend the Las Vegas workshop. There will be no Commission transcript of any of the workshops, and information discussed or disseminated in the workshop will not constitute part of the decisional record in the above-listed cases, unless formally filed in accordance with Commission regulations.

David P. Boergers,

Secretary.

[FR Doc. 00–6760 Filed 3–17–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6562–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Aerospace Manufacturing and Rework Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NESHAP Subpart GG: Aerospace Manufacturing and Rework Facilities, OMB Control Number 2060–0314, expiration date March 31, 2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 19, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1687.05. For technical questions about the ICR contact Anthony Raia at (202) 564–6045.

SUPPLEMENTARY INFORMATION:

Title: NESHAP for Aerospace Manufacturing and Rework Facilities (OMB Control No. 2060–0314, EPA ICR No. 1687.05) expiring 3/31/00. This is a request for an extension of a currently approved collection.

Abstract: The information collection includes initial, semiannual and annual reports, and periodic record keeping necessary for the EPA to ensure compliance with the National Emission Standards for Hazardous Air Pollutants for Aerospace Manufacturing and Rework. Respondents are owners or operators of new and existing aerospace manufacturing and rework facilities that are in operation after promulgation of the NESHAP.

In addition to the initial notification and notification of compliance status required by the General Provisions to 40 CFR part 63 (subpart A), the final rule requires semiannual and annual reports. The final rule also requires that the results of any performance test required under section 63.7 of the General Provisions be reported no later than 30 days after the completion of the test. A permit application as required under title V of the Act may be used in lieu of the initial notification provided the same information is contained in the permit application as required for the initial notification.

The General Provisions, 40 CFR 63.9 and 63.10, identify the type of information to be included in the initial notification, notification of compliance status, and other reports. The emissions test reports and other records must be kept at the facility for a minimum of 5 years and be made available to the Administrator upon request. The respondent's State or local agency can be delegated as the enforcement authority by the EPA and may also request these reports. The information is used to determine that all sources subject to the NESHAP are achieving the standards. The final rule adopts the general record keeping and reporting requirements contained in sections 63.7 through 63.10 of 40 CFR part 63 and does not contain any conflicting requirements with section 63.10.

For each cleaning solvent used for aerospace cleaning operations at the facility, the final rule will require a record of the name of the cleaning solvent and documentation that shows the organic HAP constituents of the solvent. For each cleaning solvent used in hand-wipe aerospace cleaning operations that does not conform to the composition requirements, but does conform to the vapor pressure requirement, the information required to be recorded is the name of the aerospace cleaning solvent, the monthly usage of the cleaning solvent at each aerospace operation, the composite vapor pressure, the manufacturer's data sheets or other documentation of the vapor pressure, and any test reports and calculations performed to determine the composite vapor pressure. For each aerospace cleaning solvent that conforms to the composition requirements, the records that are required to be maintained are the name of the aerospace cleaning solvent, documentation demonstrating compliance with the composition requirements, and annual purchase records showing the annual volume purchased.

For aerospace cleaning solvents that do not conform to either the composition or vapor pressure requirements and are used for the exempt cleaning operations, monthly records must be maintained of the name and volume of each cleaning solvent and the processes where these solvents were utilized. In addition, a record must be kept of all leaks from spray gun cleaners, including source identification, the date that the leak was discovered, and the date that the leak was repaired.

The notification of compliance status will include an identification of each aerospace cleaning solvent used at the facility, a description of the procedures to be used to ensure that bags and containers are kept closed when not in use and that cleaning solvents are stored in closed containers, the name of each cleaning solvent that does not conform to the approved composition list, and the vapor pressure test results of each.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document

required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 07/31/1998, one comment was received and evaluated.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 52 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of aerospace manufacturing or rework facilities.

Estimated Number of Respondents: 16,402.

Frequency of Response: start-up, and semi-annual.

Estimated Total Annual Hour Burden: 856,437 hours.

Estimated Total Annualized Cost Burden: $561,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No 1687.05 and OMB Control No. 2060–0314 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503

Dated: March 13, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–6859 Filed 3–17–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[IN124; FRL–6562–4]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determination; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this document is to announce that on September 8, 1999, the Environmental Protection Agency's Environmental Appeals Board (EAB) dismissed two appeals of a permit issued to the ConAgra Soybean Processing Company by the Indiana Department of Environmental Management (IDEM) pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations in the Clean Air Act, as administered by the State of Indiana.

DATES: The effective date of EAB's decision denying review is September 8, 1999.

ADDRESSES: The documents relevant to the above action are available for public inspection during normal business hours at the following address: Environmental Protection Agency, Region 5, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Pallavi Reddy, United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd. (AR–18J), Chicago, Illinois 60604, (312) 886–6204.

SUPPLEMENTARY INFORMATION: On August 14, 1998, the IDEM issued construction permit number CP–129–8541–0039 under the PSD requirements of the Clean Air Act of 1990 to ConAgra Soybean Processing Company for the construction of a new soybean processing plant in Posey County, Indiana. On September 14, 1998, two separate entities, Valley Watch Inc., a non-profit environmental group, and Consolidated Grain and Barge Company filed petitions for review of this permit with the EPA's EAB (PSD Appeal Nos. 98–27 & 98–28). The petitioners alleged that: (1) IDEM improperly issued ConAgra's permit because the permit fails to demonstrate that the proposed facility will not cause or contribute to an exceedance of the National Ambient Air Quality Standard for ozone as required by the Act; (2) the permit fails to satisfy the requirements for pre-construction monitoring for PM–10; (3) IDEM improperly issued the permit because the increment consumption analysis for PM–10 does not comply with the requirements of 40 CFR 52.21(c), (k), and (m); and (4) the additional impacts analysis of the proposed project on economic growth, soils, vegetation, and visibility required by 40 CFR 52.21(o) was inadequate.

On October 18, 1999, the EAB denied the petitioners' request for review. The petitioners failed to prove that the permit or permit condition was based on a finding of fact or conclusion of law that was clearly erroneous, or to demonstrate that there was an exercise of discretion or important policy consideration warranting the EAB's discretionary review, as required by 40 CFR 124.19(a). The EAB also ordered IDEM to revise Condition 38 of the permit, which relates to emissions offsets, to strike reference to Federal law and specifically, 40 CFR 52.21(k).

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

Dated: March 9, 2000.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 00–6860 Filed 3–17–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6563–5]

Workshop on Information Needs To Address Children's Cancer Risk

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The EPA's Office of Research and Development and the National Institutes of Health's National Institute of Environmental Health Sciences (NIEHS) are co-sponsoring a workshop entitled, ''Information Needs to Address Children's Cancer Risk.'' The main focus of the workshop is to discuss children's cancer risk assessment and related data needs to address issues that have arisen during public review of the Agency's 1999 Draft Revised Guidelines for Carcinogen Risk Assessment. These issues include: characterizing the ideal data set to adequately address children's cancer risk, and proposed approaches to using available data in the absence of the ideal data set. Invited participants represent the pediatric, toxicologic, and risk assessment communities and are leaders in the area of human health testing, research, and assessment.

DATES: The workshop will begin on Thursday, March 30, 2000, at 7:00 p.m. and end on Friday, March 31, 2000, at 4:30 p.m. There will be space available for observers on a first-come, first-served basis.

ADDRESSES: The meeting will be held at the Holiday Inn Arlington at Ballston, 4610 North Fairfax Drive, Arlington, Virginia, 22203, Tel: (703) 243–9800. As seating capacity is limited, please contact Eastern Research Group, Inc., Tel: (781) 674–7374, Fax: (781) 674–2906 by Monday, March 27, 2000, to attend the workshop as an observer.

FOR FURTHER INFORMATION CONTACT: For technical inquires, contact Linda C. Tuxen (Mail Code 8601D), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460, Tel: (202) 564–3332, Fax: (202) 565–0090, and E-Mail: tuxen.linda@epa.gov. Inquiries concerning the workshop should be directed to Eastern Research Group, Inc. Copies of background materials will be made available to observers upon request from Eastern Research Group, Inc., Tel: (781) 674–7374. Copies of background materials will also be available at the workshop.

SUPPLEMENTARY INFORMATION: The purpose of the workshop is focused and derives from issues discussed in the EPA's 1999 Draft Revised Guidelines for Carcinogen Risk Assessment. First, participants will consider the content of the ideal data set to adequately address children's cancer risk. The workshop participants will focus on data needed for assessing the impact of childhood (including in utero) exposures to carcinogens and the issues related to hazard identification and dose-response analyses. The participants will address not only induction of childhood cancer, but also increased risks of cancer during adulthood resulting from childhood exposure. As part of this discussion, the participants also will be asked to consider how current protocols might be redesigned to better answer questions related to children's cancer risk and what additional types of data might be brought to bear on children's cancer risk assessment. This would include information that is currently collected as well as data sets using new approaches. In addition, the workshop participants will be asked to discuss the question, What are the elements of a ''cogent biological rationale,'' as presented in the draft revised cancer guidelines, for addressing modes-of-action for children's cancer? Further, participants will address whether and how such a rationale can be made, which is sufficiently health-protective of children, based on the kinds of data that are typically collected by and available to Federal and state health science agencies at the present time. These might include data on cancer mode-of-action, comparative pharmacokinetics and pharmacodynamics in adults and children, rate and pattern of exposure in adults and children, etc. The background for these discussions is the reality that chemical-specific data are often lacking to specifically address children's cancer risk from environmental chemical exposures. As a consequence, the assessment of children's risk is currently addressed by evaluations of traditional cancer bioassays in mature animals using sensitive responders, comparative biochemistry and physiology between adults and developing animals and humans, and public-health-protective default positions in the absence of child-specific data. It is expected that workshop discussions will be valuable to the general risk assessment community, will provide input to Federal testing strategies for the future, and will inform the public dialogue around children's health issues as they are addressed in the EPA's draft revised cancer guidelines.

The workshop format will be an evening session on Thursday at which the key participants will set the stage for the discussion to follow at the Friday full-day session. The evening session will include an overview of the contents of and current issues coming out of the EPA's 1999 Draft Revised Guidelines for Cancer Risk Assessment regarding assessment of children's cancer risk, and a discussion of the questions to be addressed in detail at the Friday session. A summary report of the perspectives and views coming out of this workshop will be published in the peer-reviewed, scientific literature.

Dated: March 15, 2000.

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 00–6936 Filed 3–17–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34173B; FRL–6499–2]

Organophosphate Pesticide; Availability of Revised Risk Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notices announces the availability of the revised risk assessments and related documents for one organophosphate pesticide, phosmet. In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management ideas or proposals. These actions are in response to a joint initiative between EPA and the Department of Agriculture (USDA) to increase transparency in the tolerance reassessment process for organophosphate pesticides.

DATES: Comments, identified by docket control number OPP–34173B for phosmet, must be received by EPA on or before May 19, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34173B for phosmet in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessments and submitting risk management comments on phosmet, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

A. *Electronically*. You may obtain electronic copies of this document and other related documents from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to

the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about organophosphate pesticides and obtain electronic copies of the revised risk assessments and related documents mentioned in this notice, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/.

B. *In person*. The Agency has established an official record for this action under docket control number OPP–34173B for phosmet. 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 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 Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34173B for phosmet in the subject line on the first page of your response.

1. *By mail*. Submit comments 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.

2. *In person or by courier*. Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. Submit electronic comments by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control number OPP–34173B for phosmet. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

IV. What Action is EPA Taking in this Notice?

EPA is making available for public viewing the revised risk assessments and related documents for one organophosphate pesticide, phosmet. These documents have been developed as part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation. The documents being released to the public through this notice provide information on the revisions that were made to the phosmet preliminary risk assessments, which was released to the public January 15, 1999 (64 FR 10) (FRL–6056–9) through a notice in the **Federal Register**.

In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management proposals or otherwise comment on risk management for phosmet. The Agency is providing an opportunity, through this notice, for interested parties to provide written risk management proposals or ideas to the Agency on the chemical specified in this notice. Such comments and proposals could address ideas about how to manage dietary, occupational, or ecological risks on specific phosmet use sites or crops across the United States or in a particular geographic region of the country. To address dietary risk, for example, commenters may choose to discuss the feasibility of lower application rates, increasing the time interval between application and harvest (''pre-harvest intervals''), modifications in use, or suggest alternative measures to reduce residues contributing to dietary exposure. For occupational risks, commenters may suggest personal protective equipment or technologies to reduce exposure to workers and pesticide handlers. For ecological risks, commentors may suggest ways to reduce environmental exposure, e.g., exposure to birds, fish, mammals, and other non-target organisms. EPA will provide other opportunities for public participation and comment on issues associated with the organophosphate pesticide tolerance reassessment program. Failure to participate or comment as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments and proposals must be received by EPA on or before May 19, 2000 at the addresses given under the ''ADDRESSES'' section. Comments and proposals will become part of the Agency record for the

organophosphate pesticide specified in this notice.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: March 13, 2000.

Jack E. Housenger,

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

[FR Doc. 00–6862 Filed 3–15–00; 3:46 pm]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51942; FRL–6497–3]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 2, 2000 to February 11, 2000, consists of the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

This notice also corrects a previously published Certain New Chemicals; Receipt and Status Information document.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51942 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management, and Evaluation, Office of Pollution Prevention and Toxics (7401), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone numbers: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at *http://www.epa.gov/*. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register** -- Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–51942. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51942 and the specific PMN number in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51942 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior

notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 2, 2000 to February 11, 2000, consists of the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

This notice also corrects a previously published Certain New Chemicals; Receipt and Status Information document. Inadvertently, in the **Federal Register** of February 25, 2000 (65 FR 10086) (FRL–6494–1) the period covered should have read ''January 1, 2000 to February 1, 2000.''

III. Receipt and Status Report for PMNs

This status report identifies the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 36 PREMANUFACTURE NOTICES RECEIVED FROM: 02/02/00 TO 02/11/00

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–0466	02/02/00	05/02/00	CBI	(G) Acrylic adhesive or coating	(G) Acrylic
P–00–0467	02/02/00	05/02/00	CBI	(G) Intermediate	(G) Phosphate ester of alkyl phenol ethoxylate
P–00–0468	02/04/00	05/04/00	CBI	(S) Polyester curative for urethane food packaging adhesive	(G) Aliphatic polyester
P–00–0469	02/04/00	05/04/00	Nof America Corporation	(S) A surfactant for cosmetics and toiletries	(S) Glycine, *n*-(carboxymethyl)-*n*-dodecyl-,monosodium salt*
P–00–0470	02/09/00	05/09/00	CBI	(G) Open, non-dispersive (dispersant)	(G) Polyurethane
P–00–0471	02/08/00	05/08/00	Orient Corporation of America	(S) Manufacture of ink	(S) [1,1′-biphenyl]-2,2′-disulfonic acid, 4,4′-bis [[1–(3-aminophenyl)-4,5-dihydro-3-methyl-5-oxo-1*h*-pyrazol-4-yl]azo]-disodium salt, reaction products with 2,2′- [1,2-ethanediylbis (oxymethylene)] bis[oxirane],2′,4′,5′, 7′tetrabromo-3′,6′-dihydroxyspiro [isobenzofuran-1(3*h*), 9′-[9*h*] xanthen]-3-one disodium salt and 2′, 4′,5′,7′-tetrabromo-4,5,6,7-tetrachloro-3′, 6′-dihydroxyspiro [isobenzofuran-1(3*h*), 9′-[9*h*]xanthen]-3-one disodium salt*
P–00–0472	02/07/00	05/07/00	CBI	(G) Processing aid	(G) Halogenated alkane
P–00–0473	02/09/00	05/09/00	CBI	(G) Open non-dispersive (resin)	(G) Aqueous polyurethane resin dispersion
P–00–0474	02/07/00	05/07/00	CBI	(G) Printing ink resins	(G) 2-propenoic acid, 2-methyl-, 2-(dimethylamino)ethyl ester, polymer with methyl 2-methyl-2-propenoate, acid salt
P–00–0475	02/08/00	05/08/00	CBI	(S) Additive in an industrial coating	(S) Hexane, 1,6-diisocyanato-, homopolymer, benzenemethanamine-blocked*

I. 36 PREMANUFACTURE NOTICES RECEIVED FROM: 02/02/00 TO 02/11/00—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–0476	02/07/00	05/07/00	Ciba Specialty Chemicals, performance polymers	(S) Epoxy curing agent	(G) Propanoic acid, compds. with bisphenol a-an epoxy resin-epichlorohydrin-ethylenediamine-polyethylene glycol polymer-glycidyl *o*-tolyl ether reaction products
P–00–0477	02/07/00	05/07/00	CBI	(G) Printing ink resin	(G) Fatty acids, tall-oil, polymers with 5-amino-1,3,3-trimethylcyclohexanemethanamine, dicarboxylic acid, fumarated rosin and pentaerythritol
P–00–0478	02/07/00	05/07/00	Ashland Inc.	(G) Open, non-dispersive use in molding operations	(G) Unsaturated polyester
P–00–0479	02/07/00	05/07/00	Zeon Chemicals l.p.	(S) Polymerization emulsifier	(S) Fatty acids, C_{16-18} and C_{18}-unsatd., branched and linear, sodium salts*
P–00–0480	02/09/00	05/09/00	CBI	(S) Additive for industrial coatings	(G) Organo silane ester
P–00–0481	02/08/00	05/08/00	Lyondell Chemical Company	(S) Gasoline anti-corrosion additive	(G) Alkoxylated acetophenone
P–00–0482	02/07/00	05/07/00	CBI	(G) Automatic transmission fluid	(G) Alky methacrylate copolymer
P–00–0483	02/07/00	05/07/00	CBI	(G) Ingredient for use in consumer products;highly dispersive use.	(G) Cycloalkyl proplynitrile
P–00–0484	02/07/00	05/07/00	CBI	(G) Open, non-dispersive	(G) Polyalkylene oxide imine quarternary ammonium ethyl sulfate complex
P–00–0485	02/07/00	05/07/00	CBI	(G) Intermediate for coatings manufacture	(S) Phenol, 4,4′-(1-methylethylidene)bis-, styrenated*
P–00–0486	02/07/00	05/07/00	CBI	(G) Intermediate for coatings manufacture	(S) Phenol, 4,4′-(1-methylethylidene)bis-, reaction products with 1-ethenyl-4-methylbenzene*
P–00–0487	02/07/00	05/07/00	CBI	(G) Intermediate for coatings manufacture	(S) Phenol, 4,4′-(1-methylethylidene)bis-, reaction products with 1-(1,1-dimethylethyl)-4-ethenylbenzene*
P–00–0488	02/10/00	05/10/00	Dow Corning Corporation	(S) Silicone electronic potting compound	(G) Crosslinked polymethylsiloxane
P–00–0489	02/10/00	05/10/00	CBI	(G) Open non-dispersive (additive)	(G) Aqueous solution of polyamide-amine
P–00–0490	02/10/00	05/10/00	CBI	(G) Delivery substrate	(G) Substituted acrylamides copolymer
P–00–0491	02/10/00	05/10/00	CBI	(S) Base fluid for hydraulic fluids;base fluid engine lubricants	(G) Mixed polyol-glycerol fatty aid ester
P–00–0492	02/09/00	05/09/00	Ciba Specialty Chemicals Corporation	(S) Plant micronutrient for use in fertilizers	(G) Chelated metal complexes
P–00–0493	02/09/00	05/09/00	CBI	(S) Solution acrylic resin is used as a component in a protective coating (paint)	(S) 2-propenoic acid, 2-methyl-, butyl ester, polymer with 1,1-dimethylethyl 2-methyl-2-propenoate, ethenylbenzene and 2-hydroxyethyl 2-methyl-2-propenoate, tert-bu 3,5,5-trimethylhexaneperoxoate-initiated*
P–00–0494	02/09/00	05/09/00	Ashland Inc.	(G) Adhesive	(G) Copolymer of acrylic esters and styrene
P–00–0495	02/09/00	05/09/00	Ashland Inc.	(G) Adhesive	(G) Copolymer of acrylic esters and styrene
P–00–0496	02/09/00	05/09/00	Ashland Inc.	(G) Adhesive	(G) Copolymer of acrylic esters and styrene
P–00–0497	02/09/00	05/09/00	Ashland Inc.	(G) Adhesive	(G) Copolymer of acrylic esters and styrene
P–00–0498	02/11/00	05/11/00	Orient Corporation of America	(S) Manufacture of ink	(S) 3*h*-indolium, 2-[[(4-chlorophenyl) methylhydrazono]methyl] -1,3,3-trimethyl-, salt with dodecylbenzenesulfonic acid (1:1)*

I. 36 PREMANUFACTURE NOTICES RECEIVED FROM: 02/02/00 TO 02/11/00—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–0499	02/11/00	05/11/00	Orient Corporation of America	(S) Manufacture of ink	(S) Methanaminium, *N*-[4–[[4-(dimethylamino)phenyl] [4-(methylphenylamino)-1-naphthalenyl]methylene] -2,5-cyclohexadien-1-ylidene] -*N*-methyl-, [29*h*,31*h*-phthalocyanine- *c,c,c*-trisulfonato(5-)-*n*29,*n* 30,*n*31,*n* 32]cuprate(3-) (3:1)*
P–00–0500	02/11/00	05/11/00	CBI	(G) Rheomate, the commercial formulation based on zirconyl citrate, is an additive for water based drilling fluids to be used as a thinner/deflocculant, alone or in combinatio with other additives for low and high temperature applications on-shore and off-shore	(G) Zirconyl citrate
P–00–0501	02/11/00	05/11/00	CBI	(S) Catalyst/reaction intermediate	(G) Sodium phenolate

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 46 NOTICES OF COMMENCEMENT FROM: 02/02/00 TO 02/11/00

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0037	02/07/00	01/25/00	(S) Canola oil, hydrogenated*
P–00–0051	02/01/00	01/20/00	(G) Modified melamine alkyd resin
P–00–0072	02/04/00	01/21/00	(G) Macrocyclic cobalt complex
P–95–0215	02/09/00	01/07/00	(G) Rosin, maleic anhydride, substituted phenols, paraformaldehyde reaction product, triglyceride coester
P–97–0017	02/08/00	01/24/00	(G) Benzenesulfonic acid amino trizinyl amino substituted yalky amino substituted anthracene compound
P–97–0357	02/11/00	02/04/00	(G) Methylene bridged naphthalenesulfonic acid, sodium salt
P–97–1078	02/08/00	02/02/00	(G) Amide-functional siloxane
P–98–0041	01/28/00	01/03/00	(S) 1,3 -isobenzofurandione, 5-(phenylethynyl)*
P–98–0199	02/10/00	01/18/00	(G) Polyvinyl fluoride copolymer
P–98–0709	02/07/00	01/25/00	(G) Alkenyl grignard reagent
P–98–0794	02/04/00	01/18/00	(G) Mono-halo-substituted alkene
P–98–1274	01/27/00	01/15/00	(G) Silicoaluminophosphates
P–98–1275	02/07/00	01/27/00	(S) Aluminosilicates, phospho-*
P–99–0015	02/08/00	01/17/00	(G) Alkenes, maleic anhydride polymer reaction product with aminopropyl fatty amine
P–99–0137	02/08/00	01/17/00	(G) Alkylarylamine
P–99–0178	01/27/00	01/11/00	(G) Acrylate functional polyester
P–99–0517	01/28/00	12/28/99	(G) Polyamines polymer with epichorohydrin
P–99–0521	02/01/00	12/28/99	(G) Copolymer of acrylic ester and acrylic acid
P–99–0540	02/01/00	12/26/99	(G) Experimental mdi prepolymer
P–99–0541	02/08/00	01/13/00	(G) Water dispersable polyurethane polymer
P–99–0565	02/07/00	01/22/00	(S) Propanoic acid, 2-hydroxy-, methyl ester, (2*s*)-*
P–99–0566	02/07/00	01/22/00	(S) Propanoic acid, 2-hydroxy- ethyl ester, (2*s*)-*
P–99–0567	02/07/00	01/22/00	(S) Propanoic acid, 2-hydroxy- butyl ester, (2*s*)-*
P–99–0641	02/01/00	01/26/00	(G) Hydroxyalkylmodified polysiloxane
P–99–0722	02/08/00	01/17/00	(S) Cyclopentene, polymer with 1-butene, (2*e*)-2-butene, (2*z*)-2-butene, 2-methyl-1-propene and 1,3-pentadiene*
P–99–0773	02/07/00	01/22/00	(S) Propanoic acid, 2-hydroxy-, monopotassium salt, (2*s*)-*
P–99–0843	01/27/00	01/06/00	(G) Polyester acrylate
P–99–0850	02/08/00	01/13/00	(G) Polyester polymer of aromatic polycarboxylic acid with aliphatic polyalcohols
P–99–0863	01/27/00	01/06/00	(G) Silicone acrylate
P–99–0893	02/11/00	01/27/00	(G) Alkanolamine carboxylate salts
P–99–0894	02/11/00	01/27/00	(G) Alkanolamine carboxylate salts
P–99–0921	01/18/00	11/19/99	(G) Cyclic nitroxyl
P–99–0942	01/31/00	01/21/00	(G) Fluorinated polyurethane, modified with acrylate groups and siloxanes
P–99–0965	02/10/00	02/07/00	(S) Furan, octafluorotetrahydro-*
P–99–1001	02/08/00	12/28/99	(G) Ethylene acrylate copolymer
P–99–1036	01/27/00	01/06/00	(G) Epoxy acrylate
P–99–1053	02/09/00	02/03/00	(G) Polyester methacrylate
P–99–1079	02/07/00	01/31/00	(G) Phenylmethyl-bis(arylazo pyrazolone)

II. 46 NOTICES OF COMMENCEMENT FROM: 02/02/00 TO 02/11/00—Continued

Case No.	Received Date	Commencement/ Import Date	Chemical
P–99–1088	02/09/00	01/26/00	(G) Polyether acrylate
P–99–1157	02/10/00	01/22/00	(G) Substituted alkane anilide
P–99–1219	02/10/00	01/18/00	(S) Asphalt, polymer with butadiene and styrene*
P–99–1232	01/31/00	01/06/00	(S) 2-propenoic acid, 2-methyl-, 2-hydroxyethyl ester, polymer with ethyl 2-propenoate, methyl 2-methyl-2-propenoate, oxiranylmethyl 2-methyl-2-propenoate and 2-propenenitrile*
P–99–1307	02/02/00	01/07/00	(G) Polymer modified rosin
P–99–1319	02/08/00	01/25/00	(G) Poly etherpoly siloxane
P–99–1334	02/07/00	01/05/00	(G) Vegetable oil, sulfurized
P–99–1350	02/07/00	01/23/00	(S) 2-oxepanone, polymer with .alpha. -hydro-.omega.-hydroxypoly(oxy-1,4-butanediyl)*

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: March 10, 2000.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 00–6861 Filed 3–17–00; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

* * * * *

DATE & TIME: Thursday, March 23, 2000, at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This Meeting will be open to the Public.

The following item has been added to the agenda:

Notice of Proposed Rulemaking on Administrative Fines.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 00–7005 Filed 3–16–00; 3:11 pm]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency is submitting a request for review and approval of an expired information collection. The request is submitted under the emergency processing procedures in Office of Management and Budget OMB) regulation 5 CFR 1320.13. FEMA is requesting that this information collection be approved by March 24, 2000, for use through September 31, 2000.

FEMA plans to follow this emergency request with a request for a 3-year approval. The request will be processed under OMB's normal clearance procedures in accordance with the provisions of OMB regulation 5 CFR 1320.10. To help us with the timely processing of the emergency and normal clearance submissions to OMB, we invite the general public to comment on the proposed collection of information. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the collection of information which will assist FEMA in monitoring program delivery to disaster applicants and complying with other Federal requirements (flood insurance, environmental assessments, and floodplain management).

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100–707; 44 CFR 206.13, effective March 21, 1989 and the interim IFG Program Federal regulations, are the statutory, regulatory and agency policies that covers why the program was established, why the data was collected is needed and the purpose of the data collection.

Collection of Information

Title: Individual and Family Grant (IFG) Program Information.

Type of Information Collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

OMB Number: 3067–0163.

Form Numbers:

FEMA Form 76–27, DARIS Entry Document, Initial Report, is initiated by the Region based on the data provided by the State. The State provides FEMA preliminary information on the IFG Program for staffing and management purposes. This report is completed once for each disaster, and establishes an account for each new IFG program.

FEMA Form 76–28, DARIS Entry Document, Status Report, is completed by the State IFG staff and provided to the FEMA Regional Director. It serves as the framework for reviewing, analyzing and monitoring the progress of the program. The report tracks the number and dollar amount of applications approved by the State, the number and dollar amount of grants disbursed and the number of grants appealed. The data carried on this report is used to make determinations on the need for additional allocation and obligation of funds for program activity.

FEMA Form 76–29, DARIS Entry Document, Final Statistical Report, captures information that constitutes a funding history by category of each IFG program. This data is critical for reports to OMB and the Congress. The information reveals the total IFG program cost. The form can also be used as a management tool to check on the States' record of accuracy in estimating IFG Program costs and in requesting advances. The State is responsible for completing the form, and the FEMA Region is responsible for entering the information into DARIS.

FEMA Form 76–32, Worksheet for Case File Reviews, is utilized by State IFG personnel in reviewing five percent of all cases. FEMA requires the State to keep the information and on occasions makes requests to the States for information derived from the reviews.

FEMA Form 76–34, Checklist for IFG Program Review, is used during the interview State of the IFG Mid-Program Review of the States' administration of the program. The form is completed by FEMA Human Services staff and is

designed as a guide for the reviewer. It covers all items that must be monitored by FEMA to ensure effective management of the IFG program.

FEMA Form 76–38, Floodplain Management Analysis, Executive Orders 11988, Floodplain Management Analysis, and 11990, Protection of Wetlands, place a responsibility on FEMA and the State to perform reviews before certain IFG assistance in the housing category can be approved. The review involves an eight step decision-making process if the action, such as providing funds for purchase of a mobile home and the location (prior to the disaster) of the unit could affect a floodplain or wetland. The State is responsible for completing steps 3 and 4 of the process, while the Regions retains responsibility for steps 2, 6 and 7, with the State providing the background information for these three steps. Steps 1, 5 and 8 are jointly shared by the State and Region.

Abstract. This collection of information is essential to the effective monitoring and management of the State administered IFG Program by FEMA Regional Office. FEMA Regional staff and Headquarters staff will utilize the information to effectively monitor and evaluate the States' administration of the IFG Program, thus enabling FEMA to assess compliance, consistency and uniformity with Federal requirements. It is FEMA's responsibility to ensure that States perform and adhere to FEMA regulations and policy guidance.

Affected Public: Federal, State, Local or Tribal Governments.

Estimated Total Annual Burden Hours: 814 hours.

FEMA form No.	No. of responses	Minutes per response (B)	Annual burden hours [(A × B)/60]
76–27	40	15	10.00
76–28	7200	5	600.00
76–29	40	30	20.00
76–32	40	30	20.00
76–34	40	240	160.00
76–38	2	120	4.00
	7362		814.00

Estimated Cost. The total estimated annual cost to the respondent States is $13,789.16. The cost is determined by the average hourly rate of a GS9/5 ($16.94) times the 814 estimated annual burden hours. The total estimated annual cost to the Federal Government is $9,213.25. The cost is determined from calculating the amount of time (5%) that a Senior Federal employee spends reviewing the accuracy the forms and multiplying it by their annual salary of roughly $80,000 (GS14/5). Then, we add it to the amount of time (25%) that a data entry clerk spends inputting these figures into our database (25%) and multiplying it by their annual salary of $20,853. (4,000+5,213.25=9,213.25) This cost covers all responses submitted by all respondents.

Comments: Written comments are solicited to: (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email *muriel.anderson@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Charles D. Robinson, Branch Chief, Program Guidance and Implementation Branch, Human Services Division (202) 646–3649 for additional information. Contact Ms. Anderson at (202) 646–2625 for copies of the proposed collection of information.

Dated: March 10, 2000.

Thomas Behm,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 00–6847 Filed 3–17–00; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1321–DR]

Ohio; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1321–DR), dated March 7, 2000, and related determinations.

EFFECTIVE DATE: March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 7, 2000, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Ohio resulting from severe storms and flooding beginning on February 18, 2000, and continuing through March 2, 2000, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the

requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is requested and is determined to be warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Brad Gair of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster:

Adams, Gallia, Lawrence, Meigs, and Scioto Counties for Individual Assistance.

All counties within the State of Ohio are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 00–6843 Filed 3–17–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1321–DR]

Ohio; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio (FEMA–1321–DR), dated March 7, 2000, and related determinations.

EFFECTIVE DATE: March 10, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 7, 2000:

Jackson and Pike Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 00–6844 Filed 3–17–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1318–DR]

Virginia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia (FEMA–1318–DR), dated February 28, 2000, and related determinations.

EFFECTIVE DATE: March 9, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Virginia is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 28, 2000:

City of Manassas for debris removal (Category A), emergency protective measures (Category B), and utilities (Category F) under Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 00–6839 Filed 3–17–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1319–DR]

West Virginia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia, (FEMA–1319–DR). dated February 28, 2000, and related determinations.

EFFECTIVE DATE: March 6, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of West Virginia is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 28, 2000:

Ritchie County for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing

Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 00–6840 Filed 3–17–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1319–DR]

West Virginia; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA–1319–DR), dated February 28, 2000, and related determinations.

EFFECTIVE DATE: February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective February 22, 2000.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Laurence Zensinger,

Division Director, Human Services Division, Response and Recovery Directorate.

[FR Doc. 00–6841 Filed 3–17–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1319–DR]

West Virginia; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia, (FEMA–1319–DR), dated February 28, 2000, and related determinations.

EFFECTIVE DATE: March 8, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of West Virginia is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 28, 2000:

Preston, Randolph, Taylor and Tucker Counties for Individual Assistance (already designated for Public Assistance)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Laurence Zensinger,

Division Director, Human Services Division, Response and Recovery Directorate.

[FR Doc. 00–6842 Filed 3–17–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Opening Meeting, Interagency Committee on Dam Safety

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with section 8(h) of the National Dam Safety Program Act (Pub. L. 104–303), the Federal Emergency Management Agency gives notice that the following meeting will be held:

Name: Interagency Committee on Dam Safety.

Date of Meeting: April 11, 2000.

Place: Residence Inn by Marriott, Thomas Circle, 1199 Vermont Ave. NW, Washington, DC 20005.

Time: 2 p.m.–5 p.m.

Proposed Agenda: Review initiatives for FY2000.

Status: This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Donald Bathurst, Director, National Dam Safety Program, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW, Room 416, Washington, DC 20472, telephone (202) 646–2753 or by facsimile at (202) 646–3990.

SUPPLEMENTARY INFORMATION: This meeting is open to the public with limited seating available on a first-come, first served basis. Members of the general public who plan to attend the meeting should contact Rita Henry, Federal Emergency Management Agency, 500 C Street, SW, Room 416, Washington, DC 20472, Telephone (202) 646–2704 or by facsimile at (202) 646–3990 on or before April 3, 2000.

Minutes of the meeting will be prepared and available upon request 30 days after they have been approved by the Interagency Committee on Dam Safety.

Dated: March 8, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00–6846 Filed 3–17–00; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Opening Meeting, National Dam Safety Review Board

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with § 8(h) of the National Dam Safety Program Act (Pub. L. 104–303), the Federal Emergency Management Agency gives notice that the following meeting will be held:

NAME: National Dam Safety Review Board.

DATE OF MEETING: April 10, 2000.

PLACE: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

TIME: 1p.m.–4p.m.

PROPOSED AGENDA: Review policy issues for 2000.

STATUS: This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Donald Bathurst, Director, National Dam Safety Program, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW, Room 416, Washington, DC 20472, telephone (202) 646–2753 or by facsimile at (202) 646–3990.

SUPPLEMENTARY INFORMATION: This meeting is open to the public with

limited seating available on a first-come, first served basis. Members of the general public who plan to attend the meeting should contact Rita Henry, Federal Emergency Management Agency, 500 C Street, SW, Room 416, Washington, DC 20472, Telephone (202) 646–2704 or by facsimile at (202) 646–3990 on or before April 3, 2000.

Minutes of the meeting will be prepared and available upon request 30 days after they have been approved by the National Dam Safety Review Board.

Dated: March 8, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00–6845 Filed 3–17–00; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL HOUSING FINANCE BOARD

Announcing an Open Meeting of the Board

TIME AND DATE: 1:00 P.M., Wednesday, March 22, 2000.

PLACE: Board Room, Second Floor, Federal Housing Finance Board 1777 F Street, N.W., Washington, D.C. 20006

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

- Final Rule: Duties and Responsibilities of FHLBank Board of Directors.
- Final Rule: Calculation of REFCorp Obligation.
- Proposed Rule: Amendments to Advances and other Regulations to implement Gramm-Leach-Bliley Act Collateral Provisions and make related revisions.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 00–6932 Filed 3–16–00; 11:41 am]

BILLING CODE 6725–01–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 April 3, 2000.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Tommy Don Craighead and Marilyn S. Craighead, Norman, Oklahoma; Mel Van Craighead and Deana R. Craighead, Ardmore, Oklahoma; Lana Jayne Martin and Steven C. Martin, Ardmore, Oklahoma; Brandon Lee Martin, Ardmore, Oklahoma; Russell Noble, Trustee of The TCC & BJC Trust No. 1 U/A Dated June 30, 1994, Ardmore, Oklahoma; Russell Noble, Trustee of The TCC & BJC Trust No. 2 U/A Dated June 30, 1994, Ardmore, Oklahoma; Russell Noble, Trustee of The TCC & BJC Trust No. 3 U/A Dated June 30, 1994, Ardmore, Oklahoma; Russell Noble, Trustee of The TCC & BJC Trust No. 4 U/A Dated June 30, 1994, Ardmore, Oklahoma; Russell Noble, Trustee of The TCC & BJC Trust No. 5 U/A Dated June 30, 1994, Ardmore, Oklahoma; Russell Noble, Trustee of The TCC & BJC Trust No. 6 U/A Dated June 30, 1994, Ardmore, Oklahoma; Russell Noble, Trustee of The TCC & BJC Trust No. 7 U/A Dated June 30, 1994, Ardmore, Oklahoma; to acquire voting shares of Citizens Commerce Corporation, Ardmore, Oklahoma, and thereby indirectly acquire voting shares of Citizens Bank & Trust Company, Ardmore, Oklahoma.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Bank of Lodi Employee Stock Option Plan, Bakersfield, California; to acquire additional voting shares of First Financial Bancorp, Lodi, California, and thereby indirectly acquire additional voting shares of Bank of Lodi, N.A., Lodi, California.

Board of Governors of the Federal Reserve System, March 14, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–6731 Filed 3–17–00; 8:45 am]

BILLING CODE 6210–01–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 April 4, 2000.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. The Joe D. Butcher Family Trust, Cimarron, Kansas; Kimberly Jo Fairbank, Cimarron, Kansas; Grant Butcher, Dodge City, Kansas; Robert Butcher, Davidsonville, Maryland; and Harold Ott, Cimarron, Kansas; to acquire voting shares of First National Agency, Cimarron, Kansas, and thereby indirectly acquire First National Bank in Cimarron, Cimarron, Kansas.

Board of Governors of the Federal Reserve System, March 15, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–6850 Filed 3–17–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the

Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. 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 each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 13, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Dentel Bancorporation, Victor, Iowa; to acquire 100 percent of the voting shares of Pocahontas Bancorporation, Pocahontas, Iowa, and thereby indirectly acquire The Pocahontas State Bank, Pocahontas, IA.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. FDB Bancorp, Inc., Louisville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The First Capital Bank of Kentucky, Louisville, Kentucky.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. State Bank of Slater Employee Stock Ownership Plan and Trust, Slater, Missouri; to become a bank holding company by acquiring 27.9 percent of the voting shares of Slater Bancshares, Inc., Slater, Missouri, and thereby indirectly acquire State Bank of Slater, Slater, Missouri.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. CPBK Holdings, Inc., Houston, Texas, and CPBK Holdings of Delaware, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of CompuBank, National Association, Houston, Texas.

Board of Governors of the Federal Reserve System, March 14, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–6730 Filed 3–17–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. 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 each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 14, 2000.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. SNB Bancorp, Inc., Salyersville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Salyersville National Bank, Salyersville, Kentucky.

2. Park National Corporation, Newark, Ohio; to acquire 100 percent of the voting shares of SNB Corp., Greenville, Ohio, and thereby indirectly acquire Second National Bank, Greenville, Ohio.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. BancPlus Corporation, Belzoni, Mississippi; to merge with First Holmes Corporation, Lexington, Mississippi, and thereby indirectly acquire First National Bank of Holmes County, Lexington, Mississippi.

Board of Governors of the Federal Reserve System, March 15, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–6851 Filed 3–17–00; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Office of Communications; Revision of a Standard Form

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The Department of the Treasury has revised the construction of the following Standard form:

SF 1147, Request for Issuance of Replacement Check Due to Error in Name and/or Designation of Payee.

This form is now a cutsheet padded form with 50 sheets to a pad. You can obtain this form from the following address:

Department of the Treasury—FMS; Ardmore Industrial Center; 3361–L 75th Avenue; Landover, MD 20785; 301.344.8577.

FOR FURTHER INFORMATION CONTACT: Irving Wilson, Department of the Treasury, 202.622.1575.

DATES: Effective March 20, 2000.

Dated: March 14, 2000.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer.

[FR Doc. 00–6827 Filed 3–17–00; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Proposed Collection; Submission for OMB Review; Comment Request Entitled: Art In Architecture Program National Artist Registry

AGENCY: Public Buildings Service, GSA.

ACTION: Notice of request for approval of a new information collection entitled Art In Architecture Program, National Artist Registry.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), GSA has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection concerning Art In Architecture Program, National Artist Registry. The information collection was published in the Federal Register on January 12, 2000 at 65 FR 1898 allowing for a 60-day public comment period. No comments were received.

The Art in Architecture Program is the result of a policy decision made in January 1963 by GSA Administrator, Bernard L. Boudin, who had served on the Ad Hoc Committee on Federal Office Space in 1961–62.

The program has been modified over the years, most recently in 1996 when a renewed focus on commissioning works of art that are an integral part of the building's architecture and adjacent landscape was instituted. The program continues to commission works of art from living American artists. One half of one percent of the estimated construction cost of new or substantially renovated Federal buildings and U.S. courthouses is allocated for commissioning works of art.

DATES: Submit comments on or before April 19, 2000.

ADDRESSES: Comments concerning this notice should be submitted to Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503 and also may be submitted to Susan Harrison, Public Buildings Service, Historic Buildings and Arts, Room 2308, 1800 F Street, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Susan Harrison, Public Buildings Service, Historic Buildings and Arts, Room 2308, 1800 F Street, NW., Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Art in Architecture Program actively seeks to commission works from the full spectrum of American artists, and strives to promote new media and inventive solutions for public art. The GSA Form 7437, Art In Architecture Program National Artist Registry will be used to collect information from artists across the country to participate and to be considered for commissions.

B. Annual Reporting Burden

Respondents: 360; annual responses; 360; average hours per response: .15; burden hours: 90.

Copy of Proposal: A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street, NW., Washington, DC 20405.

Dated: March 13, 2000.

Sue McIver,

Acting Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 00–6828 Filed 3–17–00; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

Notice of Intent To Prepare an Environmental Impact Statement

The General Services Administration and the Bureau of Alcohol, Tobacco and Firearms (ATF) intend to prepare an Environmental Impact Statement, in compliance with the National Environmental Policy Act, on the following project:

ATF National Headquarters, Washington, DC.

The ATF National Headquarters is currently located in leased space at 650 Massachusetts Avenue, NW. and other leased space in the District of Columbia. The lease at 650 Massachusetts Avenue expires on September 30, 2000. The proposed project would consolidate ATF Headquarters operations and would improve the agency's ability to meet its missions. In addition, the Government would decrease operational expenditures by relocating from leased private office space to a Government-owned building.

This project will provide a new ATF National Headquarters with 325,000 gross square feet and parking for approximately 200 vehicles. The project is authorized to house approximately 1,100 ATF personnel.

Alternatives to be considered include:

- Construction of a new Federally-owned building on Square 710 at the intersection of New York and Florida Avenues, NE.
- Renovation of the Federally-owned Regional Office Building at 7th and D Streets, SW.
- No-Action Alternative under which ATF would remain in leased-space.

A Public Scoping Meeting has been scheduled for:

Wednesday, March 29, 2000, 7:00 p.m., Gallaudet University Kellogg Conference Center, 800 Florida Avenue, NE, Washington, DC. 20001.

GSA is requesting your input to ensure that all pertinent issues are addressed in the Environmental Impact Statement (EIS). In addition, GSA is soliciting public comment on historic and archaeological resources under Section 106 of the National Historic Preservation Act.

In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes. A short, formal presentation will precede the request for public comments. GSA and ATF representatives will be available at this meeting to receive comments from the public regarding issues of concern. It is important that Federal, state and city agencies, and interested individuals and groups take this opportunity to identify environmental concerns that should be addressed in the EIS.

Agencies and the general public are also invited and encouraged to provide written comment in addition to, or in lieu of, comments at the public meeting. To be most helpful, scoping comments should clearly described specific issues or topics which the commentator believes the EIS should address.

If you can not attend the Public Scoping Meeting, please send comments to the address below. All comments must be postmarked by April 24, 2000.

Mr. Dawud Abdur-Rahman, General Services Administration, National Capital Region, Public Buildings Service, Room 2021 WPC, 7th & D Streets, SW., Washington, DC 20407, Fax (202) 708–4964, E-mail: *dawud.abdur-rahman@gsa.gov*

Dated: March 13, 2000.

Arthur Turowski,

Deputy Assistant Regional Administrator, Public Buildings Service, GSA, National Capital Region.

[FR Doc. 00–6826 Filed 3–17–00; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00054]

Information Interchange and Technical and Financial Assistance for Human Immunodeficiency Virus (HIV) Prevention; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program for Information Interchange and Technical and Financial Assistance for Human Immunodeficiency Virus (HIV) Prevention. This program addresses the ''Healthy People 2010'' priority area(s) of Human Immunodeficiency Virus (HIV) Infection. The purpose of the program is

to continue supporting: an information exchange program among mayors and other local and State government officials concerning: HIV prevention; HIV prevention program and policy development; and the provision of technical and financial assistance to community-based organizations (CBOs), local and State health departments, and others involved in health promotion and disease prevention activities.

B. Eligible Applicants

Assistance will be provided only to the United States Conference of Mayors (USCM). No other applications are solicited.

Eligibility is limited to USCM since it provides representation from city and local officials, including social service, education, and other community officials and organizations, in approximately 1,000 cities with populations of more than 30,000 and, through its affiliate The United States Conference of Local Health Officials, provides representation from approximately 2,000 additional local health officials. USCM was created specifically to represent this wide variety of local organizations and community officials to the Federal government and other national organizations and is unique in its role as a liaison between these officials. It has served as a policy-development and capacity-building organization in intergovernmental affairs for more than 65 years and has as one of its major objectives the sharing of information between local governments.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $1,000,000 is available in FY 2000, to support an HIV prevention cooperative agreement with USCM. It is expected that the award will begin on or about May 1, 2000 and will be made for a 12-month budget period within a project period of up to 5 years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Direct Assistance

You may request Federal personnel as direct assistance, in lieu of a portion of financial assistance.

Use of Funds

Funds may not be used to supplant or duplicate existing funding.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under 1. ''Recipient Activities,'' and CDC will be responsible for the activities listed under 2. ''CDC Activities.''

1. Recipient Activities

a. Collaborate with CDC in identifying those HIV prevention policies, practices, procedures, programs, and processes that have been demonstrated to be effective.

b. Disseminate to local government officials, health departments, CBOs, and others, effective HIV/AIDS prevention-related policies, practices, procedures, programs, processes, materials and related items, as well as technical and practical information warranted by new epidemiological, behavioral, or clinical discoveries. Use existing information vehicles, *e.g.,* information exchange newsletters, capsule and technical assistance reports, case studies, information alerts, directories, conferences, workshops, and HIV/AIDS-related telecommunications networks. This activity should include assisting mayors in mid-to-high HIV/AIDS incidence areas in identifying mechanisms to incorporate HIV prevention into their short-and long-range plans.

c. Compete, objectively review applications, award, and announce funding given to local health departments (LHDs) and CBOs working collaboratively to conduct HIV prevention needs assessments or implementation of high priority HIV prevention activities. Except in the case of non-competing continuation awards, efforts should be made to avoid funding the same localities and agencies during subsequent funding cycles.

d. Provide technical assistance to funded and unfunded LHDs and CBOs on HIV prevention program and management issues such as: fiscal accounting systems, grant writing, educational material development, and program development, implementation, and evaluation.

e. Conduct assessments of HIV prevention programs, resources, and capacities and report findings in case studies.

f. Develop case studies that will enable: Community Planning Groups (CPGs), LHDs and CBOs to benefit from the experience of other organizations in the planning, development, implementation, and evaluation of HIV prevention planning processes, needs assessments, programs and related activities.

g. Prepare abstracts, posters, and oral presentations and articles for publication in peer-reviewed journals.

h. Obtain information and materials through surveys of cities, local school districts and health departments, other local government agencies, CBOs, CPGs, and other community entities concerning HIV/AIDS prevention-related funding, policies, practices, procedures, programs, and processes.

i. Evaluate impact of outreach to mayors.

2. CDC Activities

a. Collaborate in the development of a dissemination plan so that practical and technical information related to HIV/AIDS prevention can be rapidly shared with the appropriate government and health department officials, as well as CBOs and CPGs.

b. Identify: (1) HIV prevention-related policies, practices, procedures, community needs and processes; (2) local health education/risk reduction programs that have demonstrated the capability to successfully serve the needs of people with AIDS or HIV infection, sex and needle-sharing partners, high-risk populations, health-care providers, or the general public; and (3) other local HIV prevention-related efforts (*e.g.* community planning or peer youth education) that offer valuable lessons to benefit others.

c. Collaborate in the planning of all USCM workshops, conferences and other professional gatherings that are determined to serve a large public health purpose, and provide speakers for meetings that are national in scope.

d. Give technical feedback to USCM on drafts of all HIV-related materials intended for dissemination.

e. Collaborate in the analysis and presentation of all material for publication.

f. Identify community planning groups in need of fiscal services.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. Provide a detailed plan for activities for the initial budget period and a more general plan for activities in years 2 through 5 of the project period. Specifically:

1. Describe the need for and a plan to address the required recipient activities.

2. Provide realistic, measurable, and time-phased objectives that are related to the purpose of this program and the Healthy People: 2010 national objectives. Provide both budget (1-year) and project (5-year) period objectives.

3. Describe the activities that will be carried out to accomplish the proposed objectives.

4. Provide a plan of evaluation that addresses each of the objectives and activities. Indicate how the evaluation findings will be used in program planning and decision making.

5. Provide a line item budget and justification that is consistent with the purpose of this program and the proposal submitted.

The narrative should be no more than 20 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

Direct Assistance

To request new direct-assistance assignees, include:

A. number of assignees requested;

B. description of the position and proposed duties;

C. ability or inability to hire locally with financial assistance;

D. justification for request;

E. organizational chart and name of intended supervisor;

F. opportunities for training, education, and work experiences for assignees; and

G. description of assignee's access to computer equipment for communication with CDC (*e.g.,* personal computer at home, personal computer at workstation, shared computer at workstation on site, shared computer at a central office).

F. Submission and Deadline

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit. On or before March 24, 2000, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. The extent to which the applicant has described its ability to conduct HIV prevention activities and programs. (25 points)

2. The extent to which the application includes an achievable plan, with specific, measurable, and attainable objectives, for conducting project activities as described under the section ''Program Requirements, 1. Recipient Activities.'' (25 points)

3. The extent to which the application includes reasonable and appropriate methods for evaluating the project's effectiveness. (40 points)

4. The extent to which the applicant demonstrates the existence and use of organizational policies and procedures requiring the hiring, training and assigning of qualified personnel to conduct and manage project activities. (10 points)

In addition, the budget will be evaluated (but not scored) to determine if it is reasonable, clearly justifiable, and consistent with the intended use of funds.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Progress reports, annual;

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–5 HIV Program Review Panel Requirements

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–14 Accounting System Requirements

AR–20 Conference Support

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317 of the Public Health Service Act, [42 U.S.C. sections 241(a) and 247(b). The Catalog of Federal Domestic Assistance number is 93.939, HIV Prevention Activities—Non-Governmental Organizations.

J. Where to Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sharon Robertson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement Number [00054], Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341, Telephone: (770) 488–2782, E-mail: sqr2@cdc.gov.

Access to this and all other CDC program announcements are available on the CDC home page on the Internet: http://www.cdc.gov.

For program technical assistance, contact: Mr. David Brownell, National Center for HIV, STD and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road N.W., Mailstop E–35, Atlanta, Georgia 30333, Telephone: (404) 639–5200, Email: dfb2@cdc.gov.

Dated: March 14, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–6801 Filed 3–17–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Vaccine Program Office (NVPO), of the Centers for Disease Control and Prevention (CDC), Announces the Following Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Workshop on Aluminum in Vaccines.

Times and Dates: 9 a.m.–9 p.m., May 11, 2000; 9 a.m.–2 p.m., May 12, 2000.

Place: Hilton Caribe Hotel, San Juan, Puerto Rico.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 500 people.

Purpose: The Workshop will discuss the role of aluminum in vaccines.

Matters To Be Discussed: Agenda items will include presentations and discussion including: the role of adjuvants in vaccines; and, the pharmacokinetics, toxicology, health guidance values, immunology, and possible adverse events associated with aluminum in vaccines.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Sandra Browning and/or Lena Kombo, NVPO, CDC, 1600 Clifton Road, NE, M/S D66, Atlanta, Georgia 30333, telephone 404/687–6672. You may also visit the NVPO website for additional information: www.cdc.gov/od/nvpo/calendar.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: March 13, 2000.

Carolyn Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–6799 Filed 3–17–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Breast and Cervical Cancer Early Detection and Control Advisory Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Breast and Cervical Cancer Early Detection and Control Advisory Committee.

Times and Dates: 1 p.m.–4:45 p.m., May 9, 2000; 9 a.m.–5 p.m., May 10, 2000.

Place: The Wyndham Hotel, (Midtown), 10th Street, Atlanta, Georgia, 30311, telephone: 404/873–4800.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with providing advice and guidance to the Secretary, the Assistant Secretary for Health, and the Director of CDC, regarding the need for early detection and control of breast and cervical cancer and to evaluate the Department's current breast and cervical cancer early detection and control activities.

Matters to be Discussed: The discussion will primarily focus on the role of Professional Education and Training in the National Breast and Cervical Cancer Early Detection Program. Additional items to be discussed include the (1) termination date of the committee; and (2) progress made towards the 1990 Strategic Plan.

Members of the public who wish to make a brief oral presentation at the meeting should contact Ms. Tamikio Bohler, 770/488–3199 or Ms. Cecilia Nkabinde, 770/488–3199 by 4 p.m. on April 13, 2000, to have time reserved on the agenda. Each individual or group making an oral presentation will be limited to 5 minutes. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 25 copies of the presentation and 25 copies of the visual aids used at the meeting are to be given to Ms. Bohler, no later than the time of the presentation for distribution to the Committee and the interested public.

Contact Person for Additional Information: Tamikio Bohler, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, NE, M/S K–64, Atlanta, Georgia 30341–3724, telephone 770/488–3199.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 14, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–6798 Filed 3–17–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC): Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meetings.

Name: Clinical Laboratory Improvement Advisory Committee (CLIAC).

Times And Dates: 8:30–5 p.m., April 5, 2000; 8:30 a.m.–3:30 p.m., April 6, 2000.

Place: CDC, Koger Center, Williams Building, Conference Rooms 1802 and 1805, 2877 Brandywine Road, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting rooms accommodate approximately 85 people.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters To Be Discussed: The agenda will include discussion on specimens and test systems not currently regulated under Clinical Laboratory Improvement Amendments (CLIA), current and future research related to CLIA, and introduction to proficiency testing issues.

The Committee solicits oral and written testimony on all three areas cited in the matters to be discussed above. Requests to make an oral presentation should be submitted in writing to the contact person listed below by close of business, March 29, 2000. All requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. Written comments should not exceed five single-spaced typed pages in length and should be received by the contact person listed below by close of business, March 29, 2000.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Devery Howerton, Chief, Laboratory Practice Standards Branch, Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE, Mailstop F–11, Atlanta, Georgia 30341–3724, telephone 770/488–8044, FAX 770/488–8279.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: March 14, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–6800 Filed 3–17–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0568]

FMC Corp.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 8A4605) proposing that the food additive regulations be amended to provide for the safe use of sodium stearoyl lactylate as an emulsifier, stabilizer, and texturizer in salad dressings and soups.

FOR FURTHER INFORMATION CONTACT: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3072.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 27, 1998 (63 FR 40126), FDA announced that a food additive petition (FAP 8A4605) had been filed by FMC Corp., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 172.846 *Sodium stearoyl lactylate* (21 CFR 172.846) to provide for the expanded safe use of sodium stearoyl lactylate as an emulsifier, stabilizer, and texturizer in salad dressings and soups. FMC Corp. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: February 23, 2000.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–6721 Filed 3–17–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–0988]

Lilly Research Laboratories et al.; Withdrawal of Approval of 22 New Drug Applications and 36 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 22 new drug applications (NDA's) and 36 abbreviated new drug applications (ANDA's). The holders of the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Effective April 19, 2000.

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

SUPPLEMENTARY INFORMATION: The holders of the applications listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

Application No.	Drug	Applicant
NDA 6–139	Surfacaine (cyclomethycaine).	Lilly Research Laboratories, Lilly Corporate Center, Indianapolis, IN 46285.
NDA 6–904	Terfonyl (trisulfapyrimidines) Tablets and Oral Suspension.	Bristol-Myers Squibb Co., P.O. Box 4000, Princeton, NJ 08543–4000.
NDA 9–357	Rau-Sed (reserpine) Tablets.	Do.
NDA 9–523	Tyzine 0.1% (tetrahydrozoline HCl).	Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755.
NDA 9–941	Tyzine 0.05% (tetrahydrozoline HCl) Pediatric Nasal Drops.	Do.
NDA 10–520	Leritine (anileridine HCl) Injection	Merck & Co., Inc., P.O. Box 4, BLA–20, West Point, PA 19486.
NDA 11–028	Hydeltrasol (prednisolone sodium phosphate) Sterile Ophthalmic Ointment, 0.25%.	Do.
NDA 11–178	Isuprel (isoproterenol hydrochloride) Mistometer.	Sanofi Winthrop, Inc., 90 Park Ave., New York, NY 10016–1389.
NDA 11–602	Kenalog (triamcinolone acetonide) Lotion.	Bristol-Myers Squibb Co.
NDA 12–335	Forhistal (dimethindene maleate) Tablets.	Novartis Pharmaceuticals Corp., 59 Route 10, East Hanover, NJ 07936–1080.
NDA 12–337	Forhistal (dimethindene maleate) Syrup.	Do.
NDA 12–338	Forhistal (dimethindene maleate) Pediatric Drops.	Do.
NDA 16–755	Diapid (Lypressin Nasal Solution USP) Nasal Spray.	Novartis Pharmaceuticals Corp.
NDA 16–990	Intal (Cromolyn Sodium for Inhalation USP) Capsules.	Rhone-Poulenc Rorer Pharmaceuticals, Inc., 500 Arcola Rd., P.O. Box 1200, Collegeville, PA 19426–0107.
NDA 17–605	Xylo-Pfan (Xylose USP) Powder.	Savage Laboratories, 60 Baylis Rd., Melville, NY 11747.
NDA 19–215	FEMSTAT (butoconazole nitrate) 2% Vaginal Cream (prescription).	Hoffmann-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110–1199.
NDA 19–359	FEMSTAT (butoconazole nitrate) Suppositories, 100 milligrams (mg).	Do.

Application No.	Drug	Applicant
NDA 20–750	Tilade (nedocromil sodium inhalation solution) Nebulizer Solution.	Rhone-Poulenc Rorer Pharmaceuticals, Inc.
NDA 50–128	Bicillin (penicillin G benzathine) Tablets.	Wyeth-Ayerst Laboratories, P.O. Box 8299, Philadelphia, PA 19101–8299.
NDA 50–306	GEOPEN (carbenicillin disodium) IM/IV.	Pfizer, Inc.
NDA 50–318	Kenalog-S Nasal Spray (neomycin sulfate-gramicidin and triamcinolone acetonide with phenylephrine)	Bristol-Myers Squibb Co.
NDA 50–518	Meclan (meclocycline sulfosalicylate) Cream, 1%.	Johnson & Johnson Consumer Companies, Inc., 199 Grandview Rd., Skillman, NJ 08558–9418.
ANDA 60–124	Strycin (streptomycin) Syrup.	Bristol-Myers Squibb Co.
ANDA 60–513	Streptomycin Sulfate Injection USP.	Do.
ANDA 60–933	Spectrocin (Neomycin Sulfate and Gramicidin Ointment USP).	Do.
ANDA 61–523	Achromycin (tetracycline HCl) Diagnostic Susceptibility Powder, 20 mg.	Wyeth-Ayerst Laboratories.
ANDA 61–605	ETHRIL (Erythromycin Stearate Tablets USP).	Bristol-Myers Squibb Co.
ANDA 62–224	Neomycin Sulfate Ointment USP.	Do.
ANDA 62–305	Pediamycin Suspension and Pediamycin Oral Drops (erythromycin ethylsuccinate for oral suspension).	Abbot Laboratories, 100 Abbott Park Rd., D–491, AP6B–1SW, Abbott Park, IL 60064–6108.
ANDA 62–306	Erythromycin Ethylsuccinate Tablets, 200 mg.	Do.
ANDA 62–334	Cefadroxil for Oral Suspension USP.	Apothecon, Inc., A Bristol-Myers Squibb Co., P.O. Box 4500, Princeton, NJ 08543–4500.
ANDA 62–390	Cifadroxil Tablets USP, 1 gram (g).	Do.
ANDA 62–818	Neomycin and Polymyxin B Sulfates and Gramicidin Ophthalmic Solution.	Fujisawa Healthcare, Inc., 3 Parkway North Center Deerfield, IL 60015–2548.
ANDA 64–026	Tobramycin Sulfate Injection USP, 40 mg/mL.	Apothecon, Inc.
ANDA 71–151	Bretylium Tosylate Injection.	AstraZeneca, 725 Chesterbrook Blvd., Wayne, PA 19087–5677.
ANDA 71–153	Bretylium Tosylate Injection.	Do.
ANDA 71–319	Naproxen Sodium Tablets USP.	Purepac Pharmaceutical Co., 200 Elmora Ave., Elizabeth, NJ 07207.
ANDA 74–360	Gemfibrozil Tablets USP, 600 mg.	Do.
NDA 74–380	Metoprolol Tartrate Tablets USP, 50 mg and 100 mg.	Do.
ANDA 74–658	Acyclovir Tablets USP, 400 and 800 mg.	Lek Pharmaceutical and Chemical Co. d.d., c/o Lek USA, Inc., 333 Sylvan Ave., Englewood Cliffs, NJ 07632.
ANDA 74–750	Acyclovir Capsules USP, 200 mg.	Do.
ANDA 75–516	Serecon Eye Drops (pheniramine maleate and naphazoline HCl ophthalmic solution), 0.315%/0.02675%.	Optikem International, Inc., c/o Medvice Consulting, Inc., 623 Glacier Dr., Grand Junction, CO 81503.
ANDA 80–321	Prednisone Tablets USP, 5 mg.	Vintage Pharmaceuticals, Inc., 3241 Woodpark Blvd. Charlotte, NC 28206.
ANDA 80–322	Prednisolone Tablets USP, 5 mg.	Do.
ANDA 80–860	Vitamin A Capsules USP	Bristol-Myers Squibb Co.
ANDA 83–807	Prednisolone Tablets USP, 20 mg.	Vintage Pharmaceuticals, Inc.
ANDA 84–627	Quinidine Sulfate Tablets USP, 200 mg.	Pharmavite Corp., P.O. Box 9606, Mission Hills, CA 91346–9606.
ANDA 85–147	Quinidine Sulfate Tablets USP, 200 mg.	Jones Pharma, Inc., 1945 Craig Rd., P.O. Box 46903, St. Louis, MO 63146.
ANDA 85–150	Diphenhydramine HCl Capsules USP, 50 mg.	Purepac Pharmaceutical Co.
ANDA 85–156	Diphenhydramine HCl Capsules USP, 25 mg.	Do.
ANDA 85–665	Austaire (theophylline anhydrous) Tablets.	Pfizer, Inc.
ANDA 86–454	AMITID Tablets (Amitriptyline HCl Tablets USP).	Bristol-Myers Squibb Co.
ANDA 86–569	Theoclear L.A.–130 and Theoclear L.A.–260 (theophylline extended-release capsules, 130 mg and 260 mg).	Schwarz Pharma, Inc., 5600 West County Line Rd., Mequon, WI 53092.
ANDA 87–073	MD–76 (Diatrizoate Meglumine and Diatrizoate Sodium Injection USP, 66%/10%).	Mallinckrodt, Inc., 675 McDonnell Blvd., P.O. Box 5840, St. Louis, MO 63134.
ANDA 88–758	Butalbital, Acetaminophen, and Caffeine Capsules USP, 50 mg/325 mg/40 mg.	Mallinckrodt Chemical, Inc., P.O. Box P, 58 Pearl St., Hobart, NY 13788–0416.
ANDA 89–023	TRIAD (Butalbital, Acetaminophen, and Caffeine Capsules USP), 50 mg/325 mg/40 mg.	Do.
ANDA 89–102	FEMCET (Butalbital, Acetaminophen, and Caffeine Capsules USP), 50 mg/325 mg/40 mg.	Do.
ANDA 89–426	Dipyridamole Tablets USP, 50 mg.	Purepac Pharmaceutical Co.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the applications listed in the table in this document, and all amendments and supplements thereto, is hereby withdrawn, effective April 19, 2000.

Dated: March 7, 2000.

Janet A. Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 00–6722 Filed 3–17–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–643]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved request; *Title of Information Collection:* Hospice Survey and Deficiencies Report Form and Supporting Regulations at 42 CFR Part 418.1–418.405; *Form No.:* HCFA–643 (OMB# 0938–0379); *Use:* In order to participate in the Medicare program, a hospice must meet certain Federal health and safety conditions of participation. This form will be used by State surveyors to record data about a hospice's compliance with these conditions of participation in order to initiate the certification or recertification process; *Frequency:* Annually; *Affected Public:* State, local or tribal government; *Number of Respondents:* 2,293; *Total Annual Responses:* 2,293; *Total Annual Hours:* 5,733.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 8, 2000.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards

[FR Doc. 00–6739 Filed 3–17–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–668B]

Agency Information Collection Activities: Proposed Collection: Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Post Laboratory Survey Questionnaire—Laboratory, and Supporting Regulations in 42 CFR 493; *Form No.:* HCFA–668B (OMB# 0938–0653); *Use:* To provide an opportunity and a mechanism for CLIA laboratories surveyed by HCFA or HCFA's agent to express their satisfaction and concerns about the CLIA survey process; *Frequency:* Biennially; *Affected Public:* Business or other for-profit, not-for-profit institutions; *Number of Respondents:* 25,000; *Total Annual Responses:* 12,500; *Total Annual Hours:* 3,125.

We have revised one of the questions in the beginning section and have deleted one of the questions in Section II of the form.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 25, 2000

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–6741 Filed 3–17–00; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–250]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection.

Title of Information Collection: Skilled Nursing Facility (SNF) Resident Assessment MDS Data and Supporting Regulations in 42 CFR 413.343 and 424.32.

Form No.: HCFA–R–250 (OMB# 0938–0739).

Use: Skilled Nursing Facilities (SNFs) are required to submit Resident Assessment Data as described at 42 CFR 483.20 in the manner necessary to administer the payment rate methodology described in 42 CFR 413.337. Pursuant to sections 4204(b) and 4214(d) of OBRA 1987, the current requirements related to the submission and retention of resident assessment data for the 5th, 30th, 60th and 90th days following admission, necessary to administer the payment rate methodology described in § 413.337, are subject to the Paperwork Reduction Act.

Frequency: Monthly.

Affected Public: Business or other for-profit, and Not-for-profit institutions.

Number of Respondents: 17,000.

Total Annual Responses: 204,000.

Total Annual Hours: 5,696,218.25.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: February 14, 2000

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–6740 Filed 3–17–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General; Program Exclusions: February 2000

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of February 2000, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.*, a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
Program-Related Convictions	
ALVAREZ, IVAN MIAMI, FL	03/20/2000
BARRON, CONCEPCION MIAMI, FL	03/20/2000
BERRY, NABIL DEARBORN, MI	03/20/2000
CAPALDO, GEORGE ROCKY DENVER, CO	03/20/2000
CLARK, BARBARA J PEMBROKE, NH	03/20/2000
CRITCHFIELD, CARRIE ANN BELLOWS FALLS, VT	03/20/2000
DIAZ, MANUEL MIAMI, FL	03/20/2000
EASON, ALMEDIA SHENELL HOBBSVILLE, NC	03/20/2000
ENOS, ARTHUR W BURLINGTON, MA	03/20/2000
ENOS AMBULANCE SERVICE INC BURLINGTON, MA	03/20/2000
ESPINO, OTTO NELSON MIAMI, FL	03/20/2000
FARMACIA NUEVO MODELO BAYAMON, PR	03/20/2000
FERNANDEZ, OMAR MIAMI, FL	03/20/2000
GHEN, ROBERT DELRAY BEACH, FL	03/20/2000
GONZALEZ, BARBARA MIAMI, FL	03/20/2000
HERNANDEZ, ELSA MIAMI, FL	03/20/2000
HYLAND, JOHN F DETROIT, MI	03/20/2000
JEFFERSON, GARY BALTIMORE, MD	03/20/2000
KERWIN, PATRICK MICHAEL PORTLAND, OR	03/20/2000
LEPORE, ROBERT BUFFALO, NY	03/20/2000
LOPEZ, GLORIA ESTRADA COLEMAN, FL	03/20/2000
LUNA, MICHAEL LONG ISLAND, NY	03/20/2000
MARTINEZ-ROIG, CESAR MIAMI, FL	03/20/2000
MENDEZ, ESTHER MIAMI, FL	03/20/2000
MORALES, DANIEL HIALEAH GARDENS, FL	03/20/2000
MURTAGH, OWEN J DIX HILLS, NY	03/20/2000
NABIL BERRY, D D S, P C DEARBORN, MI	03/20/2000
PARIENTE, ALBERTO MIAMI, FL	03/20/2000
PEREZ, ZENAIDA MIAMI, FL	03/20/2000
RAMOS, CARLOS ARMANDO HIALEAH, FL	03/20/2000
RODRIGUEZ, BETTY MIAMI, FL	03/20/2000
RODRIGUEZ-MACHADO, ALFREDO SAN JUAN, PR	03/20/2000
ROSEN, BARBARA M CEDARHURST, NY	03/20/2000
SAMARITAN TELE-MED, INC DELRAY BEACH, FL	03/20/2000
SOCARRAS, JOSE MIAMI, FL	03/20/2000
VILLAMIZAR, OTTO MIAMI, FL	03/20/2000
WALSH, MARCELLE J KEY COLONY BEACH, FL	03/20/2000
WOZONK, GEORGE	03/20/2000

Subject, city, state	Effective date
VINELAND, NJ	
ZANDER, PAUL D	11/02/1999
LOS ANGELES, CA,	
Felony Conviction for Health Care Fraud	
HAAS, CHRISTOPHER K	03/20/2000
PLAINSVIEW, NY	
HIGGINS, PAULETTE A	03/20/2000
MARIANNA, FL	
INDEPENDENT HOME MEDICAL	03/20/2000
COEBURN, VA	
MCCONNELL, DORIS J	03/20/2000
ALDERSON, VA	
MCCONNELL, MARSHA L	03/20/2000
ALDERSON, VA	
THOMAS, LISA M	03/20/2000
IRVINGTON, NJ	
WOOD, PENNY L	03/20/2000
PEORIA, IL	
Felony Control Substance Conviction	
BEAULIEU, PAMELA	03/20/2000
WOODBRIDGE, VA	
FELDMAN, STEVEN J	03/20/2000
OSPREY, FL	
FINKELSTEIN, LOUIS	03/20/2000
PHILADELPHIA, PA	
MCCLELLAND, MARCIA	03/20/2000
ELLWOOD CITY, PA	
TAYLOR, VAKESSA LEONETTE	03/20/2000
MARTINSVILLE, VA	
Patient Abuse/Neglect Convictions	
ADAMS, ROSIE MARIE	03/20/2000
ETHEL, LA	
ALEMAN, MIQUEL	03/20/2000
SAN ANTONIO, TX	
ALUMBAUGH, GERALD ROY	03/20/2000
LOOMIS, WA	
ARGUETA, EDWARD A	03/20/2000
SEASIDE PARK, NJ	
BROOKS, OSCAR J	03/20/2000
MAPLE SHADE, NJ	
CLARK, LARRY D	03/20/2000
PARK CITY, KY	
COOPER, TIMOTHY	03/20/2000
OAKS CORNERS, NY	
COPLEY, JAMES W	03/20/2000
AMES, IA	
COX, CARLA SUSAN	03/20/2000
SHINGLETOWN, CA	
D'ANGELO, ELEANOR	03/20/2000
FREEPORT, NY	
DEAN, ALBERT	03/20/2000
GRAND RAPIDS, MI	
GANTT, STEVEN	03/20/2000
MORGANTON, NC	
MACKALL, ROCHELLE RENEE	03/20/2000
CATONSVILLE, MD	
NUNN, CRAIG R	03/20/2000
NASHVILLE, TN	
PERKINS, BRENDA	03/20/2000
SUMTER, SC	
REAVES, CHARLEASE	03/20/2000
ROCHESTER, NY	
REGISTER-ADAY, JACKIE	03/20/2000
HAMILTON, TX	
SCHULTZ, ANGELA J	03/20/2000
GREEN BAY, WI	
SCOTT, LYNDON GEORGE	03/20/2000
LONG BEACH, CA	
SMITH, ARNOLD K SR	03/20/2000
ENDICOTT, NY	
Conviction for Health Care Fraud	
RICHARDS, KRISTY MARIE	03/20/2000
IOLA, KS	
WALKER, JOE DONALD	03/20/2000
ARKANSAS CITY, KS	
Controlled Substance Convictions	
DEBELLIS, LEONARD T	03/20/2000
ZIEGLERVILLE, PA	
License Revocation/Suspension/Surrendered	
AHMADI, HOSSAINALLI D	03/20/2000
ENGLEWOOD, OH	
ALLEN, CAROLE ANNE G	03/20/2000
NEWPORT NEWS, VA	
AMBROSE, TINA ALIVANNE	03/20/2000
HUGHES, AK	
AMES, BRUCE ANTHONY	03/20/2000
REDDING, CA	
AMROZEWICZ, SCOTT J	03/20/2000
EXTON, PA.	
ARNDT, LINDA JARRELL	03/20/2000
HENDERSON, TX	
BAKUZIS, ILZE	03/20/2000
W ST PAUL, MN.	
BAYLESS, PAULA C	03/20/2000
GAHANNA, OH.	
BECHTEL, DEBRA ANN	03/20/2000
FAIRFIELD, CA.	
BECKER, JOHN C	03/20/2000
TAFT, TX.	
BIGLANE, VELVET LYNN	03/20/2000
SEMINARY, MS.	
BLANDFORD, KATHLEEN MARY	03/20/2000
FT PIERCE, FL.	
BOUGHTON, JUDITH	03/20/2000
WEST HAVEN, CT.	
BOWEN, JOHN L	03/20/2000
HOUSTON, TX.	
BOWERS, NILDA LEANO	03/20/2000
TEMPLE TERRACE, FL.	
BOYCE, CHRIS T	03/20/2000
SPOKANE, WA.	
BROWN, CARLA	03/20/2000
BOWLING GREEN, KY.	
BUTLER, JAMES ANTHONY	03/20/2000
TAMPA, FL.	
CABELL, GWENDOLYN	03/20/2000
RICHMOND, VA.	
CAMERON, MARGARET LUCILLE	03/20/2000
SPLENDORA, TX.	
CARMACK, JOEY DEAN	03/20/2000
GLENCOE, AL.	
CARTER, YVETTE BOYD	03/20/2000
MOODY, AL.	
CASSI, PAMELA R	03/20/2000
RAVENNA, OH.	
CASTNER, SEAN DOUGLAS	03/20/2000
ABILENE, TX.	
CHALOUPKA, MICHELLA J	03/20/2000
ORTONVILLE, MN.	
CHAPMAN, SUSAN	03/20/2000
PULASKI, VA.	
CHERRY, SHANDARA VALERIE	03/20/2000
MIAMI, FL.	
CHRISTIAN, LINDA	03/20/2000
VIRGINIA BEACH, VA.	
CLEMENTS OGDEN, DAWN E	03/20/2000
MARSHFIELD, VT.	
COLEMAN, CONSTANCE MUNFORD	03/20/2000
RICHMOND, VA.	
COLL, TAMMY T	03/20/2000
JAFFREY, NH.	
CONRAD, JACKIE	03/20/2000
HENDERSON, KY.	
COSTIGAN, KEVIN	03/20/2000
LONG BRANCH, NJ.	
DERAMO, STACY FRANCES	03/20/2000
FERN PARK, FL.	
DODDS, DARLENE	03/20/2000
MINOT, ND.	
DONNELLY, JOHN PATRICK	03/20/2000
VAUGHN, CA.	
DOSS, MARSHA ANN	03/20/2000
LAWRENCEBURG, KY.	
DOYLE, DEBRA A	03/20/2000
MIDLAND, MI.	
DUDENHEFER, CANDIS L	03/20/2000
PASADENA, TX.	
EATON, LAURA LEE	03/20/2000
ROSEVILLE, CA.	
FINCH, MONTY L	03/20/2000
CORPUS CHRISTI, TX.	
FLORSCHUTZI, DARKO	03/20/2000
SPICER, MN.	
FOLEY, LINDA RUTH	03/20/2000
MONTGOMERY, AL.	
FORDHAM, DEBORAH ANN	03/20/2000
GLENCOE, AL.	
FUGATE, SUSAN DIANE	03/20/2000
PHIL CAMPBELL, AL.	
GAISIOR, DAWN F	03/20/2000
MILROY, PA.	
GARRISON, RUSSELL A	03/20/2000
DES MOINES, IA.	
GILMORE, CADORA G	03/20/2000
RICHMOND, VA.	
GREEN, JACQUELINE	03/20/2000
MONTGOMERY, AL.	
GREGORY, LORI WAGNER	03/20/2000
KINGSLEY, PA.	
GROSS, NANCY PAULINE	03/20/2000
CAMPTON, KY.	
HAAKENSEN, MOIRA M	03/20/2000
DULUTH, MN.	
HARPER-MUELLER, ELLA MAE	03/20/2000
FRONT ROYAL, VA.	
HARRELL, MARTHA KAY	03/20/2000
DOTHAN, AL.	
HAWKINS, RITA KAYE HARBISON	03/20/2000
HUNTSVILLE, AL.	
HAWKS, CHARLES FRANKLIN	03/20/2000
JACKSON, TN.	
HERRINE, GREGORY MAURICE SR	03/20/2000
MOBILE, AL.	
HESTER, CHARLOTTE A	03/20/2000
DADEVILLE, AL.	
HEWITT, LAURA T	03/20/2000
MILFORD, MI.	

Subject, city, state	Effective date
HINRICHS, DEBRA A	03/20/2000
ST PAUL, MN.	
HODGES, JENNIFER WATSON	03/20/2000
VIRGINIA BEACH, VA.	
HOLGATE, MARY B	03/20/2000
SHAKOPEE, MN.	
HOLT, THERESA A	03/20/2000
TRACY, MN.	
HORTON, BARBARA	03/20/2000
RICHLANDS, VA.	
HUNT, DANIEL C	03/20/2000
EAGAN, MN.	
HUTTON, FAITH E ANN	03/20/2000
BEDFORD, NH.	
JACZYNSKI, DANIEL WILLIAM	03/20/2000
CAMILLA, GA.	
JENNINGS, SANDRA S	03/20/2000
VIRGINIA BEACH, VA.	
JENNINGS, MICHAEL WARREN	03/20/2000
STATE FARM, VA.	
JOHNSON, CHRISTINE M	03/20/2000
RICHMOND, VA.	
JOHNSON, TERESA W	03/20/2000
ATLANTA, GA.	
JONES, YVETTE	03/20/2000
LOUISVILLE, KY.	
JONES, KEVIN A	03/20/2000
ST LOUIS PARK, MN.	
KATSAMPES, ERNEST THOMAS	03/20/2000
MOUNTAIN VIEW, CA.	
KELM, PEGGY T	03/20/2000
SALT LAKE CITY, MN.	
KENNEDY, MAUREEN E	03/20/2000
HANSON, MA.	
KENYON, ERIC S	03/20/2000
CHARLESTOWN, RI.	
KIRK, MONA	03/20/2000
MARION, KY.	
KNOTH, ANN C	03/20/2000
DAYTON, OH.	
KOGER, MICHAEL PIGOTT	03/20/2000
ATLANTA, GA.	
KOWALSKI, REXANNA SALLY	03/20/2000
LAKESIDE, AZ.	
KUCHARSKI, BARBARA R	03/20/2000
GRAND RAPIDS, MI.	
KUISLE, FRANCES M	03/20/2000
ROCHESTER, MN.	
LAROCHE, LEWIS	03/20/2000
LAGRANGE, KY.	
LEDBETTER, EDWARD	03/20/2000
MARINA, CA.	
LINDGREN, KRISTEN	03/20/2000
LEXINGTON, KY.	
LLOYD-RECTOR, VICTORIA CLARE	03/20/2000
SACRAMENTO, CA.	
LOSEE, LYNDA S	03/20/2000
RAVENNA, MI.	
MACKIE, ARLENE R	03/20/2000
SUPERIOR, WI.	
MAIBENCO, THOMAS A	03/20/2000
ALBUQUERUQE, NM.	
MARKELL, BARRY S	03/20/2000
PARK RIDGE, IL.	
MARLER, DELTA LOUISE	03/20/2000
PADUCAH, KY.	
MARROTTE, MARIE ANN	03/20/2000
CANNON CITY, CO.	
MARTINA, LISA ANN	03/20/2000
BIRMINGHAM, AL.	
MATTHEWS, STEPHANIE RENEE	03/20/2000
SANTA CRUZ, CA.	
MCCARTT, LORI A	03/20/2000
CEDAR RAPIDS, IA.	
MCDADE, DELORES A	03/20/2000
EUCLID, OH.	
MCDOWELL, MICHELLE	03/20/2000
HAMPTON, VA.	
MCGARVEY-NELSON, LAURA	03/20/2000
LEMMON, SD.	
MELLO, CHRISTINE R	03/20/2000
PORTSMOUTH, RI.	
MESSER, MICHAEL L	03/20/2000
MONTGOMERY, AL.	
METZGER, GEORGETTA FABRE	03/20/2000
MOBILE, AL.	
MEYER-WINTERS, JODI M	03/20/2000
SHAKOPEE, MN.	
MILLER, SAMUEL	03/20/2000
W WARWICK, RI.	
MITCHELL, MARY ELLEN	03/20/2000
LINDEN, AL.	
MOBLEY, SHERRY A	03/20/2000
MORGANFIELD, KY.	
MOORE, BRANNEN J	03/20/2000
STAUNTON, VA.	
MORBITZER, CATHY SUE	03/20/2000
FORT WORTH, TX.	
MORTHLAND, JANE E	03/20/2000
NEW HAVEN, MO.	
MOUSSA, ASNAT F	03/20/2000
ALMA, MI.	
MURREN, DONNA N	03/20/2000
NEWPORT NEWS, VA.	
NEEDHAM, DEBORAH KAY JOLES	03/20/2000
OKEECHOBEE, FL.	
OWENS, DELORES D	03/20/2000
JASPER, AL.	
PAPA, NANCY	03/20/2000
PAWTUCKET, RI.	
PAYNE, RHONDA	03/20/2000
SOMERSET, KY.	
PHILLIPS, GLORIA HELEN	03/20/2000
LAFAYETTE, CA.	
PORTER, CAROLYN R	03/20/2000
PORTSMOUTH, VA.	
POUND, BELINDA	03/20/2000
JONESBORO, GA.	
POWERS, JIMMY L	03/20/2000
SALEM, VA.	
PRESTON, STEPHANIE A	03/20/2000
RICHARDSON, TX.	
PREVETT, SHERRY LYNN	03/20/2000
GREENVILLE, AL.	
QUILLIN, RHONDA LEE	03/20/2000
EL PASO, TX.	
RAPP, VALERIE JOY	03/20/2000
IRVING, TX.	
REIFF, J DONALD	03/20/2000
MONTGOMERY, PA.	
REMBERT, SHAWNTELL ANTONETTE	03/20/2000
MOBILE, AL.	
RHYMES, JESSIE F	03/20/2000
LONGVIEW, TX.	
ROSENBERG, ALAN DAVID	03/20/2000
SAN PABLO, CA.	
ROSS, DARRELL GREGORY	03/20/2000
LEXINGTON, KY.	
SAHAIDA, DAVID	03/20/2000
HAZELTON, PA.	
SAVAGE, HILDA L	03/20/2000
BIRMINGHAM, AL.	
SCOTT, LAWRENCE B	03/20/2000
FALLS CHURCH, VA.	
SHERWOOD-GONZALEZ, KRISTY LYNN	03/20/2000
CORPUS CHRISTIE, TX.	
SITHER, JUDITH	03/20/2000
NICHOLASVILLE, KY.	
SMITH, JACQUELINE L	03/20/2000
VIRGINIA BEACH, VA.	
SMITH, HERMAN JR	03/20/2000
HAMPTON, VA.	
SMITH, ELLEN IRENE	03/20/2000
CONCORD, CA.	
SPANGLER, MARTHA J	03/20/2000
EAU CLAIRE, WI.	
STALLINGS, RONALD I	03/20/2000
FRANKLIN, VA.	
STARNS, PRISCILLA HOPE	03/20/2000
FORT WORTH, TX.	
STARR, KEITH A	03/20/2000
NEW KENSINGTON, PA	
STERGIS, DELORES MULLINS	03/20/2000
CULPEPER, VA	
STROWHOUER, THEODORE R	03/20/2000
WILMINGTON, DE	
SUMMERS, LILLIAN K	03/20/2000
ALEXANDRIA, VA	
SWANEY, MAYME M	03/20/2000
UNIONTOWN, PA	
THAYER, DOROTHY REGINA	03/20/2000
SAN ANTONIO, TX	
TITTERMARY, LORRAINE W	03/20/2000
BELLE HAVEN, VA	
TUNIS, JONATHON D	03/20/2000
GRAND RAPIDS, MI	
TURNER, LATANNYA	03/20/2000
LOUISVILLE, KY	
TUSING, LYDIA A	03/20/2000
BRIDGEWATER, VA	
VAN ETTEN, MELISSA L	03/20/2000
COLCHESTER, VT	
VEMURI, DWARKA NATH	03/20/2000
WHEELING, WV	
WALRAVEN, JANET L	03/20/2000
ROSE HILL, IA	
WELLS, JOHNNY	03/20/2000
GRACEY, KY	
WESTHOFF, PAULETTE R	03/20/2000
HOWARD LAKE, MN	
WILLIAMS, CARLA T	03/20/2000
ROANOKE, VA	
WOOD, WILLIAM C	03/20/2000
EAST ALTON, IL	
WRIGHT, TERESA A RUBLE	03/20/2000
LEXINGTON, KY	
ZENK, JOHN L	03/20/2000
MINNEAPOLIS, MN	

Federal/State Exclusion/Suspension

METRO AMBULANCE SERVICES, INC	03/20/2000
HELLERTOWN, PA	
ROHANA, MARCEL	03/20/2000
ROBINSON, IL	
SHAH, ARVIND	03/20/2000
OAK BROOK, IL	
TAJIDDIN, FAISAL	03/20/2000

Subject, city, state	Effective date
FLOSSMOOR, IL	.....
THACHENKERY, MARIA	03/20/2000
LEMONT, IL	.....
THAWANI, RAM	03/20/2000
WILMETTE, IL	.....
Fraud/Kickbacks	
A K MEDICAR, INC	11/17/1999
LINCOLNWOOD, IL	.....
EZRA MEDICAL TRANSPORTATION	11/17/1999
LINCOLNWOOD, IL	.....
GUTMAN, IRIT	11/17/1999
LINCOLNWOOD, IL	.....
LUBINCSKIY, ILYIA	11/17/1999
LINCOLNWOOD, IL	.....
TAMID MEDICAL TRANSPORT, INC	11/17/1999
LINCOLNWOOD, IL	.....
Owned/Controlled by Convicted/Excluded	
A & J MEDICAL CORP	03/20/2000
HIALEAH, FL	.....
GENESIS MEDICAL, INC	03/20/2000
MIAMI, FL	.....
GRAMI CORPORATION, INC	03/20/2000
HIALEAH, FL	.....
GREEN EXPRESS MEDICAL EQUIP	03/20/2000
HIALEAH, FL	.....
HOME AWAY HOME	03/20/2000
LAKEWOOD, CO	.....
LOCK CHIROPRACTIC CENTER	03/20/2000
ROYERSFORD, PA	.....
RESOURCE MGMT GROUP OF S FL	03/20/2000
TUCKER, GA	.....
THERAPEUTIC INTERVENTIONS, INC	03/20/2000
VERSAILLES, MO	.....
WESTWOOD ORTHOPEDIC CO	11/02/1999
LOS ANGELES, CA	.....
Default on Heal Loan	
AYERS, STEPHEN C	03/20/2000
LAKE CHARLES, LA.	
CHURCH, STEVEN D	11/19/1999
MERIDEN, CT.	
COLE, PERRY J	03/20/2000
JACKSONVILLE, FL.	
DOHERTY, PAUL J	03/20/2000
ABINGTON, MA.	
EMERY, FRED B	03/20/2000
TULSA, OK.	
ETZLER, RICHARD A	03/20/2000
LOS ANGELES, CA.	
FELDMAN, STEPHEN J	03/20/2000
SAINT LOUIS, MO.	
FIFIELD, FRED W	02/17/2000
MODESTO, CA.	
FLOYD, REGINALD J	03/20/2000
MONTGOMERY, AL.	
GODFREY, JOHN T	03/20/2000
EDMOND, OK.	
GONZALES, DAVID L JR	03/20/2000
S HOUSTON, TX.	
JOHNSON, DELILAH A	03/20/2000
BON AQUA, TN.	
LUYANDO, DAVID JR	03/20/2000
DOLTON, IL.	
NELSON, ROBERT L	03/20/2000
MACON, GA.	
READ, ELIZABETH G	03/20/2000
RALEIGH, NC.	
ROBINSON, KENNETH E	03/20/2000
AMERICUS, GA.	
SIDORE, STEVEN C	03/20/2000
ROCHESTER, NY.	
SMYTHE, WILLIAM R	03/20/2000
MISSOURI CITY, TX.	
SOMERVILLE, LAURIE A	03/20/2000
W PALM BEACH, FL.	
WARRICK, DENNIS A	03/20/2000
ATLANTA, GA.	
WATERMAN, ERNEST MARK	03/20/2000
CLAREMONT, CA.	
WHITEHALL, WESLEY W	03/20/2000
SAN DIEGO, CA.	

Dated: February 6, 2000.

Joanne Lanahan,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 00–6742 Filed 3–17–00; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 meeting of the Board of Scientific Counselors, National Cancer Institute.

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 meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(6) and 552b(c)(9)(B), Title 5 U.S.C., as amended. The discussions could reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and the premature disclosure of discussions related to personnel and programmatic issues would be likely to significantly frustrate the subsequent implementation of recommendations.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee A—Clincal Sciences and Epidemiology.

Date: March 22–23, 2000.

Closed: March 22, 2000, 7 pm to 10:15 pm.

Agenda: Chairman's Remarks and Discussion of personnel and programmatic issues; Review and evaluation of individual Principal Investigators.

Place: Residence Inn by Marriott, Montgomery II, 7335 Wisconsin Ave., Bethesda, MD 20814.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee B—Basic Sciences.

Date: March 22–23, 2000.

Closed: March 22, 2000, 7 pm to 9:50 pm.

Agenda: Chairman's Remarks and Discussion of personnel and programmatic issues; Site visit Reports; Review and evaluation of individual Principal Investigators.

Place: Holiday Inn-Washington/Chevy Chase, Somerset Room, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Open: March 23, 2000, 8 am to 9:30 am.

Agenda: Joint Session with Board of Scientific Counselors, National Cancer Institute, Subcommittee A—Clinical Sciences and Epidemiology and the National Cancer Institute, Board of Scientific Advisors Report of the Director, NCI.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Closed: March 23, 2000, 9:30 am to 10:30 am. Joint Meeting of the Board of Scientific Counselors, National Cancer Institute, Subcommittee A—Clincal Sciences and Epidemiology and Subcommittee B—Basic Sciences.

Agenda: To review and evaluate personal qualifications and performance and competence of individual investigators.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee A— Clinical Sciences and Epidemiology.

Closed: March 23, 2000, 10:30 am to 4 pm.

Agenda: To review and evaluate personal qualifications and performance and competence of individual investigators.

Place: Hyatt Regency Bethesda, Fellini's One Bethesda Metro Center, Bethesda, MD 20814.

Open: March 23, 2000, 4 pm to 4:45 pm.

Agenda: Concept Review: Human papillomavirus type 16 vaccine trial in Costa Rica.

Place: Hyatt Regency Bethesda, Fellini's, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Abby Sandler, Executive Secretary, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 7019, Bethesda, MD 20892, (301) 496–7628.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee B—Basic Sciences.

Closed: March 23, 2000, 10:30 am to 5:30 pm.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Rooms 6 and 7, Bethesda, MD 20892.

Contact Person: Florence E. Farber, Executive Secretary, Institute Review Office; Office of the Director, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 7017, Bethesda, MD 20892, (301) 496–7628.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the intramural research review cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 9, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6769 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Cancer Institute Special Emphasis Panel, Director's Challenge: Toward a Molecular Classification of Tumors.

Date: April 12–13 2000.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ray Bramhall, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Suite 8060, Rockville, MD 20892, 301/594–1403.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health HHS)

Dated: March 10, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6777 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Cancer Institute Initial Review Group, Subcommittee A—Cancer Centers.

Date: April 10–11, 2000.

Time: 7:30 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: David E. Maslow, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard—Room 8054, Bethesda, MD 20892–7405, 301/496–2330.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.395, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support, 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 10, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6778 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Cancer Institute Initial Review Group, Subcommittee D—Clinical Studies.

Date: April 12–14, 2000.

Time: 7:30 pm to 12 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Martin H. Goldrosen, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8050, Rockville, MD 20852–7408, (301) 496–7930.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 10, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6779 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Cancer Institute Special Emphasis Panel, Insight Awards To Stamp Out Breast Cancer.

Date: April 25–26, 2000.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Joyce C. Pegues, Scientific Review Administrator, Special Review, Referral, and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8084, Bethesda, MD 20892, 301/594–1286.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 10, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6780 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(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: National Cancer Institute Initial Review Group, Subcommittee E—Cancer Epidemiology, Prevention & Control.

Date: April 12–14, 2000.

Time: 7 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary C. Fletcher, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd., Room 8056, Bethesda, MD 20814, 301–496–7413.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 10, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6781 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The 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 Cancer Institute Special Emphasis Panel Insight Awards To Stamp Out Breast Cancer.

Date: April 17–18, 2000.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Timothy C. Meeker, Scientific Review Administrator, Special Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8088, Rockville, MD 20852, 301–594–1279.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer treatment Research; 93.396, Cancer Biology Research; 93,397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 10, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6782 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Cancer Institute Special Emphasis Panel Diagnostic Imaging and Guided Therapy in Prostate Cancer: SBIR/STTR Initiative.

Date: April 27, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Gerald G. Lovinger, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8070, Rockville, MD 20892–7405, 301/496–7987.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 10, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6783 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Cancer Institute Special Emphasis Panel Diagnostic Imaging and Guided Therapy in Prostate Cancer (Phased Innovation Award).

Date: April 25–26, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Gerald G. Lovinger, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8070, Rockville, MD 20892–7405, 301/496–7987.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 10, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6784 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Board of Scientific Advisors, March 23, 2000, 8:30 AM to March 24, 2000, 12:00 PM, Building 31, C Wing, 6th Floor, Conference Room 10, National Institutes of Health, 3100 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on March 8, 2000, 65FR12274.

The meeting start time has been changed to 8:00 AM on March 23, 2000. The meeting is partially closed to the public.

Dated: March 10, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6785 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, General Clinical Research Centers.

Date: May 2, 2000.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott, 1221 22nd Street N.W., Washington, DC 20037.

Contact Person: John L. Meyer, Deputy Director, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0806.

(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: March 14, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6771 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, General Clinical Research Centers.

Date: May 16–17, 2000.
Time: May 16, 2000, 8 am to Adjournment.
Agenda: To review and evaluate grant applications.
Place: Washington Marriott, 1221 22nd Street N.W., Washington, DC 20037.
Contact Person: John L. Meyer, Deputy Director, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0806.

(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: March 14, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6772 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of 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 section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel General Clinical Research Centers.
Date: April 5–7, 2000.
Time: April 5, 2000, 7:45 AM to Adjournment.
Agenda: To review and evaluate grant applications.
Place: The Dahlmann Campus, Inn, 615 East Huran Street, Ann Arbor, MI 48104.
Contact Person: Charles G. Hollingsworth, Director, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0807.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technical; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: March 10, 2000.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Comittee Policy.

[FR Doc. 00–6786 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel Comparative Medicine.
Date: March 30, 2000.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John D. Harding, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, (301) 435–0810.

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: March 13, 2000.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6787 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.
Date: March 30–31, 2000.
Time: 7:30 pm to 2 pm.
Agenda: To review and evaluate grant applications.
Place: Crowne Plaza, 610 Hilton Boulevard, Ann Arbor, MI 48108.
Contact Person: Gopal M. Bhatnagar, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: March 10, 2000.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

FR Doc. 00–6775 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: March 27, 2000.

Time: 9:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Jerry Cott, Scientific Review Administrator, National Institute of Mental Health, NIH, 6001 Executive Blvd, Room 7160, MSC 9635, Bethesda, MD 20892–9635, (301) 443–1185.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: April 4, 2000.

Time: 9 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Robert H. Stretch, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6150, MSC 9608, Bethesda, MD 20892–9608, (301) 443–4728.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 10, 2000.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6776 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice hereby given of a meeting of the Board of Scientific Counselors, NIDA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDA.

Date: April 18–19, 2000.

Time: 12 p.m. to 11:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Division of Intramural Research, NIDA, Johns Hopkins Bayview Campus, Bldg. C. 2nd Floor Auditorium, 5500 Nathan Shock Drive, Baltimore, MD 21224.

Contact Person: Stephen J. Heishman, Research Psychologist, Clinical Pharmacology Branch, Addiction Research Center, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5500 Nathan Shock Drive, Baltimore, MD 21224, (410) 550–1547.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278. Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 14, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6789 Filed 3–17–00; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: April 7, 2000.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

Contact Person: Vassil S. Georgiev, Scientific Review Administrator, 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 Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 14, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6790 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. ZDK1 GRB–2 (M3) B.

Date: March 20, 2000.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Shan W. Wong, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS43H, National Institutes of Health, Bethesda, MD 20892, (301) 594–7797.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. ZDK1 GRB–6 M6 P.

Date: March 31, 2000.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20982 (Telephone Conference Call).

Contact Person: Neal A. Musto, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37A, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7798.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. ZDK1 GRB–6 M4 P.

Date: April 4–6, 2000.

Time: 7:30 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 315 Fourth Avenue, N. Nashville, TN 37219.

Contact Person: Neal A. Musto, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37A, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7798.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. ZDK1 GRB–7 M1 P.

Date: April 5–7, 2000.

Time: 7:30 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 315 Fourth Avenue, N. Nashville, TN 37219.

Contact Person: Lakshmana Sankaran, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS25F, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 14, 2000.

Laverne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6791 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel ''Medication Discovery Using Rat Models of Relapse to Cocaine Self-Administration''.

Date: March 21, 2000.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

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. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 14, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6792 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Meeting

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 Center for Scientific Review Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Center for Scientific Review Advisory Committee.

Date: May 8–9, 2000.

Time: 8:30 am to 12 pm.

Agenda: Discussion of activities related to the organization and function of the Center for Scientific Review process.

Place: National Institutes of Health, Two Rockledge Center, Conference Room 9104, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Samuel Joseloff, Public Affairs Specialist, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3016, MSC 7776, Bethesda, MD 20892, (301) 435–1040, joselofs@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 14, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6773 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 16, 2000, 8:30 am to March 17, 2000, 5 pm, Latham Hotel, 3000 M Street, N.W., Washington, DC 20007–3701 which was published in the **Federal Register** on March 8, 2000, 65 FR 12277.

The meeting will be held at the Georgetown Inn, Washington, DC. The date and time remains the same. The meeting is closed to the public.

Dated: March 10, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6774 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 21, 2000, 2:00 PM to March 21, 2000, 3:00 PM, NIH, Rockledge 2, Bethesda, MD 20892 which was published in the Federal Register on March 9, 2000, 65 FR 12564.

The meeting will be held on March 28, 2000. The time and location remain the same. The meeting is closed to the public.

Dated: March 13, 2000.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6788 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets 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: Center for Scientific Review Special Emphasis Panel.

Date: March 27, 2000.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Martin L. Padarathsingh, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 27, 2000.

Time: 2:30 p.m. to 5 p.m..

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Victoria S. Levin, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, levinv@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 29, 2000.

Time: 8:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Paul K. Strudler, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716,

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 29, 2000.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contract Person: Jerrold Fried, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, (301) 435–1777.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 29, 2000.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joanne T. Fujii, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, Bethesda, MD 20892, (301) 435–1178, fujiij@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 30–31, 2000.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Nancy Shinowara, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1173, shinowan@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 30–31, 2000.

Time: 8 a.m to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Sami A. Mayyasi, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 30, 2000.

Time: 10 am. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Palladian West, Chevy Chase, MD 20815.

Contact Person: Gamil C. Debbas, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 30, 2000.

Time: 2 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard Marcus, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245, richard.marcus@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306, 93.333. Clinical Research, 93.333, 93.337, 93.393–93.396, 93,837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 14, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6793 Filed 3–17–00 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

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 Advisory Committee on Research on Women's Health.

The meeting will be open to the public with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee on Research on Women's Health.

Date: April 10, 2000.

Time: 8:30 am to 5 pm.

Agenda: To provide advice on appropriate research activities with respect to women's health and related studies to be undertaken by the national research institutes, to provide recommendations regarding ORWH activities, and to assist in monitoring compliance regarding the inclusion of women in clinical research.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Joyce Rudick, Director, Programs & Management, Office of Research on Women's Health, Office of the Director, National Institutes of Health, Building 1, Room 201, Bethesda, MD 20892, 301/402–1770.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for the Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 14, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–6770 Filed 3–17–00 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PUBLIC HEALTH SERVICE

Solicitation of Comments and Nominations

National Toxicology Program; National Institute of Environmental Health Sciences; Center for the Evaluation of Risks to Human Reproduction solicits comments on eleven chemicals being considered for further evaluation by the Center; solicits nominations of other chemicals for future consideration; and describes the Center's evaluation process.

Background

The National Toxicology Program (NTP) and the National Institute of Environmental Health Sciences have established the NTP Center for the Evaluation of Risks to Human Reproduction (63 FR 68782, No. 239). The purpose of the Center is to provide timely and unbiased, scientifically sound evaluations of human and experimental evidence for adverse effects on reproduction, including development, caused by agents to which humans may be exposed. The goals of the individual assessments are to (1) interpret for and provide to the general public information about the strength of scientific evidence that a given exposure or exposure circumstance poses a hazard to reproduction and the health and welfare of children: (2) provide regulatory agencies with objective and scientifically credible assessments of reproductive/development health effects associated with exposure to specific chemicals or classes of chemicals, including descriptions of any uncertainties associated with the assessment of risks, and (3) identify knowledge gaps to help establish research and testing priorities.

Chemicals Recommended for Further Consideration

The CERHR Core Committee, made up of representatives of NTP-participating agencies, reviewed chemical nominations for further study and recommended the following eleven chemicals for further consideration. Dossiers will be prepared on these chemicals reviewing information on their use, production volume, and general, reproductive, and developmental toxicity. Selection of candidate chemicals will be based upon production volume, extent of human exposures, public concern about chemical hazard, published evidence of reproductive or developmental toxicity, and evaluation of any additional information submitted by the public in response to this announcement. The chemicals to be considered for Expert Panel evaluation in the year 2000 are listed below with their Chemical Abstracts Service registry numbers (where available).

1-Bromopropane (106–94–5)
2-Bromopropane (75–26–3)
Dimethyl Methyl Phosphonate (DMMP) (756–79–6)
Ethylene glycol (107–21–1)
Glycol ethers (not available)
Glyphosate (1071–83–6)
Methanol (67–56–1)
Nicotine (54–11–5)
Phenol (108–95–2)
Thimerosal (54–64–8)
Toluene (108–88–3)

Request for Public Comment on Candidate Chemicals

The Center invites public comment on the candidate chemicals listed above, including toxicology information from completed or ongoing studies, and information on planned studies, as well as current production data, human exposure information, use patterns, and environmental occurrence. Written comments received May 4, 2000, will be considered in the review. Please forward comments and chemical information to: Dr. John Moore, CERHR, 1800 Diagonal Road, Suite 500, Alexandria, VA 22314–2808, Phone: (703) 838–9440.

Request for Nominations for Future Reviews

Nominations of chemicals for future evaluations are also encouraged. Any individual or organization may nominate. Nominations should include the chemical name, Chemical Abstract Service registry number (if known), reason for the nomination, and references or articles on the chemical, when possible. The nominator's name, address, telephone number and e-mail address should be included with the nomination. Nominations can be made through the Center's web site or by mail to Dr. John Moore at the address listed above.

Review Process

The Center's review process is outlined below:

- Chemical Nominations
  —open nomination process includes interested individuals, NTP Executive Committee, Federal Agencies, NTP Staff, Labor Unions, Industry
- CERHR multi-agency Core Committee
  —nominations reviewed quarterly by Core Committee made up of NTP

Agency representatives.
—highest priority chemicals identified based on production volume, evidence of reproductive or developmental toxicity, human exposure, public concern.
—candidate chemicals transmitted to Associate Director, NTP
—Center staff prepares dossiers on candidate chemicals

- First Solicitation of Public Comment
  —notice of candidate chemicals and request for public comment published in **Federal Register**, NTP Newsletter and listserver, and CERHR website
  —public comments are compiled by Center staff for review by the Core Committee
- CERHR Core Committee Review
  —reviews dossiers and material submitted in public comments
  —recommends list of prioritized chemicals to Associate Director, NTP, for final selection.
- Second Solicitation of Public Comment
  —**Federal Register** notice announces selected chemical(s) and solicits public comment, new data, information on exposure, and nominations of individuals qualified to serve on the Expert Panel.
- Expert Panel Meeting
  —the Panel meets in public session to discuss their review of the literature and to prepare the Panel report.
  —meeting includes time for presentation of public comments.
- Final Solicitation of Public Comment
  —**Federal Register** notice announces availability of Expert Panel report and requests public comment.
- Expert Panel Report is submitted for publication in Environmental Health Perspectives, monograph section
- NTP Center Report Transmitted and Published
  —NTP staff prepares an NTP Center Report on the chemical(s) evaluated (intended for a readership of non-scientists). This report integrates background information on the chemical evaluated, the findings in the Expert Panel Report, a summary of the public comments, and a discussion of any recent relevant study findings.
  —the Center Report is distributed to Federal and state agencies, interested stakeholders, and the public, and is published in EHP, monthly section.

Further information about the NTP Center for the Evaluation of Risks to Human Reproduction can be obtained through the Center's web site: *http://cerhr.niehs.nih.gov* or by contacting: Michael D. Shelby, Ph.D., Director, CERHR, NIEHS/NTP B3–09, P.O. Box 12233, Research Triangle Park, NC 27709, telephone 919–541–3455, facsimile 919–541–4634 or John A. Moore, D.V.M., Principal Investigator, CERHR, 1800 Diagonal Road, Suite 500, Alexandria, VA 22314, 703–838–9440, 703–684–2223.

Dated: Janaury 10, 2000.

Kenneth Olden,

Director, NIEHS.

[FR Doc. 00–6768 Filed 3–17–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Notice of Availability of the Draft Environmental Assessment for the Diamond Fork System Proposed Action Modifications

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of availability of the draft Environmental Assessment for the Diamond Fork System Proposed Action Modifications.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, the Central Utah Water Conservancy District (CUWCD), Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission), and the Department of the Interior (Interior) announces the availability of the draft Environmental Assessment for the Diamond Fork System Proposed Action Modifications (EA). The draft EA is now available to the public for review and comment.

DATES: Written comments must be submitted on or before April 27, 2000.

ADDRESSES: Comments on the draft EA should be addressed to: Harold Sersland, Environmental Program Manager, Central Utah Water Conservancy District, 355 West University Parkway, Orem, Utah 84058–7303, (801) 226–7110.

SUPPLEMENTARY INFORMATION:

Draft Environmental Assessment—The draft EA addresses modifications to the Proposed Action as a result of value engineering studies on the Proposed Action of the Diamond Fork System 1999 Final Supplement to the Final Environmental Impact Statement (FSFEIS) that was filed with the Environmental Protection Agency July 1, 1999. A Record of Decision (1999 ROD) documenting the selection of the Proposed Action Alternative as presented in the FSFEIS was signed by the Assistant Secretary—Water and Science on September 29, 1999. The 1999 ROD required value engineering studies, pursuant to public law 104–106, to be conducted on the Proposed Action to determine whether the design could be improved to further reduce environmental impacts or project construction costs. Based on value engineering studies the following modifications to the Proposed Action are addressed in the draft EA: (1) replacing a series of tunnels and pipelines with one tunnel and one pipeline; (2) relocating flow control facilities; and (3) adjusting the alignment of the Diamond Fork System. The proposed modifications would reduce environmental impacts and reduce project construction costs while not changing the Proposed Action's purposes or needs as described in the FSFEIS and 1999 ROD.

Background

The Diamond Fork System is one of six systems of the Bonneville Unit of the Central Utah Project that would develop central Utah's water resources for irrigation, municipal and industrial supply, fish and wildlife, and recreation. It was first identified in the Bonneville Unit Final EIS in 1973 and described in detail in the: Diamond Fork Power System Final EIS in 1984; Diamond Fork System Final Supplement to the Final EIS in 1990, and the Diamond Fork System Final Supplement to the Final EIS in 1999. The Diamond Fork System has been modified over the years and has been partially constructed.

Proposed Action Modifications

The Proposed Action Modifications would: (1) Maintain the statutorily mandated minimum flows in Diamond Fork Creek and Sixth Water Creek; (2) implement Interior's environmental commitments from the 1995 and 1999 Records of Decision; (3) meet the CUWCD's Municipal and Industrial water contractual commitments to Salt Lake, Utah and Wasatch Counties; and (4) provide the Mitigation Commission the opportunity and flexibility for future restoration of aquatic and riparian habitat in Sixth Water and Diamond Fork creeks to protect water quality and threatened species in Diamond Fork Creek.

FOR FURTHER INFORMATION: Copies of the draft EA or information on matters related to this notice can be obtained on request from: Ms. Nancy Hardman, Central Utah Water Conservancy District, 355 West University Parkway,

Orem, Utah 84058, Telephone: (801) 226–7187, Fax: (801) 226–7150.

Copies are also available for inspection at:

Central Utah Water Conservancy District, 355 West University Parkway, Orem, Utah 84058

Utah Reclamation Mitigation and Conservation Commission, 102 West 500 South, Suite 315, Salt Lake City, Utah 84101

Department of the Interior, Natural Resource Library, Serials Branch, 18th and C Streets, NW, Washington, D.C. 20240

Department of the Interior, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606

Dated: March 14, 2000.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 00–6794 Filed 3–17–00; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability

SUMMARY: The Peregrine Fund (J. Peter Jenny; applicant) has requested an amendment to its incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act) issued by the U.S. Fish and Wildlife Service (Service) on December 16, 1996, under permit number PRT–814839. The amendment requests that 42 additional counties, including Andrews, Brewster, Cochran, Crane, Crockett, Culberson, Dawson, Dimmit, Duval, Ector, Edwards, El Paso, Frio, Gaines, Hudspeth, Jeff Davis, Jim Hogg, Kinney, La Salle, Loving, Martin, Maverick, McMullen, Medina, Midland, Pecos, Presidio, Real, Reeves, Starr, Sutton, Terrel, Terry, Upton, Uvalde, Val Verde, Ward, Webb, Yoakum, Winkler, Zapata and Zavala Counties be added to the 15 county area in Texas where The Peregrine Fund already has a permit for incidental take in association with their aplomado falcon (*Falco femoralis septentrionalis*) reintroduction program.

DATES: Written comments on the amendment should be received on or before April 19, 2000.

ADDRESSES: Persons wishing to review the amendment may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103. In addition, the amendment will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the Service's Clear Lake Ecological Services Field Office, 17629 El Camino Real, Suite 211, Houston, Texas 77058. Written comments concerning the application should be submitted to the Field Supervisor, Clear Lake Ecological Services Field Office, 17629 El Camino Real, Suite 211, Houston, Texas 77058. Please refer to the amendment to PRT–814839 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Edith A. Erfling, Clear Lake Ecological Services Field Office, 17629 El Camino Real, Suite 211, Houston, Texas 77058; (281) 286–8282.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the aplomado falcon. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species when such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

To facilitate the reintroduction of the aplomado falcon, The Peregrine Fund is currently authorized to take aplomado falcons, incidental to lawful land-use activities, on specific lands enrolled in The Peregrine Fund's ''Safe Harbor'' program. To date, eight landowners have enrolled a total of 1.26 million acres in The Peregrine Fund's ''Safe Harbor'' program. A total of 466 captive-bred aplomado falcons have been released. At least 19 pairs have become established and have successfully fledged at least 19 young. As aplomado falcon pairs become established they fiercely defend their territory and behave aggressively towards other falcons. This behavior, while normal, effectively reduces areas available for future releases. Therefore, additional habitat is needed to achieve the goal of a self-sustaining population of aplomado falcons.

APPLICANT: This amendment to permit PRT—814839 would authorize incidental take on an additional 48,994,295 acres, again, only on land that is enrolled in the ''safe harbor'' program for that purpose. To facilitate the reintroduction of the aplomado falcon, The Peregrine Fund is currently authorized to take aplomado falcons, incidental to lawful land-use activities, on specific lands enrolled in The Peregrine Fund's ''safe harbor'' program.

Geoffrey L. Haskett,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 00–6803 Filed 3–17–00; 8:45 am]

BILLING CODE 4510–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability; Recommended Guidance for Private Landowners Concerning the Cactus Ferruginous Pygmy-owl; and the Cactus Ferruginous Pygmy-owl Survey Protocol

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability; Private Landowner Guidance and Survey Protocol for the Cactus Ferruginous Pygmy-owl.

SUMMARY: The Fish and Wildlife Service (Service), announces the availability of its recommended private landowner guidance for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) (pygmy-owl). These recommendations will assist private landowners in minimizing their risk of inadvertently ''taking'' (harming, harassing or killing) a pygmy-owl. In addition, the Service in cooperation with the Arizona Game and Fish Department (AGFD), announces the availability of a revised survey protocol for the pygmy-owl. This survey protocol should be used by landowners and managers in determining presence/absence of the endangered pygmy-owl.

On March 10, 1997, the Service published a final rule adding the Arizona population of the pygmy-owl to the federal list of endangered species (62 FR 10730). The principle cause for the decline in population and reduction in current known range for the once ''common'' and ''fairly numerous'' species is the loss of habitat.

In December 1997, the Service provided interim guidance describing the habitat relied upon by the pygmy-owl and suggested that landowners with such habitat have surveys conducted on their land to determine whether the habitat is occupied by an owl prior to disturbing the habitat. The intent of the Service was to furnish landowners and agencies with enough information to determine the level of stewardship their development planning should require in order to avoid harming, harassing, or killing (taking) a pygmy-owl. On August 13, 1998 the Service published two

notices of availability and opening of public comment periods for the proposed pygmy-owl landowner guidance (63 FR 43363) and survey protocol (63 FR 43362). On September 16, 1998, the Service announced the extension of the comment period from September 14, 1998, to November 14, 1998 for both the landowner guidance and protocol (63 FR 49539). Public information meetings were also held on the guidance and survey protocol on October 5, 1998, in Phoenix, Arizona; on October 6, 1998, in Tucson, Arizona; and on October 7, 1998, in Sierra Vista, Arizona. On November 20, 1998, the Service again announced the extension of the comment period for both the guidance and protocol to March 14, 1999 (63 FR 64449).

Using information gathered during the comment period and subsequently from researchers in the field, and with technical assistance of AGFD, we revised the proposed ''Guidance for Private Landowners and Federal, State, and Local Agencies Concerning Take of the Endangered Cactus Ferruginous Pygmy-owl'' and ''Protocol for Surveying for the Endangered Cactus Ferruginous Pygmy-owl''. The Service's recommended landowner guidance entitled ''Recommended Guidance for Private Landowners Concerning the Cactus Ferruginous Pygmy-owl'' and the AGFD-Service authored ''The Cactus Ferruginous Pygmy-owl Survey Protocol'', both dated January 2000, incorporate those modifications found to be appropriate, and replace the 1998 proposed landowner guidance and 1993 AGFD survey protocol. We and AGFD intend to annually review and (as appropriate) modify this survey protocol, to ensure that the best scientific information is incorporated into the prescribed methodology.

ADDRESSES: Copies of the revised landowner guidance and survey protocol may be obtained from the Service's Region 2 World Wide Web Home Page at: http://ifw2es.fws.gov/Arizona/ or from the Field Supervisor, Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021–4951.

FOR FURTHER INFORMATION CONTACT: Mike Wrigley at the above address (telephone 602/640–2720, facsimile 602/640–2730).

SUPPLEMENTARY INFORMATION:

Background

The cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) (pygmy-owl) was listed as an endangered species on March 10, 1997 as result of loss and degradation of habitat, overutilization for recreational purposes, inadequacy of existing regulatory mechanisms, low levels of genetic variation, possible contamination from pesticides, and potential competition from other bird species that use cavities for nesting (62 FR 10730). Historically in Arizona, pygmy-owls occupied areas of south-central Arizona from the New River, about 56 km (35 mi) north of Phoenix, west to Agua Caliente near Gila Bend and Cabeza Prieta Tanks, and east to near present day Geronimo and Fort Thomas along the Gila River. Recent records (since 1993) suggest that pygmy-owls in Arizona may only occur in Pima and Pinal counties, however, the total number and their distribution in Arizona is currently unknown because not all areas have been surveyed. Only 39 adult individuals were known to exist in the state in the spring of 1999. Most of these birds were distributed in three areas: northwest Tucson, Organ Pipe Cactus National Monument, and the Altar Valley, including Buenos Aires National Wildlife Refuge.

In Arizona, pygmy-owls rarely occur below 305 m (1,000 ft) or above 1,219 m (4,000 ft). Historically, cottonwood (*Populus fremontii*)-mesquite (*Prosopis* spp.) forest and mesquite woodland along the Gila and Salt rivers, and major tributaries were environments typically used by the owls. Pygmy-owls currently occupy paloverde (*Cercidium* spp.)-mesquite-acacia (*Acacia* spp.) xeroriparian, and saguaro (*Carnegiea gigantea*)-paloverde desertscrub areas often with ironwood (*Olneya tesota*) and/or exotic landscaping supported by irrigation. Recently, pygmy-owls have also been located in semidesert and Sonoran savanna grasslands with xeroriparian washes. Dominant tree species in riparian areas include mesquite, ash (*Fraxinus* spp.), and hackberry (*Celtis* spp.). Uplands in these areas primarily consist of grasslands with dispersed mesquite trees, and very few, isolated saguaro cacti in some areas.

Nancy M. Kaufman,

Regional Director, Albuquerque, New Mexico.

[FR Doc. 00–6802 Filed 3–17–00; 8:45 am]

BILLING CODE 4510–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PF–01–24 1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0004

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from those persons who submit an application (Form 2520–1), to apply for a desert-land entry to reclaim, irrigate, and cultivate arid and semiarid public lands in the Western United States. The BLM uses the information to determine if the applicant is eligible to make a desert-land entry under the appropriate land entry laws.

DATES: Comments on the proposed information collection must be received by May 19, 2000.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, D.C. 20240.

Comments may be sent Internet to: WOComment@blm.gov. Please include ''Attn: 1004–0004'' and your name and address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401 L Street NW., Washington, D.C.

Comments will be available for public review at the L Street address during regular business hours (7:45 am to 4:15 pm, Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Alzata L. Ransom, Lands and Realty Group, at (202) 452–7772.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on of information to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c)

ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or technological collection techniques or other forms of information technology.

The Desert Land Act of March 3, 1877 (19 Stat. 377; 43 U.S.C. 321–323), as amended by the Act of March 3, 1891 (26 Stat. 1096; 43 U.S.C. 231, 323, 325, 327–329), was passed by the Congress to encourage and promote the economic development of the arid and semiarid public lands. Through the Act, you may apply for a desert-land entry to reclaim, irrigate, and cultivate arid and semiarid public lands in the Western United States. The regulations in 43 CFR 2520 provide guidelines and procedures to obtain public lands under the Act. These regulations were adopted on June 13, 1970, 35 FR 9581.

You qualify to file a desert-land entry if you are a citizen of the United States; 21 years old; and a resident in the States of Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, South Dakota, Utah, Washington, or Wyoming (no residency is required in the State of Nevada).

You may apply for one or more tracts of public lands totaling no more than 320 acres. The lands are located in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming. The lands must be surveyed or unsurveyed, unappropriated, non-mineral, non-timber, and incapable of producing an agricultural crop without irrigation. The lands must be suitable for agricultural purposes and more valuable for that purpose than any other. The tracts of land must be sufficiently close to each other to be managed satisfactorily as an economic unit.

You must find lands that you feel can be economically developed and determine the legal description. You must contact the BLM State Office where the lands are located and verify the lands are available for desert-land application.

The information collected on Form No. 2520–1 is required by the regulations in 43 CFR 2720 to process requests for public lands under the provisions of the Desert Land Act. If you desire to enter the public lands under the desert-land laws, you must file an application with the BLM District Office where the lands are located. The following information is collected on the form: (1) Your name and address, and description of the lands you are applying for; (2) $15 filing fee plus advanced payment of 25 cents per acre; (3) age, residence, and citizenship requirements; (4) information about previous desert land entry applications, assignments, or acquisitions; (5) declaration of your on-the-ground examination of the lands; (6) mineral information; (7) cultivation information; (8) characteristics of the land (irrigated, watered, overflowed); (9) soil characteristics; (10) irrigation requirements; (11) irrigation plan; (12) water rights information; (13) estimated farm budget; (14) explanation of the economic feasibility of farming the lands as an economic unit, if the lands do not have a common boundary); (15) type of assistance you received in completing the application; (16) petition classification information; (17) disclosure of your plans, and financial arrangements to develop, cultivate, and irrigate the lands; (18) date of application, and signature of applicant; and; (19) certified statement of your acquaintance with the lands described in your application.

After receiving the application, the BLM will examine your application for completeness and accuracy, and classify the lands included in the application. The BLM will approve your application if the lands are classified suitable of desert-land entry, or reject your application if the lands are classified unsuitable for desert-land entry.

If the BLM approves your application, your have 4 years from the date your application is approved to comply with the requirements of the desert-land laws. You are required to develop an adequate water supply to reclaim, irrigate, and cultivate all of the lands in your desert-land entry, and one-eighth of the lands must be properly cultivated and irrigated.

If you successfully meet the requirements of the desert-lands laws, you will receive a patent from the BLM which gives you legal title to the lands. If you experience an unavoidable delay in reclaiming and cultivating the lands, BLM will grant you an extension if you clearly show that the failure to reclaim and cultivate the lands within the 4-year period was due to no fault of your own. If you failed to act or were unable to get financial backing to make the required development, the BLM cannot grant you an extension.

The BLM estimates that approximately 20 applications (Form 2520–1) are received annually. Based on the BLM's experience in processing an application, it will take an average time of 90 minutes for a applicant to supply the requested information. Based on the estimated 20 applications the BLM receives annually and the average time of 90 minutes it takes an applicant to supply the requested information, the total annual burden is collectively 30 hours.

Any interested member of the public may request and obtain, without charge, a copy of the R&PP application (Form 2520–1) by contacting the person identified under

FOR FURTHER INFORMATION CONTACT: All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 15, 2000.

Carole Smith,

BLM Information Collection Officer.

[FR Doc. 00–6812 Filed 3–17–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PE–01–24 1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0010

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from those persons who submit a Conveyances Affecting Color or Claim of Title Application (Form No. 2540–2) to apply for public lands under a color-of-title claim. The BLM uses the information to determine if the applicant is eligible to acquire public lands under the Color-of-Title Act of December 22, 1928.

DATES: Comments on the proposed information collection must be received by May 14, 2000, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401 LS, Washington, D.C. 20240.

Comments may be sent via Internet to: WOComment@blm.gov. Please include ''Attn: 1004–0029'' and your name and return address in your Internet address.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, L Street NW, Washington, D.C. 20036.

Comments will be available for public review at the L Street address during regular business hours (7:45 A.M. to 4:15 P.M., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Alzata L. Ransom, Lands and Realty Group, 202–452–7772.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), the BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Color-of-Title Act of December 22, 1928 (45 Stat. 1069), as amended by the Act of July 28, 1953 (67 Stat. 227), (U.S.C. 1068–1068b). was passed by Congress to provide for transferring legal title to the public lands from the United States to eligible individuals, groups, or corporations who have a valid color-of-title claim. The regulations in 43 CFR 2540 provide guidelines and procedures to file a color-of-title claim. These regulations were adopted on June 13, 1970 (35 FR 9592).

Any individual, group, or corporation who has evidence giving the appearance of having title to public lands which are administered by the BLM and legal title to the lands remains vested in the United States may file a color-of-title application.

The two claims recognized by the Act are referred to as Class 1 and Class 2. A Class 1 claim is one which has been held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for a minimum of 20 years, on which valuable improvements have been placed, or on which some part of the land has been reduced to cultivation under claim or color-of-title, and upon which the claimant or predecessors in interest have placed valuable improvements, or on which some part of the land has been reduced to cultivation. A Class 2 claim is one which has been held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for the period commencing not later than January 1, 1901, to the date of application, during which time they have paid taxes levied on the land by State and local governmental units. A claim is not held in good faith where held with knowledge that the land is owned by the United States. A claim is not held in peaceful, adverse possession where it was initiated while the land was withdrawn or reserved for Federal purposes.

The Information collected on Conveyances Affecting Color of Title Form No. 2540–2 is required by the regulations in 43 CFR 2540 to process requests to acquire legal title to the public lands under the provisions of the Act of December 22, 1928, as amended by the Act of July 28, 1953. If you believe you have a valid color-of-title claim you may file an application with the BLM Office having responsibility for the public lands you desire to acquire legal to. The following information is collected on the form: (1) Applicant's name; (2) legal description of the lands claimed; (3) itemized data relating to all record and non-record title conveyances in chronological order, and (4) certification by the proper county official or an abstractor.

After receiving your application, the BLM will analyze the information on your application, conduct an on-site field examination of the lands, and prepare reports. The BLM will approve your application if you meet the requirements of a Class 1 or Class 2 claim or reject your application if you do not meet the requirements of a Class 1 or Class 2 claim. Class 2 claims are discretionary and may be rejected if the public interest in retention of the lands clearly outweighs the interest of the applicant.

The BLM estimates that approximately 37 applications (Form 2540–2) are received annually. Based on the BLM's experience in processing an application, it will take an average of one hour for an applicant to supply the requested information. Based on the estimated 37 applications the BLM receives annually and the average time of one hour it takes an applicant to supply the requested information, the total annual burden is collectively 37 hours.

Any interested member of the public may request and obtain, without charge, a copy of Conveyances Affecting Color or Claim of title Form 2540–2 by contacting any BLM Office or the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 15, 2000.

Carole Smith,

BLM Information Collection Officer.

[FR Doc. 00–6813 Filed 3–17–00; 8:45 am]

BILLING CODE 4310–84–M

U.S. DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–01–24 1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0011

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from those persons who submit a Color-of-Title Tax Levy and Payment Record Application (Form No. 2540–3) to apply for public lands under a color-of-title claim. The BLM uses the information to determine if the applicant is eligible to acquire public lands under the Color-of-Title Act of December 22, 1928.

DATES: Comments on the proposed information collection must be received by May 19, 2000, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401 LS, Washington, D.C. 20240.

Comments may be sent via Internet to: WOComment@blm.gov. Please include ''Attn: 1004–0029'' and your name and return address in your Internet address.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, L Street, NW, Washington, D.C. 20036.

Comments will be available for public review at the L Street address during regular business hours (7:45 am to 4:15 pm, Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Alzata L. Ransom, Lands and Realty Group, 202–452–7772.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), the

BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Color-of-Title Act of December 22, 1928 (45 Stat. 1069), as amended by the Act of July 28, 1953 (67 Stat. 227), (U.S.C. 1068–1068b), was passed by Congress to provide for transferring legal title to the public lands from the United States to eligible individuals, groups, or corporations who have a valid color-of-title claim. The regulations in 43 CFR 2540 provide guidelines and procedures to file a color-of-title claim. These regulations were adopted on June 13, 1970 (35 FR 9592).

Any individual, group, or corporation who has evidence giving the appearance of having title to public lands which are administered by the BLM and legal title to the lands remains vested in the United States may file a color-of-title application.

The two claims recognized by the Act are referred to as Class 1 and Class 2. A Class 1 claim is one which has been held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for a minimum of 20 years, on which valuable improvements have been placed, or on which some part of the land has been reduced to cultivation under claim or color-of-title, and upon which the claimant or predecessors in interest have placed valuable improvements, or on which some part of the land has been reduced to cultivation. A Class 2 claim is one which has been held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for the period commencing not later than January 1, 1901, to the date of application, during which time they have paid taxes levied on the land by State and local governmental units. A claim is not held in good faith where held with knowledge that the land is owned by the United States. A claim is not held in peaceful, adverse possession where it was initiated while the land was withdrawn or reserved for Federal purposes.

The Information collected on Color-of-Title Tax Levy and Payment Record Form No. 2540–3 is required by the regulations in 43 CFR 2540 to process requests to acquire legal title to the public lands under the provisions of the Act of December 22, 1928, as amended by the Act of July 28, 1953. If you believe you have a valid color-of-title claim you may file an application with the BLM Office having responsibility for the public lands you desire to acquire legal to. The following information is collected on the form: (1) Applicant's name; (2) legal description of the lands claimed; (3) itemized data relating to all recorded tax payments in chronological order, and; (4) certification by the proper county official.

After receiving your application, the BLM will analyze the information on your application, conduct an on-site field examination of the lands, and prepare reports. The BLM will approve your application if you meet the requirements of a Class 1 or Class 2 claim or reject your application if you do not meet the requirements of a Class 1 or Class 2 claim. Class 2 claims are discretionary and may be rejected if the public interest in retention of the lands clearly outweighs the interest of the applicant.

The BLM estimates that approximately 37 applications (Form 2540–3) are received annually. Based on the BLM's experience in processing an application, it will take an average of one hour for an applicant to supply the requested information. Based on the estimated 37 applications the BLM receives annually and the average time of one hour it takes an applicant to supply the requested information, the total annual burden is collectively 37 hours.

Any interested member of the public may request and obtain, without charge, a copy of Claim-of-Title Tax Levy and Payment Record Form 2540–3 by contacting any BLM Office or the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 15, 2000.

Carole Smith,

BLM Information Collection Officer.

[FR Doc. 00–6814 Filed 3–17–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PF–01–24 1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0012

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from States and local government agencies, and from qualified nonprofit corporations and associations who submit an Application for Land for Recreation or Public Purposes (Form 2740–1) to obtain public lands and benefits for recreational and public purposes. The BLM uses the information to determine if an applicant meets the requirements of the Recreation and Public Purpose Act (R&PP) of June 14, 1926.

DATES: Comments on the proposed information collection must be received by May 19, 2000, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, D.C. 20240.

Comments may be sent via Internet to: WOComment@blm.gov. Please include ''Attn: 1004–0012'' and your name and address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401 L Street NW., Washington, D.C.

Comments will be available for public review at the L Street address during regular business hours (7:45 am to 4:15 pm, Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Alzata L. Ransom, Realty Use Group, at (202) 452–7772.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed

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

The Recreation and Public Purpose Act (R&PP) of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*), authorizes the Secretary of the Interior to lease or convey certain public lands to States and local government agencies, and to qualified nonprofit corporations and associations, for recreational and public purposes under specified conditions. The regulations in 43 CFR 2740 provide guidelines and procedures for the lease or conveyance of public lands under the Act. The regulations were last revised on July 23, 1992, (57 FR 32732).

The term ''public purpose'' means for the purpose of providing facilities or services for the benefit of the public in connection with, but not limited to, public health, safety, or welfare. Use of lands or facilities for habitation, cultivation, trade, or manufacturing is permissible only when necessary for and integral to, *i.e.,* essential part of, the public purpose.

The Act applies to all public lands, except lands within national forest, national parks and monuments, national wildlife refuges, Indian lands, and acquired lands. Revested Oregon and California Railroad grant lands, and reconveyed Coos Bay Wagon Road grant lands in western Oregon may only be leased to State and Federal instrumentalities and political subdivisions and to municipal corporations.

Lease periods may be for any length, but shall not exceed 20 years for nonprofit entities, and 25 years for Federal, States and local governmental entities. Leases are issued subject to appropriate environmental and legal stipulations, and contain provisions for compliance with: (a) Nondiscrimination based on race, color, sex, age, religion, or national origin; (b) an approved plan of management and development upon which lease was considered and issued (leases may be canceled for nonuse or a use other than that for which the lease was issued without prior consent of the BLM); (c) under certain conditions, the Federal Government may reserve the standing timber, use of water, or place other limitations on the use of natural resources; and (d) other reasonable stipulations as may be required as part of the consideration for the moderate charge being made for land.

Patents issued under the Act convey a restricted title since they contain provisions or clauses which, if not complied with, may result in reversion of the title to the United States. These provisions are: (a) Nondiscrimination clauses providing that the patentee may not restrict or permit restriction of the use of the lands conveyed or facilities thereon because of race, color, sex, age, religion, or national origin; (b) a provision that, if the patentee or its successor in interest attempts to transfer title or control over the land to another, or the land is devoted to a use other than that for which it was conveyed without the consent of the BLM, title will revert to the United States; (c) the patent will stipulate that the land will be used in perpetuity for the purposes for which they are acquired (the lease or patent may stipulate that certain provisions of the development program, including the management plan, may be subject to review by the Secretary of the Interior or his delegate); and (d) all minerals will be reserved to the United States.

The information collected on Form 2740–1 is required by the regulations in 43 CFR 2741 to process request for public lands under the provisions of the R&PP Act. Based on its reviews and evaluation, the BLM may approve or disapprove any application in whole or in part, or require its revision. The following information is collected on the form: (1) Applicant's name and address (home and address telephone number); (2) legal description of the lands applied for; (3) type of authorization and proposed use of the lands; (4) description of proposed use, plan and schedule for development, use of revenues, and known environmental and cultural concerns specific to the land; (5) statutory authority to hold the lands for the purpose requested (if applicant is State or Political subdivision); (6) copy of the applicant's authority to file the application and to take actions necessary to fulfill the requirements of the R&PP Act; (7) compliance with nondiscrimination as to access to the lands and facilities based on race, color, religion, sex, age or national origin in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 241). In addition, the form instructs the applicant to submit: (a) A copy of their charter, a copy of their articles of incorporation, and a copy of their authority to operate in the State where the lands applied for are located; (c) a plan of development, use, and maintenance that includes a statement of proposed use of the lands, description of the proposed project, anticipated expenditure for development, source of funds to be used for development, and a statement describing administration of the tract; (d) maps showing the nature and location of facilities, land ownership of the entire project, and access routes; (e) timetable for development; and (f) explanation of proposed maintenance responsibilities and procedures.

After receiving the form, the BLM will: (a) Determine if the applicants proposal is in conformance with land use planning, review land status to determine if the lands are subject to application, and determine if the application meets all requirements of the law and regulations; (b) review the development and management plans to determine their adequacy and effectiveness, and evaluate the construction schedule and estimated financing to ensure they are realistic and practicable; (c) secure the views of other agencies that may have an interest in the lands, including State and local planning and zoning departments; (d) check for the presence of unpatented mining claims (R&PP leases and conveyances cannot be issued where mining claims are present, and if it is necessary to determine the validity of a mining claim in order to allow the lease, the cost of the determination will be the responsibility of the applicant); (e) conduct a field examination and other investigations to gather information and data on the environmental considerations and proper classification of the lands; and (f) publish a notice to solicit views and comments from the public concerning the proposal. After reviewing and evaluating your application, the BLM may approve or disapprove your application in whole or in part, or require revisions to the application.

Potential applicants should contact the appropriate District Office of the BLM well in advance of the anticipated submission of Form 2740–1. Early consultation with the BLM is needed to familiarize a potential applicant with management responsibilities, and terms and conditions which may be required in a lease or conveyance.

The BLM estimates that approximately 55 R&PP applications (Form 2740–1) are received annually. Based on the BLM's experience in processing an application, it will take an

average time of 40 hours for an applicant to supply the requested information. Based on the estimated 55 applications the BLM receives annually and the average time of 40 hours it takes an applicant to supply the requested information, the total annual burden is collectively 2,200 hours.

Any interested member of the public may request and obtain, without charge, a copy of the R&PP application (Form 2740–1) by contacting the person identified under **FOR FURTHER INFORMATION CONTACT** All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 15, 2000.

Carole Smith,

BLM Information Collection Officer.

[FR Doc. 00–6815 Filed 3–17–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PE–01–24 1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0029

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from those persons who submit a Color-of-Title Application (Form No. 2540–1) to apply for public lands under a color-of-title claim. The BLM uses the information to determine if the applicant is eligible to acquire public lands under the relevant statutes.

DATES: Comments on the proposed information collection must be received by May 19, 2000, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401 LS, Washington, D.C. 20240.

Comments may be sent via Internet to: WOComments@blm.gov. Please include ''Attn: 1004–0029'' and your name and return address in your Internet address. Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, L Street NW, Washington, D.C. 20036.

Comments will be available for public review at the L Street address during regular business hours (7:45 am to 4:15 pm, Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Alzata L. Ransom, Lands and Realty Group, 202–452–7772.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), the BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Color-of-Title Act of December 22, 1928 (45 Stat. 1069), as amended by the Act of July 28, 1953 (67 Stat. 227), (U.S.C. 1068–1068b), was passed by Congress to provide for transferring legal title to the public lands from the United States to eligible individuals, groups, or corporations who have a valid color-of-title claim. The regulations in 43 CFR 2540 provide guidelines and procedures to file a color-of-title claim. These regulations were adopted on June 13, 1970 (35 FR 9592).

Any individual, group, or corporation who has evidence giving the appearance of having title to public lands which are administered by the BLM and legal title to the lands remains vested in the United States may file a color-of-title application with the BLM District Office where the lands are located.

The two claims recognized by the Act are referred to as Class 1 and Class 2. A Class 1 claim is one which has been held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for a minimum of 20 years, on which valuable improvements have been placed, or on which some part of the land has been reduced to cultivation under claim or color-of-title, and upon which the claimant or predecessors in interest have placed valuable improvements, or on which some part of the land has been reduced to cultivation. A Class 2 claim is one which has been held in good faith and peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color-of-title for the period commencing not later than January 1, 1901, to the date of application, during which time they have paid taxes levied on the land by State and local governmental units. A claim is not held in good faith where held with knowledge that the land is owned by the United States. A claim is not held in peaceful, adverse possession where it was initiated while the land was withdrawn or reserved for federal purposes.

The information collected on Color-of-Title Application Form No. 2540–1 is required by the regulations in 43 CFR 2540 to process requests to acquire legal title to the public lands under the provisions of the Act of December 22, 1928, as amended by the Act of July 28, 1953. If you believe you have a valid color-of-title claim you may file an application with the BLM Office having responsibility for the public lands you desire to acquire legal to. The following information is collected on the form: (1) Applicant's name; (2) applicant's address; (3) applicant's area code and phone number; (4) legal description of the lands claimed; (5) type of application (class 1, class 2, or both); (6) record titleholder declaration and explanation; (7) description and copy of the written document the title is based on (deed, will, court order, etc.); (8) date the applicant learned about the title problems; (9) source of information from which the applicant learned about the title problems; (10) name, address, and phone number of the title examiner and date of examination; (11) total purchase price of the property, estimated value of structural and cultural improvements on the date of purchase, estimated value of existing structural and cultural improvements added since the date of purchase, and the amount received for forest products sold since the date of purchase; (12) cultivation statement; (13) calendar years the lands have been cultivated, and the number of acres cultivated; (14) list of improvements to the property; (15) mineral estate information; (16) $10 filing fee; and (17) date of application, and signature of applicant.

After receiving your application, BLM will analyze the information on your application, conduct an on-site field examination of the lands, and prepare reports. The BLM will approve your application if you meet the requirements of a Class 1 or Class 2

claim or reject your application if your do not meet the requirements of a Class 1 or Class 2 claim. Class 2 claims are discretionary and may be rejected if the public interest in retention of the lands clearly outweighs the interest of the applicant.

The BLM estimates that approximately 37 applications (Form 2540–1) are received annually. Based on the BLM's experience in processing an application, it will take an average of 15 minutes for an applicant to supply the requested information. Based on the estimated 37 applications the BLM receives annually and the average time of 15 minutes it takes an applicant to supply the requested information, the total annual burden is collectively 9 hours.

Any interested member of the public may request and obtain, without charge, a copy of Conveyances Affecting Color or Claim of Title Form 2540–1 by contacting any BLM Office or the person identified under **FOR FURTHER INFORMATION CONTACT.**

All responses to the notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 15, 2000.

Carole Smith,

BLM Information Collection Officer.

[FR Doc. 00–6816 Filed 3–17–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1430–EU] COC–57547, COC–63624

Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The following public lands in Boulder and Prowers County have been examined and found suitable for classification for lease or conveyance under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*)

COC–57547: The Town of Ward, proposes to include the following lands in the development of a recreational and wildlife reserve area:

Sixth Principal Meridian

T. 1 N., R. 73 W.,
Sec. 1, Public lands south and west of Brainard Lake Road, excluding that portion of the Johanna Lode, MS 12731, that is in conflict with the unpatented Warrior Lode mining claim
Sec. 12, lots 1, 3, 4, 9 and a portion of lot 2

Consisting of approximately 166.23 acres.

COC–63624: Colorado Division of Wildlife proposes to include the following lands in the X–Y Ranch State Wildlife Area:

Sixth Principal Meridian

T. 22 S., R. 43 W.,
Sec. 31, SE¼SE¼
T. 23 S., R. 43 W.,
Sec. 4, NW¼SW¼
Sec. 5, SW¼NE¼, NW¼NW¼
Sec. 10, NE¼SW¼, SW¼SE¼
Sec. 14, SE¼SE¼
Sec. 24, NW¼NW¼

Consisting of approximately 320 acres.

The lands are not needed for Federal purposes. Lease or conveyance for recreational use is consistent with current BLM land use planning and would be in the public interest.

Upon publication of this notice in the **Federal Register**, the lands in Prowers County will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act. The lands in Boulder County are currently segregated under COC–63637, dated February 10, 2000.

DATES: Interested parties may submit comments regarding the proposed lease/conveyance or classification of the lands before April 21, 2000. Reference the applicable serial number in all correspondence. In the absence of any adverse comments, the classification will become effective May 19, 2000.

ADDRESSES: Bureau of Land Management, Canon City District, P.O. Box 2200, Canon City, Colorado 81215–2200.

FOR FURTHER INFORMATION CONTACT: COC–57547: Jan Fackrell, Realty Specialist at 719–269–8525. COC–63624: Dave Hallock, Realty Specialist at 719–269–8536.

SUPPLEMENTARY INFORMATION: Classification comments—interested parties may submit comments involving the suitability of the land for the purposes stated. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application comments—interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for the proposals.

This action is in response to applications by the Town of Ward and Colorado Division of Wildlife. Lease of the lands will not be authorized until after the classification becomes effective. Lease or patent of the lands for recreational or public purpose use would be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Donnie R. Sparks,

Field Office Manager.

[FR Doc. 00–6743 Filed 3–17–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

CALFED Bay-Delta Program Policy Group

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The CALFED Bay-Delta Program Policy Group will meet on April 19, 2000. The agenda for the Policy Group meeting will include discussion of the CALFED Long-Term Water Management Strategy Evaluation Framework and the Preferred Program Alternative in the Final Programmatic EIS/R. This meeting is open to the public. Interested persons may make oral statements to be CALFED Bay-Delta Program Policy Group or may file written statements for consideration.

DATES: The CALFED Bay-Delta Program Policy Group meeting will be held from 9:00 a.m. to 5:00 p.m. on Wednesday, April 19, 2000.

ADDRESSES: This meeting will meet at The Sacramento Convention Center, 1400 J Street, Room 302–303, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Mary Selkirk, CALFED Bay-Delta

Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stablize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the direction of the CALFED Policy Group. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. The CALFED Policy Group provides general policy direction on all aspects of the CALFED Program.

Lester A. Snow,

Regional Director.

[FR Doc. 00–6804 Filed 3–17–00; 8:45 am]

BILLING CODE 4310–94–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review: Comment Request

AGENCY: Overseas Private Investment Corporation.

ACTION: Request for Comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the Agency is preparing an information collection request for OMB review and approval and to request public review and comment on the submission. Comments are being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received on or before May 19, 2000.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: *OPIC Agency Submitting Officer:* Carol Brock, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202/336–8563.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: Extension of currently approved form.

Title: Small Business Application for Political Risk Investment Insurance.

Form Number: OPIC–223.

Frequency of Use: Once per investor per project.

Type of Respondents: Small business or other institutions qualifying as small business under OPIC's definition (except farms); individuals qualifying as small business under OPIC's definition.

Standard Industrial Classification Codes: All.

Description of Affected Public: Small U.S. companies or citizens investing overseas.

Reporting Hours: 4 hours per project.

Number of Responses: 50 per year.

Federal Cost: $750 per year.

Authority for Information collection: Sections 231 and 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The small business application is the principal document used by OPIC to determine the small business investor's and project's eligibility, assess the environmental impact and developmental effects of the project, measure the economic effects for the United States and the host country economy, and collect information for underwriting analysis.

Dated: March 14, 2000.

Ralph A. Kaiser,

Assistant General Counsel, Administrative Affairs Department of Legal Affairs.

[FR Doc. 00–6734 Filed 3–17–00; 8:45 am]

BILLING CODE 3210–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–669 (Review)]

Scheduling of an Expedited Five-Year Review Concerning the Antidumping Duty Order on Cased Pencils From China

AGENCY: United States International Trade Commission.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. 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: March 3, 2000.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), 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 March 3, 2000, the Commission determined that the domestic interested party group response to its notice of institution (64 FR 67304, December 1, 1999) was adequate and the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would

warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff Report

A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on June 26, 2000, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written Submissions

As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review, may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before June 29, 2000, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by June 29, 2000. However, should Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must 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 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.

Determination

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).

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: March 15, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–6853 Filed 3–17–00; 8:45 am]

BILLING CODE 7020–02–P

[1] 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.

[2] The Commission has found the responses submitted by Aakron Rule; Dixon; General Pencil; Musgrave Pencil; Sanford; Tennessee Pencil; and WIMA, Pencil Section, Antidumping Committee, to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–393 (Final) and 731–TA–829–830, 833–834, 836, and 838 (Final)]

Certain Cold-Rolled Steel Products From Argentina, Brazil, Japan, Russia, South Africa, and Thailand

Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission determines,[2] pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b), 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Brazil of certain cold-rolled steel products, that have been found by the Department of Commerce to be subsidized by the Government of Brazil, and by reason of imports of certain cold-rolled steel products from Argentina, Brazil, Japan, Russia, South Africa, and Thailand that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective June 2, 1999, following receipt of petitions filed with the Commission and the Department of Commerce by Bethlehem Steel Corporation (Bethlehem, PA); U.S. Steel Group (Pittsburgh, PA); Ispat Inland, Inc. (East Chicago, IL); LTV Steel Co., Inc. (Cleveland, OH); National Steel Corporation (Mishawaka, IN); Gulf States Steel, Inc. (Gadsden, AL); Steel Dynamics Inc. (Butler, IN); Weirton Steel Corporation (Weirton, WV); and the United States Steelworkers of America, Pittsburgh, PA. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by the Department of Commerce that imports of cold-rolled steel from Brazil were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)), and that imports from Argentina, Brazil, Japan, Russia, South Africa, and Thailand were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigations 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** of December 1, 1999 (64 FR 67307). The hearing was held in Washington, DC, on January 20, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on March 13, 2000. The views of the Commission are contained in USITC Publication 3283 (March 2000), entitled Certain Cold-Rolled Steel Products from Argentina, Brazil, Japan, Russia, South Africa, and Thailand: Investigations Nos. 701–TA–393 and 731–TA–829–830, 833–834, 836 and 838 (Final).

Issued: March 15, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–6856 Filed 3–17–00; 8:45 am]

BILLING CODE 7020–02–P

[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] Chairman Lynn M. Bragg dissenting.

INTERNATIONAL TRADE COMMISSION

Investigation No. TA–201–71

Crabmeat From Swimming Crabs

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of an investigation under section 202 of the Trade Act of 1974 (19 U.S.C. 2252) (the Act) and determination that the investigation is extraordinarily complicated.

SUMMARY: Following receipt of a petition filed on March 2, 2000, on behalf of the Blue Crab Coalition, McClellanville, SC, the Commission instituted investigation No. TA–201–71 under section 202 of the Act to determine whether crabmeat from swimming crabs (family *Portunidae*), in all its forms, including frozen, fresh, and chilled crabmeat, however packed, preserved, pasteurized, or prepared, and of any grade or size (such as jumbo lump, lump, back fin, claw, select, and the like), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. Such crabmeat is generally classified in subheadings 1605.10.20 and 1605.10.40 of the Harmonized Tariff Schedule of the United States (HTS), but may also be entering under HTS subheadings 0306.14.20 and 0306.24.20. Although the HTS categories are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

The Commission has determined that this investigation is ''extraordinarily complicated'' within the meaning of section 202(b)(2)(B) of the Trade Act of 1974 (19 U.S.C. 2252(b)(2)(B)). This determination allows the Commission to take up to 30 additional days to make its injury determination in this investigation—that is, the Commission must make its injury determination before the 150th day of the filing of the petition, as opposed to the 120th day. The Commission envisions using only a part of the extra 30 days to make its injury determination. This will allow the Commission more than sufficient time to consider the question of remedy should the Commission make an affirmative injury determination.

For further information concerning the conduct of this investigation, hearing procedures, 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 206, subparts A and B (19 CFR part 206).

EFFECTIVE DATE: March 2, 2000.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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:

Participation in the Investigation and Service List

Persons wishing to participate in the investigation 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, not later than 21 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Confidential Business Information (CBI) Under an Administrative Protective Order (APO) and CBI Service List

Pursuant to section 206.17 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than 21 days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive CBI under the APO.

Hearings on Injury and Remedy

The Commission has scheduled separate hearings in connection with the injury and remedy phases of this investigation. The hearing on injury will be held beginning at 9:30 a.m. on June 15, 2000, at the U.S. International Trade Commission Building. In the event that the Commission makes an affirmative injury determination or is equally divided on the question of injury in this investigation, a hearing on the question of remedy will be held beginning at 9:30 a.m. on July 25, 2000. Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before June 9, 2000, and July 19, 2000, respectively. All persons desiring to appear at the hearings and make oral presentations should attend prehearing conferences to be held at 9:30 a.m. on June 13, 2000, and July 21, 2000, respectively, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) 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 is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs on injury is June 9, 2000; that for filing prehearing briefs on remedy, including any commitments pursuant to 19 U.S.C. § 2252(a)(6)(B), is July 19, 2000. Parties may also file posthearing briefs. The deadline for filing posthearing briefs on injury is June 20, 2000; that for filing posthearing briefs on remedy is July 31, 2000. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of injury on or before June 20, 2000, and pertinent to the consideration of remedy on or before July 31, 2000. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of section 201.6 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 section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the 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 investigation is being conducted under the authority of section 202 of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

Issued: March 15, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–6857 Filed 3–17–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–639–640 (Review)]

Forged Stainless Steel Flanges From India and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of expedited five-year reviews concerning the antidumping duty orders on forged stainless steel flanges from India and Taiwan.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty orders on forged stainless steel flanges from India and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 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: March 3, 2000.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), 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 March 3, 2000, the Commission determined that the domestic interested party group responses to its notice of institution (64 FR 67313, December 1, 1999) were adequate and the respondent interested party group responses were inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.

Staff Report

A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on June 27, 2000, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions

As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews, may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before June 30, 2000, and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by June 30, 2000. However, should Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must 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 rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determinations

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).

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: March 15, 2000
By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 00–6855 Filed 3–17–00; 8:45 am]
BILLING CODE 7020–02–P

[1] 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.

[2] The Commission has found the responses submitted by Gerlin, Inc.; Ideal Forging Corp.; Maass Flange Corp.; and Westbrook Flange to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–663 (Review)]

Paper Clips From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on paper clips from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on paper clips from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. 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: March 3, 2000.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), 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 March 3, 2000, the Commission determined that the domestic interested party group response to its notice of institution (64 FR 67320, December 1, 1999) was adequate and the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff Report

A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on July 3, 2000, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written Submissions

As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review, may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before July 7, 2000, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by July 7, 2000. However, should Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must 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 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.

Determination

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).

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: March 15, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–6854 Filed 3–17–00; 8:45 am]

BILLING CODE 7020–02–P

[1] 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.

[2] The Commission has found the response submitted by ACCO to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *AT&T Corp., AT&T of the Virgin Islands, A&L Underground, Inc., and BioImpact, Inc.,* Civil Action No. 2000–42, was lodged with the United States District Court for the District of the Virgin Islands on March 9, 2000.

This is a civil enforcement action stating claims against AT&T Corp., AT&T of the Virgin Islands, A&L Underground, Inc., and BioImpact, Inc for violations of the Rivers and Harbors Act (''RHA''), 33 U.S.C. 401 *et seq.,* and the Clean Water Act (''CWA''), 33 U.S.C. 1251 *et seq.,* in connection with the Defendants' construction of a transoceanic cable landing facility in St. Croix, the U.S. Virgin Islands.

The proposed Consent Decree would resolve these violations and, among other provisions, would require Defendants to (1) pay a civil penalty in the amount of $1.8 million, and (2) conduct further monitoring of the areas where drilling mud was released, to ensure that any remaining drilling mud is discovered and removed.

The Department of Justice will accept written comments relating to the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Attention: Scott J. Jordan, Environmental Defense Section, P.O. Box 23986, Washington, DC 20026–3986, and must refer to *United States* v. *AT&T Corp., AT&T of the Virgin Islands, A&L Underground, Inc., and BioImpact, Inc.,* DJ Reference No. 90–5–1–1–4466.

The proposed consent decree is on file at the Clerk's Office, United States District Court, District of the Virgin Islands, 310 Federal Building, 5500 Veterans Drive, Charlotte Amalie, St. Thomas, Virgin Islands 00802, and may be examined there to the extent allowed by the rules of the Clerk's Office. In addition, written requests for a copy of the consent decree may be mailed to Scott J. Jordan, Environmental Defense Section, U.S. Department of Justice, P.O. Box 23986, Washington, DC 20026–3986, and should refer to *United States* v. *AT&T Corp., AT&T of the Virgin Islands, A&L Underground, Inc., and BioImpact, Inc.,* DJ Reference No. 90–5–1–1–4466. All written requests for a copy of the Consent Decree must include the full mailing address to which the Consent Decree should be sent.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 00–6746 Filed 3–17–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (''CERCLA'')

Consistent with Department policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that a proposed consent decree in *United States* v. *Jane Doe, as Executrix of the Estate of Edmund Barbera, et al.,* 96 Civ. 8563 (BSJ), was lodged on March 8, 2000 with the United States District Court for the Southern District of New York. The Consent Decree addresses the hazardous waste contamination at the Port Refinery Superfund Site (the ''Site''), located in the Village of Rye Brook, Westchester County, New York. The Consent Decree requires the current owner of the Site to pay to the United States the net proceeds of the sale of the Site, after certain costs in connection with the sale are paid and after purchase

of an annuity to cover the living expenses of the owner.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611, and should refer to *United States* v. *Jane Doe, as Executrix of the Estate of Edmund Barbera, et al.,* DOJ Ref. #90–11–3–1142A.

The proposed consent decree may be examined at the office of the United States Attorney for the Southern District of New York, 100 Church Street, New York, New York, 10007 (contact Assistant United States Attorney Kathy S. Marks); and the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York, 10007–1866 (contact Assistant Regional Counsel Cynthia Psoras). A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $7.00 (25 cents per page reproduction costs) for the Consent Decree, payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–6744 Filed 3–17–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Proposed Consent Decree

In accordance with 28 CFR 50.7(b), notice is hereby given that a proposed Consent Decree in *United States* v. *Fisher Sand & Gravel Co.,* Civil Action No. 98–CV–0276–D (D. Wyo.), was lodged with the United States District Court for the District of Wyoming on March 8, 2000. Final approval of the proposed Consent Decree is subject to the requirements of 28 CFR 50.7.

In this case, the United States filed suit against Fisher Sand & Gravel Co., Emulsified Asphalt, Inc. of Wyoming, and others for alleged violations of Clean Water Act sections 301 and 404. The Complaint alleges that the defendants discharged dredged or fill material into waters of the United States within Deer Creek near Glenrock, Wyoming, without a permit issued by the United States Army Corps of Engineers.

The United States and the defendants have reached agreement on the terms of a proposed Consent Decree. Under the proposed settlement, the defendants will complete restoration, perform three to five years of monitoring, be enjoined against future unauthorized discharges, and pay a civil penalty.

The Department of Justice will receive written comments on the proposed Consent Decree for a period of 30 days from the date of publication of this notice. Comments should be addressed to Joshua E. Swift, Trial Attorney, U.S. Department of Justice, Environment & Natural Resources Division, Environmental Defense Section, P.O. Box 23986, Washington, DC 20026, and refer to *United States* v. *Fisher Sand & Gravel Co.,* Civil Action No. 98–CV–0276–D (D. Wyo.), DJ# 90–5–1–1–05204.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Wyoming, 2120 Capitol Avenue, Room 2131, Cheyenne, Wyoming 82001. The telephone number of the Clerk's Office is (307) 772–2145.

Letitia J. Grishaw,

Chief, Environmental Defense Section Environment & Natural Resources Division.

[FR Doc. 00–6745 Filed 3–17–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Under the Comprehensive, Environmental Response, Compensation and Liability Act (''CERCLA'')

Notice is hereby given that four proposed consent decrees in *United States* v. *Mountain Metal Company, et al.,* Civil Action No. CV–98–2562–S, and one proposed consent decree in *United States* v. *Mountain Metal Company, et al.,* Civil Action No. CV–98–C–2562–S and consolidated action *Exide Corporation and Johnson Controls, Inc.,* v. *Aaron Scrap Metals, et al.,* Civil Action No. CV–98–J–2886–S, were lodged on March 7, 2000, with the United States District Court for the Northern District of Alabama, Southern Division.

In these actions, the United States and Exide Corporation and Johnson Control, Inc. have sought injunctive relief and recovery of response costs under Sections 106(a) and 107 of CERCLA, 42 U.S.C. 9606(a) and 9607, against over forty generator defendants with respect to the Interstate Lead Company (''ILCO'') Superfund Site, located in Leeds, Jefferson County, Alabama (''the Site'').

The United States has now agreed to settlement of its claims under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, for existing contamination at the Site with respect to five defendants: Battery Post, Inc. (''Battery Post''), Goldsboro Iron & Metal Company, Inc. (''Goldsboro''), Micon Metals, Inc. (''Micon'') Omega Tire & Sales (''Omega'') and V.H. Holmes & Sons, Inc. (''V.H. Holmes''). Battery Post will pay $6,000 plus interest over a twelve month period to the United States to resolve its claims. Micon will pay $500 with 30 days of Decree entry, to the United States to resolve its claims. Omega will pay $1,000 within 30 days of Decree entry, to the United States to resolve its claims. V.H. Holmes will pay $20,000 plus interest within one year of Decree entry, to the United States to resolve its claims. Goldsboro will pay the United States $195,750, plus interest, within 30 days of proposed consent decree entry to resolve its claims. Goldsboro will also pay Exide Corporation and Johnson Control, Inc., a total of $479,250 in principal plus interest, with $104,250 paid with 30 days of proposed consent decree entry, and 30 monthly payments of $12,500 plus interest to resolve the claims in the consolidated action.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, P.O. Box 7611, Department of Justice, Washington, DC 20044, and should refer to *United States* v. *Mountain Metal Company, et al.,* Civil Action No. CV–98–C–2562–S and consolidated action *Exide Corporation and Johnson Controls, Inc.,* v. *Aaron Scrap Metals, et al.,* Civil Action No. CV–98–J–2886–S and DOJ #90–11–2–108/2.

Any of the proposed consent decrees may be examined at the Office of the United States Attorney, Northern District of Alabama, 200 Robert S. Vance Federal Building & Courthouse, 1800 5th Ave. N., Room 200, Birmingham, AL 35203–2198, and at U.S. EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W. Atlanta, Georgia 30303. A copy of the Consent Decree also may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check in the amount of $8.00 (25 cents per page reproduction costs) per

Consent Decree, payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–6748 Filed 3–17–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Under the policy set out at 28 CFR 50.7, notice is hereby given that on February 29, 2000, a proposed Consent Decree (Decree) in *United States of America* v. *Tampa Electric Company*, Civil Action No. 99–2524 CIV–T–23F, was lodged with the United States District Court for the Middle District of Florida.

In this enforcement action under the Clean Air Act involving alleged violations of requirements intended to prevent the deterioration of air quality, the United States sought injunctive relief and civil penalties from Tampa Electric Company, the owner and operator of the coal-fired electric generating stations known as Gannon and Big Bend. Those stations are located in Hillsborough County, Florida, near the City of Tampa. The United States alleged that Tampa Electric failed to comply with the requirements of the Clean Air Act at Big Bend and Gannon by failing to seek permits prior to making major modifications to parts of these facilities and by failing to install appropriate pollution control devices to control emissions of air pollutants from those facilities.

The Decree requires Tampa Electric to undertake various steps at Big Bend and Gannon in order to reduce the emission of various air pollutants, including the following measures: optimize operation and use of existing pollution control equipment; observe limits on use of fuels in generating electricity; install new pollution control equipment; and meet various emission limits for certain air pollutants, namely: oxides of nitrogen, sulphur dioxide and particulate matter. Also under the Decree, Tampa Electric must undertake a series of additional pollution control or mitigation projects (at a cost of at least $10 million) that are related to the emission of oxides of nitrogen at Tampa Electric's generating stations and to the examination of air quality in the Tampa Bay area. Tampa Electric is also required to pay a civil penalty of $3.5 million.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States of America* v. *Tampa Electric Power Company*, D.J. Ref. 90–5–2–1–06932.

The Decree may be examined at the Office of the United States Attorney, 400 N. Tampa Street, Suite 3200, Tampa, Florida 33602, and at U.S. EPA Region 4, Office of Regional Counsel, 61 Forsyth Street, S.W., Atlanta, Georgia 30303. A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $15.25 (25 cents per page reproduction cost), payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–6747 Filed 3–17–00; 8:45 am]

BILLING CODE 4410–15—M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. AlliedSignal Inc. and Honeywell Inc., Case No. 1:99 CV 02959 (PLF) (D.D.C.); Response to Public Comments on Antitrust Consent Decree

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that on March 9, 2000, the United States filed is responses to public comments on the proposed Final Judgment in *United States* v. *AlliedSignal Inc. and Honeywell Inc.* Case No. 1:99 CV 02959 (PLF) (D.D.C., filed November 8, 1999), with the United States District Court for the District of Columbia.

On November 8, 1999, the United States filed a Complaint which alleged that AlliedSignal's proposed merger with Honeywell would violate Section 7 of the Clayton Act, 15 U.S.C. 18, by substantially lessening competition in the traffic alert and collision avoidance systems (''TCAS'') market, the search and surveillance weather radar (''SSWR'') market, the reaction and momentum wheel market, and the inertial systems market. The proposed Final Judgment, also filed on November 8, 1999, requires AlliedSignal and Honeywell to divest the TCAS business of Honeywell located in Glendale, Arizona; the SSWR business of AlliedSignal located in Olathe, Kansas; the space and navigation business of AlliedSignal located in Teterboro, New Jersey; the mechanical rate gyroscope business of AlliedSignal located in Cheshire, Connecticut, and a related repair business in Newark, Ohio; the microSCIRAS technology business of AlliedSignal located in Redmond, Washington, or, in the alternative, the micro-electro-mechanical systems inertial sensor business of Honeywell located in Minneapolis and Plymouth, Minnesota; and the AlliedSignal micromachined silicon accelerator and micromachined accelerometer gyroscope technology business.

Public comment was invited within the statutory 60-day comment period. The public comments and the United States' responses thereto are hereby published in the **Federal Register** and have been filed with the Court. Copies of the Complaint, Hold Separate Stipulation and Order, proposed Final Judgment, Competitive Impact Statement, and the United States' Certificate of Compliance with Provisions of the Antitrust Procedures and Penalties Act (to which the public comments and the United States' responses are attached) are available for inspection in Room 215 of the Antitrust Division, Department of Justice, 325 7th Street, NW, Washington, DC 20530 (telephone: 202–514–2481) and at the Office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW, Washington, DC 20001.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations & Merger Enforcement, Antitrust Division.

INSPEC Japan

January 17, 2000

Mr. J. Robert Kramer II
Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 3000, Washington D.C. 20530

Dear Sir: *Subject: Antitrust Case # 1:99CV02959, United States of America v. Allied Signal Inc and Honeywell Inc. Invitation to submit written comment*

My company, INSPEC International Co. Ltd., a Japanese registered corporation, is a long term Supplier to Honeywell of an electro-mechanical sub-assembly which is used in the TCAS cockpit display, as well as a number of individual piece parts.

As a result of the United States request of Honeywell to sell the TCAS product line, it is conceivable that the new Owner will not continue to procure either products or services from the existing Honeywell Suppliers, which could include INSPEC.

Avionics products such as this are generally known, and reasonably anticipated, to continue in production for many years. INSPEC, as a Honeywell Supplier in good standing, and an asset friendly to the United States, may suffer losses or unexpected costs in the event of prematurely terminated procurement by the new Owner.

Furthermore, as a Small Business, with limited resources, the effect on my company could be much more severe than that experienced by other larger Honeywell Suppliers but, nonetheless, significantly effect the livelihood of staff employed by any Supplier, large or small. This may also include Suppliers of Allied Signal company.

Based on this, I would like to offer the comment that the United States, as the party requiring the divestiture as approval for the merger, may damage Suppliers unfairly and should seek to protect and preserve the manufacturing ability and know-how of them after the divestiture has taken place, as well as the revenue they could reasonably expect for their continuing products and services throughout the life of a program, particularly as the risk of a government forcing a complete stoppage of an existing program in this way is not one which is generally anticipated by a business owner such as myself.

Whilst unsure of the exact vehicle to do this, it would seem the most simplest solution could perhaps be by way of an Order requiring continued procurement by the new Owner.

A further comment would be that divestiture will result in forced termination of our existing Supplier relationship with Honeywell. A hard earned relationship which we value greatly. Re-establishing that relationship on another program is not easy. Whilst there appears to be no right to a continuing relationship, I feel there is a presumption that Suppliers in good standing should be granted the opportunity re-establish a relationship with the new Allied Signal/Honeywell organization. In view of this, it would be appropriate if the United States would also consider the additional costs and effort this will involve Suppliers in.

In closing, I would like to make it clear that INSPEC only recently learnt of the divestiture and we do not oppose it because of its obvious merits to the two organizations nor, to date, have we been in discussion with Honeywell concerning it. I am sure that when we are, we will enjoy their usual highly professional handing of our concerns.

Finally, whilst I would argue, from an academic point of view, that a merger would not necessarily involve reduced Quality of products or services in experienced companies such as Honeywell and Allied Signal as you have stated, but could actually result in an improvement of the many aspects which contribute to our perception and experience of Quality in its overall sense, whilst reducing specific Costs Of Quality to the benefit of the government, public and shareholders. I understand the position of the Untied States in the other concerns you have outlined. Nevertheless, I would strongly urge you to consider the potential negative impact upon Suppliers outlined above that this forced divestiture entails without proper safeguards, and who may not be aware or adequately represented or considered in this case.

Thank you for your kind consideration of my comments.

Very Truly Yours,

INSPEC International Co. Ltd.

Richard Wicks,
President.

U.S. Department of Justice

March 9, 2000.

Mr. Richard Wicks,
President, INSPEC International Company Ltd., 1–1–4 Wakamatsu Cho, Fuchu, Tokyo, 183, Japan

Re: Comment on Proposed Final Judgment in *United States* v. *AlliedSignal Inc. and Honeywell Inc.,* No. 1:99 CV 002959 (PLF)(D.D.C. November 8, 1999)

Dear Mr. Wicks: Thank you for your letter of January 17, 2000 concerning the proposed Final Judgment in *United States* v. *AlliedSignal Inc. and Honeywell Inc.,* currently pending before the federal district court for the District of Columbia. The United States' complaint alleges that the merger as proposed between AlliedSignal Inc. and Honeywell Inc. would have substantially lessened competition in four product areas—traffic alert and collision avoidance systems; search and surveillance weather radar; reaction and momentum wheels, and inertial systems. The proposed Final Judgment would settle the case by requiring the post-merger company, now known as Honeywell International Inc. (''Honeywell''), to divest, among other assets, its traffic alert and collision avoidance system (''TCAS'') business in Glendale, Arizona. Negotiations to divest this business consistent with the terms of the proposed Final Judgment are ongoing.

Your letter states that INSPEC INTERNATIONAL Company Ltd. (''INSPEC'') manufactures an electro-mechanical product which is supplied to the Honeywell TCAS business soon to be divested. INSPEC is concerned that the proposed divestiture may damage its business unfairly and terminate its hard-earned relationship with Honeywell. Given INSPEC's investment in the products it now sells to Honeywell, it requests that the United States consider requiring the new owner of the TCAS assets to purchase products from INSPEC.

Every change in corporate ownership, whether by divestiture or otherwise, raises the potential that a new owner may seek new suppliers. Since U.S. antitrust laws are intended to preserve competition, not specific competitors, the United States respectfully declines to require the new purchaser of the TCAS assets to deal with INSPEC or any other specific supplier. INSPEC' competitive assets, the technological know-how and manufacturing ability referenced in your letter, and your company's reputation with the employees of the TCAS business in Glendale, Colorado (who overwhelmingly will remain with the business) will be unaffected by the divestiture and will provide a platform for your firm to continue to compete successfully against other potential suppliers.

Thank you for bringing your concerns to our attention; we hope this letter will help you understand the reasons for our position. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(d), a copy of your comment and his response will be published in the **Federal Register** and filed with the Court.

Sincerely yours,

J. Robert Kramer II,
Chief, Litigation II Section.

January 6, 2000.

J. Robert Kramer, II,
Chief, Litigation II Section, Antitrust Division, U.S. Dep't. of Justice, 1401 H St., NW., Suite 3000, Washington, DC 20005, (202) 307–0924

This protest is being submitted in accordance with the opportunity offered to submit written comment concerning the proposed decree during a 60-day comment period.

I represent a significant number of Honeywell employees who have eligibility for retirement and have been offered employment with the 1.3 Corporation, Space and Navigation Systems Division. We submit the comments below for your consideration. We (the potential retirees) only recently inadvertently obtained a copy of the Honeywell memo citing the 60-day comment period (Honeywell issued the memo to certain people Nov. 10, 1999).

The items listed below encourage resignation of key employees, adversely affecting the viability of the 1.3 Space and Navigation Div, in conflict with the spirit if not the intent of the Divestiture agreement. Additional comments may be forthcoming next week.

Whereas Honeywell has reneged on its commitment to provide retiree medical benefits to divested Space and Navigation personnel accepting comparable employment with 1.3 subsequent to retirement from 1.3.

Whereas, 1.3 is requiring approval for previously accepted divested retiree-eligible Space and Navigation personnel on a non-comparable employment basis in exchange

for Honeywell retirement pension and medical benefits in conflict with the intent of published AlliedSignal commitments to their employees.

Whereas divested Honeywell Space and Navigation employees are excluded from the ''foster the employment and the retention of employees'' specified in para. F. of Section 4 ''Divestiture'' contained in U.S. District Court for the District of Columbia Civil No. 992959 filed on 11/8/99.

Your attention to this matter would be appreciated.

Sincerely Yours,

Stephen Suckenick,
3951 Gouverneur Ave., New York, New York 10463.

December 27, 1999

J. Robert Kramer II,
Chief Litigation II Section, Antitrust Division, U.S. Department of Justice

Dear Sir: With reference to the Consent Decree between the Department of Justice and Allied Signal/Honeywell, I represent a group of approximately 60 employees of the new Honeywell International Corporation who are being divested in the Teterboro-based Navigation/Space operation. They would like to know why the Teterboro operation was not given the same severance benefit as the other operations listed on page 16, paragraph E?

Sincerely,

Stephen Suckenick,
3951 Gouverneur Ave, New York, NY 10463.

November 30, 1999.

Dear Sir, the following regards the planned divestiture of the AlliedSignal Space and Navigation business located in Teterboro, New Jersey. My understanding is that this divestiture is a result of an agreement between AlliedSignal and the Department of Justice (DOJ) and is a condition of the DOJ approval of the merger of AlliedSignal, Inc. and Honeywell, Inc. My further understanding is that this divestiture is intended to maintain the former AlliedSignal Space and Navigation business as a viable long term aerospace subsystems supplies.

This letter is intended to inform your office of a situation which could prevent the Space and Navigation business from being a viable long term aerospace subsystems supplier and to solicit DOJ intervention in precluding this outcome. The specific situation concerns the large number of senior staff employees who are pension eligible and are likely to retire at the time of the divestiture rather than sustain the risks associated with having their vested pension and retiree health benefits redefined by the new owner's benefit policy changes and the risk associated with the new owner's long-term financial stability. This outcome did in fact occur as a result of two recent sales of AlliedSignal divisions (the communications Division in Towson, Maryland and the Ocean Systems Division in Sylmar, California). It is estimated that at the Space and Navigation business one third of the employees are pension eligible and they clearly represent a critical mass of technical and business knowledge essential to the continuing success of this business.

The Space and navigation business sale is targeted to be closed by December 24, 1999. It is requested that the DOJ involve itself immediately in the issue described above and assure an outcome which will support the DOJ's stated objective.

Sincerely,

Stephen Suckenik,
3951 Gouverneur Avenue, New York, N.Y. 10463, (718–884–6986)

U.S. Department of Justice

March 9, 2000.

Mr. Stephen Suckenik,
3951 Gouveneur Avenue, New York, New York 10463

Re: Comments on Proposed Final Judgment in *United States* v. *AlliedSignal Inc. and Honeywell Inc.,* No. 1:99 CV 002959 (PLF) (D.D.C. November 8, 1999)

Dear Mr. Suckenik: This letter responds to your comments dated November 30, 1999, December 27, 1999 and January 6, 2000 concerning the proposed Final Judgment in *United States* v. *AlliedSignal Inc.* and *Honeywell Inc.*, currently pending before the federal district court for the District of Columbia. The United States' complaint alleges that the merger as proposed between AlliedSignal Inc. and Honeywell Inc. would have substantially lessened competition in four product areas—traffic alert and collision avoidance systems; search and surveillance whether radar; reaction and momentum wheels, and inertial systems. The proposed Final Judgment would settle the case by requiring the post-merger company, now known as Honeywell International Inc. (''Honeywell''), to divest, among other assets, its space and navigation business in Teterboro, New Jersey. That business produces numerous products, including ring laser gyroscopes, fiber optic gyroscopes and reaction and momentum wheels.

In a transaction approved in advance by both the U.S. Department of Justice and the U.S. Department of Defense in December 1999, L–3 Communications Corporation (''L–3'') has now purchased the space and navigation business and certain other divested assets from Honeywell. The purchase was approved by the Government only after a careful review of L–3 led to the conclusion that L–3 had the financial capability, the intent and the managerial expertise to operate the space and navigation business in competition with other businesses making the same products, including Honeywell.

Your letters state that you represent a significant number of Honeywell employees (approximately 60) who are eligible for retirement with Honeywell but have received offers of employment from L–3 to work in the divested space and navigation business in Teterboro. The letters collectively raise several concerns about the proposed Final Judgment as it affects the divestiture of Honeywell's space and navigation business to L–3. Your November 30 comment suggests that the long-term viability of the divested space and navigation business may be affected negatively by the likely retirement of a large number of senior staff members in lieu of their acceptance of the risks related to L–3's potential redefining of their vested pension and retiree health benefits. In your December 27 letter, you ask why the Teterboro space and navigation business employees did not receive severance benefits identical to those received by certain other employees pursuant to Section IV(E) of the proposed Final Judgment. Your January 6, 2000 comment again states that the resignation of key Honeywell employees could affect the viability of the divested space and navigation business. You note, among other reasons, that Honeywell has reneged on its commitment to provide retiree medical benefits to former Honeywell employees accepting employment with L–3, after their retirement from L–3, and that the incentives given to certain Honeywell employees under Section IV(E) of the proposed Final Judgment are not offered to space and navigation employees who join L–3.

Differences in the retirement or severance benefits offered by a new employer as compared to those afforded by a prior one are always a concern when a business is sold. The facts here strongly suggest, however, that L–3 has successfully avoided the potential resignation of key Honeywell employees involved with the space and navigation business in Teterboro. L–3 considered approximately 430 applicants who had been previously employed by Honeywell in its space and navigation business. L–3 subsequently offered jobs to roughly 383 persons, and virtually all of those offers (about 94 percent) have been accepted. L–3 believes it has successfully recruited the key Honeywell employees it requires to insure the long-term viability of the divested space and navigation business.

In addition, Section IV(E) of the proposed Final Judgment intentionally provides a different incentive package to specific groups of Honeywell employees based on the United States' assessment that certain employee groups would require greater motivation to join the new purchaser of a divested business. Where a product to be divested constitutes less than an entire Honeywell business unit or sub-unit, the opportunity for affected employees to remain at Honeywell in a similar capacity is greater because the Honeywell business unit in which the employee works will still be part of Honeywell. In those situations, incentives to motivate movement to the new purchaser of a divested product were increased by requiring Honeywell to vest all unvested pension rights of the employee and to provide that employee with all severance benefits to which the employee would have been entitled if terminated without cause. The Teterboro space and navigation business functioned as a separate Honeywell business sub-unit, and was not therefore entitled to the additional incentives described above. The virtual unanimity with which key employees of the space and navigation business accepted L–3's offers of employment confirms the correctness of the United States' judgment on this issue.

Thank you for bringing your concerns to our attention; we hope this information will help alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C.

§ 16(d), a copy of your comments and this response will be published in the **Federal Register** and filed with the Court.

Sincerely yours,

J. Robert Kramer II,
Chief, Litigation II Section.

36 William Drive, Rockaway, NJ 07866,
November 10, 1999

J. Robert Kramer II,
Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H St., NW., Suite 3000, Washington, DC 20005

Dear Mr. Kramer: This letter concerns the AlliedSignal divestiture of its space and navigation business at Teterboro, New Jersey. In my opinion, there will likely be unintended consequences stemming from the Government's antitrust suit and the resulting consent decree that were not mentioned in today's Department of Justice press release.

First, it is probable that the Teterboro facility will be closed. As you may know, Teterboro's business has not been on plan. Employees were told a planned sizable layoff was delayed only because of the moratorium on such action imposed by the Government. The already troubled Teterboro business will not survive as two smaller businesses.

Second, employees forced to become part of the Space and Navigation entity to be divested may lose important benefits. For example, there has been no assurance from AlliedSignal that an employee's severance benefits will be honored by the acquiring Company. This is especially important because involuntary layoffs of Space and Navigation business employees seem certain because of the poor business prospects mentioned above.

In summary, the Government's principled attempt to preserve competition has sparked a series of decisions and events detrimental to Teterboro employees.

Sincerely,

Michael J. Kelly.

cc: Hon. Frank Lautenberg, Hon. Robert Torricelli, Hon. Rodney Frelinghuysen.

Mr. Michael J. Kelly,
36 William Drive, Rockaway, NJ 07866

Re: Comment on Proposed Final Judgment in *United States* v. *AlliedSignal Inc. and Honeywell Inc.*, No. 1:99 CV 002959 (PLF) (D.D.C. November 8, 1999)

Dear Mr. Kelly, This letter responds to your November 10, 1999 comment on the proposed Final Judgment in *United States* v. *AlliedSignal Inc. and Honeywell Inc.*, currently pending before the federal district court for the District of Columbia. The United States' complaint alleges that the merger as proposed between AlliedSignal Inc. and Honeywell Inc. would have substantially lessened competition in four product areas—traffic alert and collision avoidance systems; search and surveillance weather radar; reaction and momentum wheels, and inertial systems. The proposed Final Judgment would settle the case by requiring the post-merger company, now known as navigation business in Teterboro, New Jersey. That business produces numerous products, including ring laser gyroscopes, fiber optic gyroscopes and reaction and momentum wheels.

In a transaction approved in advance by both the U.S. Department of Justice and the U.S. Department of Defense in December 1999, L–3 Communications Corporation (''L–3'') has now purchased the space and navigation business and certain other divested assets from Honeywell. The purchase was approved by the Government only after a careful review of L–3 led to the conclusion that L–3 had the financial capability, the intent and the managerial expertise to operate the space and navigation business in competition with other businesses making the same products, including Honeywell. We disagree with the suggestion in your letter that separating the space and navigation business from the remainder of Honeywell's Teterboro operations makes it more likely that the space and navigation business, or any other operation, will fail. A more likely outcome is that L–3's specific focus on the management and growth of its recent acquisition will insure that the space and navigation business has the best chance possible to succeed.

Your November 10 letter further expresses the concern that L–3 may not honor the same severance benefits provided by Honeywell in the past, and notes that this benefit is particularly important in the context of a business struggling to survive in a tough business environment. Understanding the importance of this benefit, the United States does not generally dictate the terms and conditions pursuant to which a particular purchase is made; these details are subject to negotiation between the buyer and seller. Section IV(E) of the proposed Final Judgment encourages L–3 to make reasonable offers to those employees it desires to recruit by precluding Honeywell from hiring any employee for a period of two years once a reasonable offer has been received from L–3. This requirement, together with L–3's already-strong incentive to make attractive offers to key personnel it needs to recruit, provides reasonable protection to Honeywell employees joining L–3 or any other approved purchaser of a divested business. Following its review of the space and navigation business, L–3 offered jobs to roughly 383 persons; virtually all of those offers (about 94 percent) have now been accepted.

Thank you for bringing your concerns to our attention; we hope this information will help alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(d), a copy of your comment and this response will be published in the **Federal Register** and filed with the Court.

Sincerely yours,

J. Robert Kramer II,
Chief, Litigation II Section.

cc: Honorable Frank Lautenberg, Honorable Robert Torricelli, Honorable Rodney Frelinghuysen.

[FR Doc. 00–6749 Filed 3–17–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2043–00; AG Order No. 2292–2000]

RIN 1115–AE26

Six-Month Extension and Termination of Designation of Guinea-Bissau Under the Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: The Attorney General's designation of Guinea-Bissau under the Temporary Protected Status program (TPS) expires on March 10, 2000. After reviewing country conditions and consulting with the appropriate Government agencies, the Attorney General has determined that conditions in Guinea-Bissau no longer support a TPS designation. However, because this determination was not made at least 60 days before the termination date, the designation of Guinea-Bissau for TPS was automatically extended by statute for 6 months, until September 10, 2000. The termination will therefore take effect on September 10, 2000. After that date, aliens who are nationals of Guinea-Bissau (and aliens having no nationality who last habitually resided in Guinea-Bissau) who have had TPS will no longer have such status. This notice contains information regarding the 6-month extension and subsequent termination of the TPS designation for Guinea-Bissau.

DATES: The TPS designation for Guinea-Bissau is extended until September 10, 2000. On September 10, 2000 the TPS designation for Guinea-Bissau will be terminated.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Office of Adjudications, Residence and Status Branch, Immigration and Naturalization Service, Room 3040, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Is the Statutory Authority for the Designation, Extension, and Termination of a TPS Designation?

Under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254a, the Attorney General is authorized to designate a foreign state (or part of a state) for TPS. The Attorney General must then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). Section 244(b)(3)(A) of the Act requires the

Attorney General to review, at least 60 days before the end of the TPS designation, the conditions in a foreign state designated under section 244(b)(1) of the Act. 8 U.S.C. 1254a(b)(3)(A).

Section 244(b)(3)(B) of the Act further requires the Attorney General to terminate the state's designation when the Attorney General determines conditions are no longer met. 8 U.S.C. 1254a(b)(3)(B). The Attorney General must then publish a notice of termination in the **Federal Register.** If the Attorney General fails to make the determination required by section 244(b)(3)(A) of the Act at least 60 days prior to the end of the initial period of designation, then the designation is automatically extended for an additional period of 6 months. 8 U.S.C. 1254a(b)(3)(C).

Why Did the Attorney General Decide To Terminate TPS for Guinea-Bissau?

On March 11, 1999, the Attorney General published a notice in the **Federal Register** designating Guinea-Bissau for TPS for a period of 1 year, based upon conditions in Guinea-Bissau at that time. That TPS designation is scheduled to expire on March 10, 2000. 64 FR 12181 (Mar. 11, 1999).

Based upon a more recent review of conditions within Guinea-Bissau by the Departments of Justice and State, the Attorney General finds that conditions no longer support a TPS designation. The Department of State recommendation concerning Guinea-Bissau states that: ''Since the military junta ousted President Vieira in May [1999], conditions within Guinea Bissau have been relatively stable although the country is in sever economic distress. In late November, the interim civilian government successfully carried out the first round of multi-party elections.'' The recommendation also states: ''We estimate that some 85% of the 10,000 refugees who were in Senegal and Guinea have all now returned as have those who were internally displaced out of the capitol [sic]. Given the high volume of returns and the relative civic stability evidenced by the successful and peaceful elections, it appears that Guinea Bissauans can return in safety.''

Based on these findings, the Attorney General has decided to terminate the designation of Guinea-Bissau for TPS. However, since the Attorney General did not make this determination at least 60 days before the end of the current designation, the designation is automatically extended by statute for an additional 6 months. The termination will therefore take effect at the end of this 6-month extension.

If I Currently Have TPS, How Do I Register for the 6-Month Extension?

Persons previously granted TPS under the Guinea-Bissau program may apply for the 6-month extension by filing a Form I–821, Application for Temporary Protected Status, without the fee, during the re-registration period that begins March 20, 2000 and ends April 19, 2000. Additionally, you must file a Form I–765, Application for Employment Authorization. See the chart below to determine whether or not you must submit the $100 filing fee with the Form I–765.

If	Then
You are applying for employment authorization through September 10, 2000..	You must complete and file the Form I–765, Application for Employment Authorization, with the $100 fee.
You already have employment authorization or do not require employment authorization..	You must complete and file the Form I–765, Application for Employment Authorization, with no fee. '
You are applying for employment authorization and are requesting a fee waiver..	You must complete and file the Form I–765, a fee waiver request, and the requisite affidavit (and any other information) in accordance with 8 CFR 244.20.

To re-register for TPS, you must also include two identification photographs (1½''×1½'').

Is Late Registration Possible?

Yes. In addition to timely re-registration, late initial registration is possible for some persons from Guinea-Bissau under 8 CFR 244.2(f)(2). To apply for late initial registration an applicant must:

(1) Be a national of Guinea-Bissau (or an alien having no nationality who last habitually resided in Guinea-Bissau),

(2) Have been continuously physically present in the United States since March 11, 1999.

(3) Have continuously resided in the United States since March 11, 1999, and

(4) Be admissible as an immigrant except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that, during the initial registration period from March 11, 1999, through March 10, 2000, he or she:

(1) Was a nonimmigrant, or was granted voluntary departure or any relief from removal,

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal pending or subject to further review,

(3) Was a parolee or had a pending request for reparole, or

(4) Is the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must register no later than 60 days from the expiration or termination of the qualifying condition.

Where Should I File for an Extension of TPS?

You may register for the extension of TPS by submitting an application and accompanying materials to the Immigration and Naturalization Service's local office that has jurisdiction over your place of residence.

Where Can I File for and Extension of TPS?

The 30-day-re-registration period begins March 20, 2000, and will remain in effect until April, 19, 2000.

What Can I Do if I Feel That My Return to Guinea-Bissau Is Unsafe?

This notice terminates the designation of Guinea-Bissau under the TPS program. There may be avenues of immigration relief available to aliens who are nationals of Guinea-Bissau (and aliens having no nationality who last habitually resided in Guinea-Bissau) in the United States who believe that their particular circumstances make return to Guinea-Bissau unsafe. Such avenues may include, but are not limited to, asylum or withholding of removal.

How does the Termination of TPS Affect Former TPS Beneficiaries?

After the designation of Guinea-Bissau for TPS is terminated on September 10, 2000, those aliens who are nationals of Guinea-Bissau (and aliens having no nationality who last habitually resided in Guinea-Bissau) will revert back to the immigration status they had prior to TPS, unless they have been granted another immigration status. The stay of removal and eligibility for employment authorization due to the designation of Guinea-Bissau under the TPS program will no longer be available. However, the termination of the TPS designation for Guinea-Bissau will not affect any pending applications for other forms of immigration relief.

Those persons who received TPS under the Guinea-Bissauan designation may begin accruing unlawful presence as to September 10, 2000, if they have not been granted any other immigration benefit or have no application for such a benefit pending. Aliens who accrue certain periods of unlawful presence in the United States may be barred from admission to the United States under section 212(a)(9)(B)(i) of the Act. See 8 U.S.C. 1182(a)(9)(B)(i).

Notice of 6-Month Extension and Termination of Designation of Guinea-Bissau Under the TPS Program

By the authority vested in me as Attorney General under section 244(b)(3) of the Act, I have consulted with the appropriate agencies of Government concerning conflict and security conditions in Guinea-Bissau. 8 U.S.C. 1254a(b)(3). Based on these consultations, I have determined that Guinea-Bissau no longer meets the conditions for designation of TPS under section 244(b)(1) of the Act. see U.S.C. 1254a(b)(1).

Guinea-Bissau has been relatively stable since May 1999, and during that time, no general conflict has occurred. I also understand that, even though the country is experiencing economic difficulties, the return of persons to Guinea-Bissau would not result in a danger to their personal safety. In view of the recommendations of the Departments of Justice and State for termination, I terminate the designation of Guinea-Bissau under the TPS program. However, since I did not make this determination at least 60 days prior to the expiration of the designation, the designation is automatically extended for 6 months, until September 10, 2000. The TPS designation for Guinea-Bissau will terminate on September 10, 2000.

Accordingly, I order as follows:

(1) The designation of Guinea-Bissau for TPS under section 244(b) of the Act is terminated effective September 10, 2000.

(2) I estimate that there are approximately 400 nationals of Guinea-Bissau (and aliens having no nationality who last habitually in Guinea-Bissau) who have been previously granted TPS.

(3) Information concerning the termination of the TPS program for nationals of Guinea-Bissau (and aliens having no nationality who last habitually resided in Guinea-Bissau) will be available at local Service offices, or at the Service website, located at http://www.ins.usdoj.gov, upon publication of this notice.

Dated: March 14, 2000.

Janet Reno,

Attorney General.

[FR Doc. 00–6750 Filed 3–17–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Correction to Solicitation for a Cooperative Agreement—Managing Long Term Aging Offenders and Offenders With Chronic and Terminal Illnesses

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Correction to solicitation for a cooperative agreement.

SUMMARY: The above solicitation was published on Page 8446 of the **Federal Register** on February 18, 2000 (Volume 65, Number 34). There is a correction under the section entitled ''Objectives.''

The third paragraph is corrected to read: ''NIC considers it important for the applicant to discuss how the following questions or other criteria identified by the applicant would be employed for documenting effective prison health services and interventions:''

DATES: the deadline has been revised to 4 p.m. Eastern Time, Friday, April 28, 2000. All other requirements and information remain the same.

Authority: Public Law 93–415.

Deadline for Receipt of Applications: The revised deadline for applications is 4:00 p.m. Eastern Time, Friday, April 28, 2000. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534. Hand delivered applications should be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Number of Awards: One (1).

NIC Application Number: OOP11.

Dated: March 14, 2000.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 00–6729 Filed 3–17–00; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR1218–0233(2000)]

Rigging Equipment—Proof Testing of Welded End Wire Rope Attachment; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the extension of the information collection requirements contained in the standard on Rigging Equipment—Proof-testing of Welded End Wire Rope Attachment (29 CFR 251(c)(15)(ii)).

The Agency is particularly interested in comments on the following:

- Whether the information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful.
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before May 19, 2000.

ADDRESSES: Submit comments to the Docket Office, Docket No. ICR1218–0233 (2000), Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, N.W., Washington, DC 20210, telephone: (202) 693–2350. You may transmit written comments 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen Martinez, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements on Rigging Equipment—Proof-testing of

Welded End Wire Rope attachments is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Kathleen Martinez at (202) 693–2444 or Todd Owen at (202) 693–2444. For electronic copies of the ICR on Rigging Equipment—Proof-testing of Welded End Wire Rope Attachment (29 CFR 251(c)(15)(ii), contact OSHA on the Internet at http://www.osha-slc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments clearly understood, and the impact of information collection requirements on respondents can be properly assessed. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

II. Proposed Actions

Paragraph (c)(15)(ii) of 29 CFR 1926.251 requires employers to retain a certificate of proof-test from the manufacturer. The retention of manufacturer certifies is necessary to assure proof-testing of the welded end wire rope attachment and also to assure testing of all welded end attachments at twice their rated capacity.

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the Rigging Equipment—Proof testing of Welded End Wire Rope Attachment (29 CFR 251(c)(15)(ii)).

Type of Review: Extension of currently approved information collection requirements.

Agency: Occupational Safety and Health Administration.

Title: Rigging Equipment—Proof testing of Welded End Wire Rope Attachment (29 CFR 251(c)(15)(ii)).

OMB Number: 1218–0233.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 18,940.

Frequency: On occasion.

Average Time per Response: 5 minutes.

Estimated Total Burden House: 1,515 hours.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 11.

Signed at Washington, D.C., this 14 day of March 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 00–6724 Filed 3–17–00; 8:45 am]

BILLING CODE 4510–26–M

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Mississippi River Commission.

TIME AND DATE: 8:30 a.m., April 10, 2000.

PLACE: On board MISSISSIPPI V at City Front, Cape Girardeau, MO.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: State of the Valley Report by President of the Commission on general conditions of the Mississippi River and Tributaries project and regional and national issues affecting the Corps of Engineers programs and projects; (2) District Commander's report on the Mississippi River and Tributaries project in the respective District area; and (3) presentations by public participants on matters pertaining to the Flood Control, Mississippi River and Tributaries project affecting the water resources infrastructure needs in the valley and, in addition, views and opinions on other water-related issues such as marine transportation, flooding impacts, environmental benefits, water and sewage infrastructure, and emergency response to natural disasters.

Time and Date: 8:30 a.m., April 10, 2000.

Place: On board MISSISSIPPI V at City Front, Memphis, TN.

Status: Open to the public.

Matters To Be Considered: (1) State of the Valley Report by President of the Commission on general conditions of the Mississippi River and Tributaries project and regional and national issues affecting the Corps of Engineers programs and projects; (2) District Commander's report on the Mississippi River and Tributaries project in the respective District area; and (3) presentations by public participants on matters pertaining to the Flood Control, Mississippi River and Tributaries project affecting the water resources infrastructure needs in the valley and, in addition, views and opinions on other water-related issues such as marine transportation, flooding impacts, environmental benefits, water and sewage infrastructure, and emergency response to natural disasters.

*Time and Date:*8:30 a.m., April 12, 2000.

Place: On board MISSISSIPPI V at City Front, Greenville, MS.

Status: Open to the public.

Matters To Be Considered: (1) State of the Valley Report by President of the Commission on general conditions of the Mississippi River and Tributaries project and regional and national issues affecting the Corps of Engineers programs and projects; (2) District Commander's report on the Mississippi River and Tributaries project in the respective District area; and (3) presentations by public participants on matters pertaining to the Flood Control, Mississippi River and Tributaries project affecting the water resources infrastructure needs in the valley and, in addition, views and opinions on other water-related issues such as marine transportation, flooding impacts, environmental benefits, water and sewage infrastructure, and emergency response to natural disasters.

Time and Date: 8:30 a.m., April 14, 2000.

Place: On board MISSISSIPPI V at Corps of Engineers District Office, Foot, of Prytania Street, New Orleans, LA.

Status: Open to the public.

Matters To Be Considered: (1) State of the Valley Report by President of the Commission on general conditions of the Mississippi River and Tributaries project and regional and national issues affecting the Corps of Engineers programs and projects; (2) District Commander's report on the Mississippi River and Tributaries project in the respective District area; and (3) presentations by public participants on matters pertaining to the Flood Control, Mississippi River and Tributaries project affecting the water resources infrastructure needs in the valley and, in addition, views and opinions on other water-related issues such as marine transportation, flooding impacts, environmental benefits, water and sewage infrastructure, and emergency response to natural disasters.

Contact Person for More Information: Mr. Stephen Gambrell; telephone 601–634–5766.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–6997 Filed 3–16–00; 2:49 pm]

BILLING CODE 3710–6–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information Pertaining to the Requirement to be Submitted

1. *The title of the information collection:* DOE/NRC Form 742, ''Material Balance Report;'' NUREG/BR–0007, ''Instructions for Completing Material Balance Report and Physical Inventory Listing;'' and DOE/NRC Form 742C, ''Physical Inventory Listing.''

2. *Current OMB approval number:* DOE/NRC Form 742 and NUREG/BR–0007: 3150–0004; DOE/NRC Form 742C: 3150–0058.

3. *How often the collection is required:* DOE/NRC Forms 742 and 742C are submitted semiannually following a physical inventory of nuclear materials.

4. *Who is required or asked to report:* Persons licensed to possess specified quantities of special nuclear or source material.

5. *The number of annual respondents:* DOE/NRC Form 742: 200 licensees; DOE/NRC Form 742C: 180 licensees.

6. *The number of hours needed annually to complete the requirement or request:* DOE/NRC Form 742: 300 hours; DOE/NRC Form 742C: 2,160 hours.

7. *Abstract:* Each licensee authorized to possess special nuclear material totalling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, and any licensee authorized to possess 1,000 kilograms of source material is required to submit DOE/NRC Form 742. Reactor licensees required to submit DOE/NRC Form 742, and facilities subject to 10 CFR Part 75, are required to submit DOE/NRC Form 742C. The information is used by NRC to fulfill its responsibilities as a participant in US/IAEA Safeguards Agreement and bilateral agreements with Australia and Canada, and to satisfy its domestic safeguards responsibilities.

Submit, by May 19, 2000, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft 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 about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E 6, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

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

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–6806 Filed 3–17–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Supplementary Changes to Revision 8 of NUREG–1021, ''Operator Licensing Examination Standards for Power Reactors;'' Notice of Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued for public comment and voluntary use, on a trial basis, a draft supplementary change to Revision 8 of NUREG–1021, ''Operator Licensing Examination Standards for Power Reactors.'' The Commission uses NUREG–1021 to provide policy and guidance for the development, administration, and grading of written examinations and operating tests used to determine the qualifications of individuals who apply for operator and senior operator licenses at nuclear power plants pursuant to the Commission's regulations. NUREG–1021 provides similar guidance for verifying the continued qualifications of licensed operators when the staff determines that NRC requalification examinations are necessary.

The draft supplement includes two notable changes that the NRC staff believes will maintain safety and public confidence while reducing unnecessary burden on those facility licensees that elect to prepare their own examinations for NRC review and approval and improving efficiency and effectiveness. The first change clarifies the sampling guidelines used in preparing the written examination to ensure a truly random process for selecting the question topics and, based upon this process, eliminates the limits on the number of questions that can be repeated from prior examinations and quizzes. The second change clarifies the guidance regarding the documentation of examination quality issues in the NRC's examination reports in a manner that will establish a threshold for discussion of examination preparation deficiencies when an examination meets the NRC's target range for acceptability. Several other changes are being made to correct typographical and administrative errors in Revision 8 and address questions raised since Revision 8 was issued. The changes are identified with highlights and strikeouts for ease of review.

The draft supplement is available for review via the NRC Public Electronic Reading Room (http://www.nrc.gov/NRC/ADAMS/index.html), on the NRC's Operator Licensing web site (http://www.nrc.gov/NRC/REACTOR/OL/OLguidance.html), and at the NRC Public Document Room, 2120 L Street NW, Washington, DC. If you do not have electronic access to NRC documents, you may request a single copy of the draft supplement by writing to the Office of the Chief Information Officer, Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 (Facsimile: 301–512–2289). Telephone requests cannot be accommodated. NUREG documents are not copyrighted, and Commission approval is not required to reproduce them.

The draft supplement is being immediately implemented on a voluntary, trial basis. The NRC will evaluate any comments and recommendations that are received and any lessons that are learned during the trial period, incorporate any additional changes, as appropriate, and, thereafter,

publish final Supplement 1 for general use.

DATES: The comment period ends June 19, 2000. Comments received after this date will be considered if it is practical to do so, but the staff is able to assure consideration only for comments received on or before this date.

ADDRESSES: Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. You may also provide comments via the NRC's Operator Licensing web site (http://www.nrc.gov/NRC/REACTOR/OL/OLguidance.html). Copies of comments received may be examined on the NRC Public Electronic Reading Room (http://www.nrc.gov/NRC/ADAMS/index.html) and at the NRC Public Document Room, 2120 L Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. S. Guenther by telephone at (301) 415–1056, or by e-mail sxg@nrc.gov.

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

For the Nuclear Regulatory Commission.

Harold O. Christensen

Acting Chief, Operator Licensing, Human Performance and Plant Support Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–6807 Filed 3–17–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board Meeting; May 1, 2000—Pahrump, Nevada; Discussion of the Current Design for a Potential Repository at Yucca Mountain, Nevada; Update on Geochemistry and other Scientific Studies Undertaken at the Yucca Mountain Site.

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board (Board) will meet in Pahrump, Nevada, on Monday, May 1, 2000, to review the status of the U.S. Department of Energy's (DOE) efforts to develop a design for a potential repository for disposing of spent nuclear fuel and high-level radioactive waste at Yucca Mountain, Nevada. The DOE also will present updates on geochemistry and on other scientific studies, including chlorine-36 investigations. In addition, the Board will hear from representatives of Nye County, Nevada, on recent scientific activities. The DOE is evaluating the Yucca Mountain site, about 100 miles northwest of Las Vegas, to determine its suitability as the location of a repository for the permanent disposal of spent nuclear fuel and high-level radioactive waste.

The meeting will be held at the Bob Ruud Community Center, 150 North Highway 160, Pahrump, Nevada 89048. The pay-phone number for the community center is (775) 727–9991. The meeting will begin at 8:30 am.

An overview of recent developments in the repository program will begin the meeting. The general overview will be followed by more-extensive presentations on the subsurface and engineered barrier system designs currently being considered by the DOE for a potential Yucca Mountain repository. Later in the day, the DOE will update the Board on the status of geochemical studies being conducted in connection with the characterization or the Yucca Mountain site. Representatives of Nye County, Nevada, also have been invited to comment and update the Board on their recent scientific activities, including the drilling program being conducted at the site under the auspices of the county.

The meeting will be open to the public. Time for public comment will be set aside before the lunch break and at the end of the session. Those wanting to speak are encouraged to sign the ''Public Comment Register'' at the check-in table. Depending on the number of requests, a time limit may be set on oral statements; written comments may be submitted for inclusion in the record of the meeting. Interested parties also may submit written questions to the Board. As time permits, written questions will be answered during the sessions. Interested members of the public also are invited to join the Board for coffee from 7:30 to 8:15 am before the meeting begins.

A detailed agenda will be available approximately one week before the meeting. Copies of the agenda can be requested by telephone or obtained from the Board's Web site at www.nwtrb.gov. Transcripts of the meeting will be available on the Board's Web site, via e-mail, on computer disk, and on a library-loan basis in paper format from Davonya Barnes of the Board staff, beginning on May 29, 2000.

A block of rooms has been reserved at the Saddle West Hotel/Casino, 1220 South Highway 160, Pahrump, Nevada 89048. The telephone numbers for Saddle West are (800) 433–3987 and (775) 727–1111. When making a reservation, please state that you are attending the Nuclear Waste Technical Review Board meeting.

For further information on the meeting, contact Karyn Severson, External Affairs, NWTRB, at 2300 Clarendon Boulevard, Suite 1300, Arlington, Virginia 22201–3367; (tel) 703–235–4473; (fax) 703–235–4495; (e-mail) info @nwtrb.gov.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987. The Board's purpose is to evaluate the technical and scientific validity of activities undertaken by the Secretary of Energy related to managing the disposal of the nation's spent nuclear fuel and high-level radioactive waste. In the same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, to determine its suitability as the location of a potential repository for the permanent disposal of spent nuclear fuel and high-level radioactive waste.

March 14, 2000.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 00–6817 Filed 3–17–00; 8:45 am]

BILLING CODE 6820–AM–M

POSTAL SERVICE

Sunshine Act Meeting

TIMES AND DATES: 8:30 a.m., Monday, April 3, 2000; 8:30 a.m., Tuesday, April 4, 2000; 10:00 a.m., Tuesday, April 4, 2000.

PLACE: Washington, D.C., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room.

STATUS: April 3 (Closed); April 4—8:30 a.m. (Open); 10:00 a.m. (Closed).

MATTERS TO BE CONSIDERED:

Monday, April 3—8:30 a.m. (Closed)

1. Strategic Planning.
2. ePayments.
3. Financial Performance.
4. Revision of Designation of Functions for the Office of Inspector General.

Tuesday, April 4—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, March 6–7, 2000.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Quarterly Report on Service Performance.
4. Quarterly Report on Financial Results.
5. REDRESS (Resolve Employment Disputes Reach Equitable Solutions Swiftly) Program Update.
6. Capital Investments.
   a. Los Angeles, California, Bulk Mail Center Expansion.
   b. Point of Service (POS) One—Stage 2B Deployment.
7. Tentative Agenda for the May 1–2, 2000,

meeting in Washington, D.C.

Tuesday, April 4—10:00 a.m. (Closed)

1. Continuation of Monday's Closed Agenda.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 00–6978 Filed 3–16–00; 2:08 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form N–4, SEC File No. 270–282, OMB Control No. 3235–0318

Notice is hereby given that, pursuant to the Paperwork Reduction of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Description of Form N–4, Its Purpose and the Industry Entities Affected

There are two separate statutes which require investment companies to file registration statements with the Commission if they are offering their securities to the public. Each must register as an investment company under the Investment Company Act of 1940 (''1940 Act''), and must register the securities it will offer under the Securities Act of 1933 (''1933 Act''). Form N–4 is part of the integrated registration and reporting system by which registrants satisfy the registration requirements of both the 1940 Act and the 1933 Act by filing a single registration statement. Form N–4 is the required form that insurance company separate accounts organized as unit investment trust (''IC UIT separate accounts'') must if they offer variable annuity contracts.

The Form N–4's purpose is to provide investors with material information concerning securities offered for public sale. The first part includes a simplified prospectus that satisfies the prospectus delivery requirements of the 1933 Act. The second part is a Statement of Additional Information available free of charge to prospective investors upon request. A third part of the registration statement includes all of the other mandatory information that is not specifically required to be in the prospectus or the Statement of Additional Information.

As a regulatory matter, the Form N–4 satisfies the disclosure requirements of the 1933 Act. Form N–4 also satisfies the 1940 requirement that investment companies file a registration statement with the Commission pursuant to Section 8(b).

It is estimated that, currently, there are 615 IC UIT separate accounts required to file initial and post effective registration statements on an annual and as required basis using Form N–4. The burden from Form N–4 requires approximately 219.8 hours per post effective amendment and 298 hours for each initial registration. The total burden hours for Form N–4 is estimated at 284,379.20 in the aggregate. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms.

The collection of information based on registration using the Form N–4 is mandatory. The information provided by Form N–4 is not keep confidential. The Commission 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.

General comments regarding the above information should be directed to the following persons; (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 13, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–6751 Filed 3–17–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549.

Extension:

Form N–54A, SEC File No. 270–182, OMB Control No. 3235–0237

Form N–54C, SEC File No. 270–184, OMB Control No. 3235–0236

Form N–6F, SEC File No. 270–185, OMB Control No. 3235–0238

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*] (the ''Act''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collections of information discussed below.

Form N–54A Under the Investment Company Act of 1940; Notification of Election to be Subject to Sections 55 Through 65 of the Investment Company Act of 1940 Filed Pursuant to Section 54(a) of the Act

Form N–54A [17 CFR § 274.53] is the notification of election to the Commission to be regulated as a business development company. A company making such an election only has to file a Form N–54A once.

It is estimated that approximately 3 respondents per year file with the Commission a Form N–54A. Form N–54A requires approximately 0.5 burden hours per response resulting from creating and filing the information required by the form. The total burden hours for Form N–54A would be 1.5 hours per year in the aggregate. The estimated annual burden of 1.5 hours represents a decrease of 0.5 hours over the prior estimate of 2 hours. The decrease in burden hours is attributable to a decrease in the number of respondents from 4 to 3.

Form N–54C Under the Investment Company Act of 1940, Notification of Withdrawal of Election to be Subject to Sections 55 through 65 of the Investment Company Act of 1940 Filed Pursuant to Section 54(c) of the Investment Company Act of 1940

Form N–54C [17 CFR § 274.54] is a notification to the Commission that a company withdraws its election to be regulated as a business development company. Such a company only has to file a Form N–54C once.

It is estimated that approximately 12 respondents per year file with the Commission a Form N–54C. Form N–54C requires approximately 1 burden hour per response resulting from creating and filing the information required by the form. The total burden hours for Form N–54C would be 12 hours per year in the aggregate. The estimated annual burden of 12 hours represents an increase of 11 hours over the prior estimate of 1 hour. The increase in burden hours is attributable to an increase in the number of respondents from 1 to 12.

Form N–6F Under the Investment Company Act of 1940, Notice of Intent to Elect to be Subject to Sections 55 Through 65 of the Investment Company Act of 1940

Certain companies may have to make a filing with the Commission before they are ready to elect on Form N–54A to be regulated as a business development company.[1] A company that is excluded from the definition of ''investment company'' by Section 3(c)(1) of the Investment Company Act of 1940 because it has fewer than one hundred shareholders and is not making a public offering of its securities may lose such an exclusion solely because it proposes to make a public offering of securities as a business development company. Such a company, under certain conditions, would not lose its exclusion if it notifies the Commission on Form N–6F [17 CFR 274.15] of its intent to make an election to be regulated as a business development company. The company only has to file a Form N–6F once.

It is estimated that approximately 3 respondents per year file with the Commission a Form N—6F. Form N–6F requires approximately 0.5 burden hours per response resulting from creating and filing the information required by the form. The total burden hours for Form N–6F would be 1.5 hours per year in the aggregate. The estimated annual burden 1.5 hours represents a decrease of 0.5 hours over the prior estimate of 2 hours. The decrease in burden hours is attributable to a decrease in the number of respondents from 4 to 3.

The estimates of average burden hours for Form N–54A, N–54C and N–6F are made solely for the purposes of the Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

The collections of information under Forms N–54A, N–54C and N–6F are mandatory. The information provided by such Forms is not kept confidential. The Commission 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.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–6829 Filed 3–17–00; 8:45 am]

BILLING CODE 8010–01–M

[1] A company might not be prepared to elect to be subject to Sections 55 through 65 of the Investment Company Act of 1940 because its capital structure or management compensation plan is not yet in compliance with the requirements of those sections.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27151]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 13, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment (s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 4, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 4, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc. (70–9623)

Notice of Proposal To Issue Common Stock and Other Securities Under Long-Term Incentive Plan; Order Authorizing Proxy Solicitation

American Electric Power Company, Inc. (''AED''), a registered holding company, 1 Riverside Plaza, Columbus, Ohio 43215, has filed an application-declaration with this Commission under sections 6(a), 7, 9(a), 10, 12(c) and 12(e) of the Act and rules 42, 54, 62 and 65 under the Act.

On January 26, 2000, AEP's Board of Directors adopted a new incentive compensation plan for employees and non-employee Directors (''2000 Plan''). AEP requests authority to issue and distribute securities under the 2000 Plan, including up to 9.5 million shares of common stock with par value of $6.50 per share.

The common shares will be made available from authorized but unissued shares and/or shares reacquired by AEP. The other securities include stop options, stock appreciation rights, and other securities whose value is related to the value of AEP common shares.

The 2000 Plan will be administered by the Human Resources Committee (''Committee'') of AEP's board of directors (''Board''). The 2000 Plan has no fixed expiration date, except that, for purposes of awarding incentive stock options, the 2000 Plan will expire ten years from the date it is adopted by the Board.

The purpose of the 2000 Plan is to promote the interest of AEP and its shareholders by strengthening AEP's ability to attract, motivate and retain employees and directors, to align further the interests of AEP's management with the shareholders, and to provide an additional incentive for employees and directors to promote the financial success and growth of AEP.

The affirmative vote of holders of a majority of shares of common stock outstanding on March 7, 2000, is required to authorize approval of the 2000 Plan. AEP intends to submit the proposal to its shareholders for their approval at the annual meeting of shareholders to be held on April 26,

2000. AEP proposes to solicit proxies for this purpose from the holders of its outstanding common stock to be voted on at the meeting.

AEP requests that an order authorizing the solicitation of proxies be issued as soon as practicable under rule 62(d). It appears to the Commission that AEP's declaration regarding the proposed solicitation of proxies should be permitted to become effective immediately under rule 62.

It is ordered that the declaration regarding the proposed solicitation of proxies be permitted to become effective immediately under rule 62 and subject to the terms and conditions prescribed in rule 24 under the Act.

For the Commission, by the Office of Public Utility Regulation, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–6753 Filed 3–17–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27152]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 13, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transactions(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 4, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 4, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Fuel Gas, et al. 70–9153

National Fuel Gas Company (''NFG''), a registered holding company, NFG's wholly owned gas utility subsidiary, National Fuel Gas Distribution Corporation, and NFG's nonutility subsidiaries, National Fuel Gas Supply Corporation, Highland Land & Minerals, Inc., Leidy Hub, Inc., Horizon Energy Development, Inc., Data-Track Account Services, Inc. and Seneca Independence Pipeline Company, each of 10 Lafayette Square, Buffalo, New York 14203, Seneca Resources Corporation, Niagara Independence Marketing Company and Upstate Energy Inc., each of 1201 Louisiana Street, Suite 400, Houston, Texas 77002, and National Fuel Resources, Inc. (collectively, ''Current Money Pool Participants'') and NFR Power, Inc. (''Power'') [1] of 165 Lawrence Bell Drive, Suite 120, Williamsville, New York 14221 (collectively, ''Applicants'', the Applicants, other than NFG, are referred to collectively as ''Subsidiaries''), have filed with this Commission a post-effective amendment under sections 6(a), 7, 9(a), 10, 12(b), 12(f) and 32 of the Act, and rules 45, 53 and 54 under the Act to their application-declaration filed under sections 6(a), 7, 9(a), 10, 12(b), 12(f), 32 and 33 of the Act, and rule 53 under the Act.

By order dated March 20, 1998 (HCAR No. 26847) (''March Order''), the Current Money Pool Participants were authorized to engage in various financing and related transactions through December 31, 2002 (''Authorization Period''). The March Order also authorized, among other things, the Current Money Pool Participants to continue to engage in a money pool arrangement (''Money Pool'') through the Authorization Period.

Applicants now request authorization for Power to become a limited participant in the Money Pool through the Authorization Period. Specifically, Power's participation would be limited to depositing surplus funds that it may have from time to time into the Money Pool and withdrawing its own funds as needed. In addition, Power's participation would be subject to the terms and conditions for Money Pool participation contained in the March Order.

The March Order also authorized NFG to guarantee securities of, and provide other forms of credit support with respect to obligations of, its Subsidiaries in an aggregate amount not to exceed $2 billion at any time during the Authorization Period (''Guarantee Authority''). NFG proposes to guarantee securities of Power, and to provide other forms of credit support with respect to obligations of Power as may be necessary or appropriate to enable Power to carry on in the ordinary course of business. Such guarantees and credit support to Power would be subject to the terms and conditions of the Guarantee Authority contained in the March Order.

GPU, Inc., et al. (70–9599)

GPU, Inc. (''GPU''), a registered public utility holding company, and its wholly owned subsidiary, GPX Acquisition Corp. (''Acquisition Corp.'', and together with GPU, ''Applicants''), both located at 300 Madison Avenue, Morristown, New Jersey 07962, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 11(b)(1), 12, and 13(b) of the Act and rules 51, 54, 90 and 91 under the Act.

The Applicants propose to acquire for cash all of the issued and outstanding common shares of MYR Group, Inc. (''MYR''), a Delaware corporation (the ''Merger''), under the terms of a Plan and Agreement of Merger, dated as of December 21, 1999 (''Merger Agreement''). MYR is a publicly held utility infrastructure services and electrical contracting company headquartered in Rolling Meadows, Illinois. MYR's common stock is registered under section 12(b) of the Securities Exchange Act of 1934, as amended (''Exchange Act''), and is listed for trading on the New York Stock Exchange.

Under the terms of the Merger Agreement, Acquisition Corp. on December 29, 1999 commenced a cash tender offer in accordance with section 14 of the Exchange Act (''Tender Offer'') to acquire MYR common stock subject to the terms and conditions of the Tender Offer.[1] Following completion of the Tender Offer, Acquisition Corp. will be merged with and into MYR, with MYR as the surviving entity. MYR will then become a direct wholly owned subsidiary of GPU. On February 24, 2000, the Applicants extended the

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[1] Power is a nonutility subsidiary of NFG, and, as a result of a determination of the Federal Energy Regulatory Commission dated March 29, 1996 (Docket No. EG96–47–000), is an exempt wholesale generator as defined in section 32(a)(1) of the Act.

[1] The Tender Offer is subject to the terms and conditions of rule 51 under the Act, which states that consummation of the Tender Offer is expressly conditioned upon Commission approval of the Merger under the Act.

Tender Offer expiration date from February 29, 2000 to March 24, 2000.

Under the Merger Agreement, GPU has agreed to pay MYR common-stock shareholders $30.10 per share in cash for their shares. MYR currently has 6,429,135 shares of common stock outstanding (including 335,927 shares issued under MYR's restricted stock plans). An additional 882,086 MYR shares are issuable under outstanding MYR convertible debt,[2] and a total of 756,650 shares of MYR common stock are issuable under outstanding stock options. Holders of these stock options may elect to convert these options into options to purchase shares of GPU common stock, as described below, or may elect to receive cash in an amount per share equal to the difference between $30.10 and the per share exercise price. The aggregate purchase price for all shares of MYR common stock outstanding, after taking into account the offsetting payments attributable to the future exercise of stock options, is approximately $215 million.

Subject to Commission authorization, GPU has agreed to allow the holders of MYR stock options and the holders of outstanding shares of MYR restricted stock to elect, in lieu of the cash payments described above, to: (1) Receive options to purchase shares of GPU common stock in exchange for MYR stock options; or (2) receive shares of GPU common stock in exchange for MYR restricted stock. GPU therefore seeks authority to issue shares of GPU's common stock for this purpose. The amount of GPU common stock issued or issuable under this arrangement will be determined according to a formula intended to provide holders of MYR stock options and MYR restricted stock with equivalent value in GPU common stock. The ''Exchange Ratio'' will be determined by dividing $30.10 by the average closing price of GPU common stock for the five trading days immediately preceding the date of consummation of the Merger (the ''Operative Price''). The number of shares of GPU common stock issuable in respect of any assumed MYR stock option shall be equal to the product of the number of shares of MYR common stock covered by such option multiplied by the Exchange Ratio, and the per share exercise price for the GPU common stock so issuable shall be equal to the quotient determined by dividing the exercise price per share specified for such MYR stock option by the Exchange Ratio. The number of shares of GPU common stock issuable in respect of any assumed outstanding shares of MYR restricted stock shall be equal to the product of the number of shares of this restricted stock multiplied by the number determined by dividing $30.10 by the Operative Price.

GPU will finance the purchase price of MYR with short-term bank borrowings under its existing lines of credit. GPU will account for the acquisition under the ''purchase method'' of accounting. The expected acquisition premium, the amount of which has not been quantified, will be amortized over a period yet to be determined.

MYR's business consists of providing utility transmission and distribution, infrastructure and related commercial and industrial electrical (and some mechanical) contracting services to utility, industrial, mining, institutional and governmental entities on a nationwide basis. MYR is the fifth largest specialty contractor in the United States and has eight operating subsidiaries across the country.[3] For the nine-month period ended September 30, 1999, MYR had total consolidated assets of $120,769,000, consolidated gross revenues (referred to as ''contract revenues'') of $348,116,000; and consolidated net income of $9,281,000.[4]

MYR's transmission and distribution services (''T&D Services'') represented approximately 54% of MYR's 1999 gross revenues and is MYR's predominant business activity. T&D Services include the construction and maintenance of transmission and distribution power lines and substations for utility, industrial, institutional and governmental facilities. MYR also performs storm and other emergency restoration services for utility networks.

MYR's infrastructure services include telecommunications installation services and traffic signalization work, each of which represented less than 10% of MYR's 1999 gross revenues. Telecommunications services are provided to primary telecommunications carriers, regional service providers and commercial clients and include the construction of telecommunications towers, installation of overhead and underground copper and fiber optic cables, and installation and maintenance of LAN/WAN, telephone, video, data, and other similar communication systems.

Traffic signalization services generally consist of electrical construction and maintenance of traffic and light rail signalization equipment, such as fiber optic interconnections for traffic management systems, ramp metering, and highway lighting installation. Customers for these services include government transportation agencies, regional transit districts and municipalities.

MYR's commercial and industrial services (''C&I Services'') primarily consist of electrical construction activities such as the installation of complete electrical system wiring for utilities and commercial and industrial facilities. MYR also performs some related heavy mechanical construction services involving the installation of complex piping systems and related mechanical equipment and instrumentation for major new construction projects. In 1999, C&I Services accounted for approximately 33% of MYR's gross revenues.

MYR has entered into a letter of intent (''LOI'') to acquire from the two sole stockholders all of the issued and outstanding stock of a relatively small, privately held transmission and distribution electrical contracting company located in Colorado (''T&D Co.''). T&D Co. is a regional utility infrastructure contractor engaged solely in the construction and installation of electrical substation, transmission and distribution facilities for both investor-owned and municipal utility systems as well as governmental entities.[5] In addition, T&D Co. constructs and installs fiber optic lines. For 1999, T&D Co.'s gross revenues were approximately $18 million. MYR currently expects to complete its acquisition of T&D Co. prior to GPU's acquisition of MYR. MYR intends to fund the entire purchase price (approximately $5 million) from internal sources.

In the event that the T&D Co. transaction is not completed prior to GPU's acquisition of MYR common stock under the Tender Offer, Applicants request further authorization for MYR to acquire the T&D Co.

[2] MYR redeemed all of this outstanding convertible debt on March 5, 2000 in accordance with the optional redemption provisions of these securities. The total redemption price was $2,272,538.

[3] MYR operates through the following subsidiary companies: L.E. Myers Co. in the Southeast, Midwest and Northeast; Harlan Electric Company in Michigan, the Northeast and the Ohio Valley; Sturgeon Electric Company, Inc. in the West; Hawkeye Construction, Inc. in the Pacific Northwest; D.W. Close Company, Inc. in Seattle; Power Piping Company in Pennsylvania, Virginia and the Ohio River Valley; ComTel Technology, Inc. in Colorado and Arizona; and MYRcom in the Southeast and Southwest.

[4] Financial data for the nine months ended September 30, 1999 has been derived from unaudited financial statements.

[5] T&D Co.'s largest customers during 1998 (accounting for about 72% of its gross revenues) were Bonneville Power Administration; IREA; M&A Electric Association; Tri-State G&T; Luke Air Force Base; Lea County Electric; Texas-New Mexico Power; and Western Area Power Administration.

common stock for an aggregate purchase price not to exceed $5 million.

After the Merger, MYR will provide T&D Services, C&I Services, and other related infrastructure services to both non-affiliates and affiliates of GPU, including GPU's wholly owned utility subsidiary companies.[6] All services provided by MYR to affiliates within the GPU system will be provided at cost pursuant to Rules 90 and 91 under the Act except to the extent the Commission may grant an exemption from such rules or as otherwise provided in the Act. All services provided by MYR to non-affiliates would be offered at market-based rates

New Century Energies, Inc., et al. (70–9539)

New Century Energies, Inc. (''NCE''), a registered public utility holding company located at 1225 Seventeenth Street, Denver, Colorado, 80202, and Northern States Power Company (''NSP''), public utility holding company exempt from registration by order under section 3(a)(2) of the Act,[1] located at 414 Nicollet Mall, Minneapolis, Minnesota, 55401, (collectively ''Applicants'') have filed an application-declaration under sections 6(a), 7, 9(a), 9(c)(3), 10, 12(d), 13(b) of the Act, and rules 44, 54, 87, 90 and 91 under the Act.

In summary, NCE and NSP propose to combine their businesses under a new holding company, Xcel Energy Inc. Under an Agreement and Plan of Merger, dated as of March 24, 1999 (the ''Merger Agreement''), NCE will merge with and into NSP (''Merger''). NSP, as the surviving corporation, will change its name to Xcel Energy Inc. (''Xcel''). Also as part of the Merger, NSP intends to transfer its existing utility operations currently at the parent company level to a newly formed, wholly owned utility subsidiary of Xcel (''New NSP'').[2] Xcel will have six public-utility subsidiaries after the Merger: Public Service Company of Colorado (''PSC''), Cheyenne Light, Fuel and Power Company (''Cheyenne'') and Southwestern Public Service Company (''SPS'') (collectively, the ''NCE Operating Companies''), New NSP, Black Mountain Gas Company (''BMG'')[3] and NSP's current utility subsidiary, NSP–Wisconsin (''NSP–W'' and, together with BMG and New NSP, ''NSP Operating Companies'') (collectively, ''Xcel Operating Companies''). Xcel will register under section 5 of the Act following the merger. In addition, NSP and NCE propose to engage in various intrasystem transactions. NCE further requests an extension of time provided in an earlier Commission order to complete a planned interconnection between SPS and PSC.

I. Background

A. NCE

In accordance with an order of the Commission dated August 1, 1997 (''1997 Order''),[4] NCE's utility operations consist for three integrated utility systems. The two electric utility integrated systems include (1) PSC's and SPS's electric utility operations and (2) the Cheyenne system. The integrated gas utility system is comprised of PSC's and Cheyenne's gas utility operations.[5]

PSC serves approximately 1.;2 million electric customers and approximately one million gas customers in Colorado. PCS's transmission facilities are located in Colorado. PSC is a member of the Western Systems Coordinating Council (''WSCC''), an interstate network of transmission facilities owned by public entities and investor-owned utilities. WSCC is the regional reliability coordinating organization for member electric power systems in the entire western electric grid of the United States (''Western Interconnect''). Nearby PSC are the two high voltage direct current (''HVDC'') between the WSCC and the eastern electrical grid of the United States (''Eastern Interconnect''). PSC is subject to rate regulation by the Public Utilities Commission of the State of Colorado. PSC is also subject to wholesale rate regulation by the Federal Energy Regulatory Commission (the ''FERC'') under the Federal Power Act, as amended (the ''FPA'') and the Natural Gas Act of 1935, as amended (the ''NGA'')

SPS, a New Mexico corporation, serves approximately 1.2 million electric customers in portions of Texas, New Mexico, Oklahoma and Kansas. SPS' transmission system is located in parts of Texas, New Mexico, Oklahoma and Kansas. SPS is a member of the Southwest Power Pool (''SPP'') and has the ability to purchase or sell energy from power producers in the Eastern Interconnect through its interconnection with Public Service Company of Oklahoma (''PSO''), and electric public utility subsidiary of Central and South West Corporation, a registered holding company, and West Plains Energy-Kansas, a division of UtiliCorp United Inc., a holding company exempt from registration under the Act. SPS also has the ability to purchase and sell energy from power producers in the Western Interconnect through its interconnection with the WSCC. SPS is regulated by the Public Utility Commission of Texas, the New Mexico Public Regulation Commission, the Kansas Corporation Commission and the Oklahoma Corporation Commission. SPS is also subject to regulation by the FERC under the FPA.

Cheyenne, also a member of WSCC, serves approximately 35,000 electric customers and 28,000 gas customers in and around Cheyenne, Wyoming. Cheyenne's limited transmission facilities, which are located in Wyoming, serve primarily to deliver power that Cheyenne purchases from its full requirements supplier, PacifiCorp.[6] Cheyenne is subject to regulation by the Wyoming Public Service Commission.[7]

NCE also owns, directly or indirectly, various nonutility subsidiaries.[8] NCE's two directly owned non-utility subsidiaries are West Gas InterState, Inc., a natural gas pipeline company subject to FERC jurisdiction under the NGA, and NC Enterprises, Inc., a holding company for NCE's foreign operations and most of its nonutility businesses.

As of September 30, 1999, 115,533,704 shares of NCE Common Stock and no shares of NCE preferred stock were issued and outstanding. The consolidated assets of NCE, as of September 30, 1999, were approximately $8.1 billion, representing $5.1 billion in net electric utility property, plant and equipment ($1.7 billion for SPS, $3 billion for PSC and $42 million for Cheyenne); $808 million in net gas utility property, plant and equipment (&779 million for PSC and $29 million for Cheyenne); $443 million in nonutility subsidiary property, plant

[6] GPU's utility subsidiaries are: Jersey Central Power & Light Company; Pennsylvania Electric Company; and Metropolitan Edison Company.

[1] See *Northern States Power Co.,* Holding Co. Act Release No. 22334 (Dec. 23, 1981). Section 3(a)(2) of the Act provides an exemption from registration to a holidng company that is ''predominantly a public-utility company whose operations as such do not extend beyond the State in which it is organized and states contiguous thereto.''

[2] NSP requests authority to organize and capitalize New NSP for this purpose.

[3] Black Mountain Gas Company will be the name of a company NSP has separately proposed to establish (in File No. 70–9337), that would assume the assets and operations of NSP's gas and propane utlity business in Arizona, currently run as a division of NSP.

[4] See *New Century Energies, Inc.,* HCAR No. 26748 (August 1, 1997) (authorizing the formation of the NCE system).

[5] SPS has no gas utility operations.

[6] The lines consist of two 115 kilovolt transmission line segments that total 25.5 miles in length.

[7] Cheyenne does not have any wholesale load.

[8] The application states that the nonutility operations of NCE have all been previously authorized under the Act or have been established under a rule or statutory exemption.

and equipment; and $1.7 billion in other corporate assets.

Revenues for Cheyenne NCE's utility operations for the 12 months ended September 30, 1999 are as follows ($ in millions):

	Electric utility revenues	Gas utility revenues
SPS	717	
PSC	1,156	477
Cheyenne	40	19

B. NSP

NSP is engaged primarily in the generation, transmission and distribution of electricity throughout a 30,000 square mile service area in Minnesota, North Dakota and South Dakota. NSP also purchases, distributes and sells natural gas to retail customers in this area and transports customer-owned gas in approximately 118 communities within this area and in Arizona.[9] As of September 30, 1999, NSP provided retail electric utility service to approximately 1.2 million customers and gas utility service to approximately 385,000 customers. NSP–W generates, transmits and distributes electricity to approximately 210,400 retail customers in an area of approximately 18,900 square miles in northwestern Wisconsin and to approximately 9,100 electric retail customers in an area of approximately 300 square miles in the western portion of Michigan's Upper Peninsula. In addition, NSP–W purchases, distributes and sells natural gas to retail customers or transports customer-owned natural gas in the same service territory to approximately 78,000 in Wisconsin and 5,000 customers in Michigan.[10]

The electric transmission system of NSP and NSP–W is located throughout the service territories of the two utilities in Minnesota, North and South Dakota, Michigan and Wisconsin. NSP and NSP–W are directly connected with each other through numerous transmission lines that they own.[11] In addition, NSP and NSP–W are members of the Mid-Continent Area Power Pool (''MAPP''), the regional reliability council for numerous electric providers in portions of the Midwest. The NSP electric system is interconnected with 19 other utility systems, including utilities in MAPP and in the Mid-America Interconnected Network.

Retail sales rates, services and other aspects of NSP's retail operations are subject to the jurisdiction of the Minnesota Public Utilities Commission (''Minnesota Commission''), the North Dakota Public Service Commission, the South Dakota Public Utilities Commission and the Arizona Corporation Commission within their respective states. Retail sales rates, services and other aspects of NSP–W's retail operations are subject to the jurisdiction of the Wisconsin Public Service Commission (''Wisconsin Commission'') and the Michigan Commission. Certain activities of NSP and NSP–W, including wholesale rates for interstate sales of electricity, the interstate transmission of electricity and the sale of natural gas for resale, are subject to the jurisdiction of the FERC.

NSP is also engaged in various nonutility businesses. NSP directly provides: (i) an appliance services program for its residential customers, (ii) construction of natural gas distribution systems for third parties (primarily end-users and municipal gas systems), (iii) sale and installation of power quality instruments primarily to protect customers' equipment from electric surges, (iv) sale of steam to industrial customers in NSP's service territory, and (v) installation and maintenance of street lighting for municipalities and other customers.

In addition, NSP owns the following subsidiaries: (i) NSP Financing I, a special purpose business trust; (ii) Viking Gas Transmission Company, an interstate natural gas pipeline subject to FERC jurisdiction under the NGA; (iii) Eloigne Company (''Eloigne''), an investor in projects that qualify for low-income housing tax credits; (iv) Energy Masters International, Inc. (''Energy Masters''), an energy services company; (v) Seren Innovations, Inc., a company that provides cable, telephone and high-speed internet access; (vi) Ultra Power Technologies, Inc., a company that markets power-cable testing technology; (vii) First Midwest Auto Park, Inc., an owner of a parking garage; (viii) United Power and Land Company, a real estate investment company; (ix) NRG Energy, Inc., a holding company for many of NSP's nonutility businesses, including significant investments in the independent power projects and foreign operations; (x) Reddy Kilowatt Corporation, the owner of certain energy-related intellectual property rights; (xi) Nuclear Management Company (''NMCC''), a limited liability company that will provide services to the nuclear operations of its members; and (xii) Natrogas, Inc., a provider of propane services.[12]

Further, Eloigne, Energy Masters and NRG Energy have their own non-utility subsidiaries. Eloigne's subsidiaries all invest in affordable housing projects, while Energy Masters' subsidiary, Energy Solutions International, Inc., provides energy services. According to the Applications, NRG Energy's subsidiaries include exempt wholesale generators (''EWGs''), qualifying facilities (''QFs''), QF holding companies, foreign utility companies (''FUCOs''), and other companies engaged either in activities specified in the various subparts of rule 58(b)(1) or in other nonutility activities that comply with Commission precedent.[13]

NSP–W owns Clearwater Investments, Inc., an investor in housing projects that qualify for low-income housing tax credits, and NSP Land, Inc., a real estate investment company. NSP–W also owns &75.86% of Chippewa and Flambeau Improvement Company, a company that builds and operates dams and reservoirs for hydro-electric plants.

As of September 30, 1999, there were 154,358,267 shares of NSP Common Stock and 1,050,000 shares of NSP cumulative preferred stock issued and outstanding. Consolidated assets of NSP and its subsidiaries as of September 30, 1999 were approximately $8.7 billion, consisting of $3.5 billion in net electric utility property, plant and equipment ($2.9 billion for NSP and $622 million for NSP–W); $459 million in net gas utility property, plant and equipment ($395 million for NSP and $64 million for NSP–W); and $2.9 billion in nonutility subsidiary assets, and $1.7 billion in other corporate assets.

Revenues for NSP's utility operations for the year ended September 30, 1999 are as follows (before intercompany eliminations (($ in millions):

	Electric utility revenues	Gas utility revenues
NSP	2,343	360
NSP–W	335	81

II. Description of the Merger

Under the Merger Agreement, each share of NCE common stock issued and outstanding immediately prior to the effective time of the Merger, together with any NCE Rights (as defined

[9] As noted above, NSP currently serves these customers in Arizona out of a division that NSP intends to incorporate.

[10] In 1998, NSP–W provided approximately 13% of NSP's consolidated revenues.

[11] The Commission has previously determined that the electric and gas properties, respectively, of NSP each constitute an integrated public-utility system. *See Northern States Power Co.,* supra at note 1.

[12] NSP owns 100% of all of these businesses with the exception of its 25% membership interest in NMC.

[13] These activities include payroll and related services, operations and management services, international power project business development, and non-profit community development activities.

below),[14] will be converted into the right to receive 1.55 shares (the ''Conversion Ratio'') of NSP common stock,[15] and each share of NCE common stock, together with any NCE Right, owned by NSP or a subsidiary or held in the treasury of NCE, will be canceled.[16] Based upon the capitalization of NCE and NSP on March 24, 1999 (the date on which the Merger Agreement was signed) and the Conversion Ratio, NCE and NSP shareholders would own 54% and 46%, respectively, of the common equity of Xcel as of that date. As a result of the Merger, PSC, SPS and Cheyenne will come subsidiaries of Xcel along with New NSP and NSP–W.[17]

III. The Combined Operations

A. Overview

The application states that the gas utility operations of the NSP Operating Companies, PSC and Cheyenne, together will constitute a gas integrated public-utility system within the meaning of section 2(a)(29)(B) of the Act. In addition, the application states that the electric utility operations of the NSP Operating Companies, PSC and SPS will be an electric integrated public-utility system (the ''Primary System'') within the meaning of section 2(a)(29)(A).[18]

Applicants state that the Primary System will not engage in joint economic dispatch. As more particularly described below. Applicants contend that the Primary System will be integrated through, among other things, the coordination of transmission operations, the coordination of generation operations, and the coordination of marketing and administrative operations.

B. The Primary System

1. *Transmission Coordination.* Applicants state that three of the Xcel Operating Companies, *i.e.,* NSP, NSP–W and SPS, will participate in the Midwest Independent Transmission System Operator, Inc. (''MISO'').[19] Applicants state that participation in MISDO will consolidate in MISO management and control of Applicants' transmission facilities, along with those of the other MISDO members, and through their access to the MISO transmission tariff, will enable Applicants to transact with each other and with the other MISO members at single-system transmission rates.

At present, PSO whose service territory lies between SPS and Ameren Corporation (''Ameren''), the nearest member of MISO, does not plan to become a member of MISO. Applicants anticipate, however, that, by the time that MISO becomes fully operational, it will have attracted additional members, which will permit SPS to be connected with MISO through intervening MISO-member utilities. For example, if the SPP were to join MISO,[20] Applicants state that there would be a MISO transmission region between SPS and NSP that would be contiguous to both utilities. Absent changes that result in a connection between SPS, another MISO member and NSP, however, SPS intends to obtain a firm, 200 MW bi-directional transmission path from the point at which SPS connects with PSO to the point at which PSO connects with Ameren.

Applicants also state that, whether or not these changes occur, they plan to achieve additional operational efficiencies for the combined electric operations through reservation of a 100 MW firm transmission unit-directional path from SPS to New NSP, through SPP and Ameren for the period 2002 through 2004 (the ''Contract Path'').[21] The Contract Path would permit a flow of 100 MW from a point of receipt in SPS's service territory (its Tolk generating station) to a point of delivery in NSP–W's service territory (its Sherbourne County generation station).

2. *Coordination of Generation Operations.* Applicants state that they have entered into a joint operating agreement (''Joint Operating Agreement''), according to which they will coordinate the operation and dispatch of the electric generating resources of the Xcel Operating Companies. Applicants assert that although not providing for joint economic dispatch the Joint Operating Agreement will provide for coordinated dispatch. Under this arrangement, system dispatchers will arrange for economy energy sales where the sales would lower the operating costs of the purchasing Xcel Operating Company.

The Joint Operating Agreement also provides for short-term capacity and associated energy sales, subject to the same limitations. In addition, the Joint Operating Agreement provides for joint generation planning and the common procurement of resources. Further, the Joint Operating Agreement vests New Century Services, Inc., (to be renamed Xcel Energy Services Inc.) (''New Century Services''), currently NCE's service company subsidiary, with the responsibility of arranging joint sales and purchases of electricity and makes provision for the allocation of associated costs and revenues.

3. Marketing and Administrative Coordination. The Xcel Operating Companies will coordinate through joint marketing efforts, both as buyers and sellers. The Xcel Operating Companies already have the ability to reach common suppliers, purchasers, and trading hubs in various combinations.

Applicants state that virtually all administrative and general services will be performed for the Xcel system by New Century Services. Applicants note that the accounting functions of the combined system will be consolidated. Applicants further state that there will also be coordination and integration of information system networks; customer service; procurement organizations; organized structures for power generation, energy delivery and customer relations; and support services.

C. Combined Gas Operations

The Xcel gas system will operate in Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Wyoming,

[14] The ''NCE Rights'' are rights issued by NCE that entitled registered holders of purchase from NCE one-hundredth of a share of Series A Junior Participating Preferred Stock for each NCE Right. The NCE Rights were distributed a dividend on each outstanding share of NCE Common Stock as part of NCE's shareholder rights plan, which was approved in the 1997 Order.

[15] As noted above, NSP will change its name to Xcel at or before the Merger.

[16] Each issued and outstanding share of NSP Common Stock and each share of preferred stock of NSP issued and outstanding immediately prior to the effective time of the Merger will remain outstanding.

[17] As noted above, NSP has proposed that BMG become a subsidiary of Xcel after the Merger. See note 3 supra.

[18] The Commission determined in the 1997 Order that NCE could own the electric operations of Cheyenne as an additional electric integrated system.

[19] The participating transmission owners in MISO currently are: Allegheny Energy, Alliant Corporation (on behalf of IES Utilities, Inc., Interstate Power Company, South Benoit Water, Gas & Electric Company, and Wisconsin Power Company), Ameren (on behalf of Central Illinois Public Service Company and Union Electric Company), Central Illinois Light Company, Cinergy Corp. (on behalf of Cincinnati Gas & Electric Company, PSI Energy, Inc., and Union Light, Heat & Power), Commonwealth Edison Company (including Commonwealth Edison Company of Indiana), Hoosier Energy Rural Electric Cooperative, Inc., Illinois Power Company, Kentucky Utilities Company, Louisville Gas & Electric Company, Northern States Power Company, Southern Illinois Power Cooperative, Southern Indiana Gas & Electric Company, Wabash Valley Power Association, Inc. and Wisconsin Electric Power Company. PSC will not be a member of MISO.

[20] Applicants state that the SPP currently plans to join MISO.

[21] Applicants state that the Contract Path, like virtually every firm contract path, has some market concentrating effects as a result of loop-flows, as well as market-deconcentrating effects. For this reason, Applicants have treated the Contract Path as a separate option from MISO in their filing for FERC approval of the Merger.

Colorado and Arizona. Applicants state that approximately 74% of the 324.7 billion cubic feet of natural gas purchased by the applicants during 1998 were from common supply sources. Applicants also state that NSP and NCE share access, through their respective pipeline transporters, to several industry-recognized market and supply-area hubs.

IV. Proposed Intrasystem Transactions

A. Extension of Service Company Subsidiary Services

Applicants propose that New Century Services be the service company subsidiary for the Xcel system. Applicants request a finding that New Century Services is so organized and will be so conducted as to meet the requirements of section 13(b) with respect to all associates in the Xcel system. New Century Services will provide Xcel, New NSP, NSP–W, PSC, SPS and Cheyenne, under the Utility Service Agreement, and the nonutility subsidiaries of the combined system, under the Non-Utility Service Agreement, with various services. These include: administrative, management and support services, including services relating to support of electric and gas plant operations (*i.e.,* energy supply management of the bulk power and natural gas supply, procurement of fuels, dispatch of generating units, coordination of electric and natural gas distribution systems, maintenance, construction and engineering work); customer bills and related matters; materials management; facilities; real estate; rights of way; human resources; finance; accounting; internal auditing; information systems; corporate planning and research; public affairs; corporate communications; legal; environmental matters; and executive services. These services will comply with the at-cost standards of section 13(b) and rules 87, 90 and 91 under the Act, unless otherwise exempted as discussed below.

B. Services, Goods and Assets Involving the Xcel Operating Companies

The Xcel Operating Companies may provide to one another and other associate companies services incidental to their utility businesses, such as power plant maintenance overhauls and power plant and storm outage emergency repairs. These services will be provided in accordance with rules 87, 90 and 91. Moreover, in accordance with these rules, an Xcel Operating Company may provide certain goods through a leasing arrangement or otherwise to one or more other Xcel Operating Companies, and may use certain assets for the benefit of one or more other associate companies.

In addition to the foregoing, NSP and NSP–W are currently providing goods and services to, or receiving goods and services from, affiliated interests, as defined under applicable state law, in accordance with agreements approved by the Minnesota Commission. Those transactions between NSP or NSP–W and these affiliated interests performed in accordance with Minnesota law are generally priced on a ''fully allocated cost'' basis. To the extent necessary, Applicants request an exemption under section 13(b) of the Act from the at-cost requirements of section 13 and rules 90 and 91 with respect to these transactions.

C. Nonutility Sale of Goods and Services to EWGs, FUCOs and QFs

The 1997 Order and an order of the Commission dated April 7, 1999 (''1999 Order'') [22] granted an exemption from the at-cost requirements of section 13 and rules 90 and 91 for the sale of goods and services by New Century Services and certain nonutility subsidiaries of NCE to associate QFs, EWGs and FUCOs (''Associate Exempt Entities'') where certain conditions were met (''Nonutility Exemption''). In the 1999 Order, the Commission reserved jurisdiction over a request for an exemption from the at-cost standards for the sale by these subsidiaries of goods and services to exempt telecommunication companies under section 34 of the Act, to rule 58 companies, or to other nonutility subsidiaries that do not derive any part of their income from sales of goods, services or other property to the NCE Operating Companies (''Requested Additional Exemption''). Applicants now request that the Nonutility Exemption and the Requested Additional Exemption be extended, on the same conditions as those described in the 1999 Order, to the sale of goods and services by certain Xcel nonutility subsidiaries.

Applicants also note that the 1997 NCE Order exempted two NCE nonutility subsidiaries, Utility Engineers Corporation (''UE'') and Quixx Power Services, Inc. from the at-cost requirements of section 13(b) with respect to the sale of services to an associate QF.[23] Applicants request that this exemption be extended, to the extent necessary following the Merger, to transactions that are still ongoing.

D. Other Sales of Goods and Services by Nonutility Subsidiaries

Applicants note that the 1997 NCE Order authorized an NCE nonutility subsidiary, UE, to perform engineering, development, design, construction and other related services to the NCE Operating Companies at cost. Applicants now request that this authority be extended to enable UE to provide such services to Xcel Operating Companies.

In addition, Applicants request authority for NMC to provide services to New NSP. Applicants note that the Commission recently authorized NMC to provide certain services to IES Utilities, Inc., a utility subsidiary of another registered holding company, Alliant Energy corporation.[24] The services to be provided by NMC to New NSP will comply with the at cost standards of section 13(b).

V. Extension of Time To Construct Interconnection

The 1997 Order requires that, ''[i]n the event that New Century Energies at any time determines not to construct the tie, or the tie is not substantially completed within five years of the date of consummation of the [PSC/SPS] merger [interconnecting SPS with PSC (''SPS–PSC Interconnection'')], New Century Energies will file a post-effective amendment concerning the measures it will take to ensure that the requirements of section 2(a)(29)(A) are satisfied.''

Applicants state that the project to complete the SPS–PSC Interconnection will be accomplished in a phased approach and will require various regulatory approvals. The first phase will involve construction of a 230-mile, 345 kV line from Amarillo, Texas to Holcomb, Kansas, expected to be completed in the third quarter of 2001. The second phase will involve construction of a 100-mile, 345 kV line from Holcomb to Lamar, Colorado and a HVDC facility that would interconnect the PSC and SPS systems, as well as the WSCC and SPP regional transmission grids. The application states that this second phase is now scheduled for completion in 2004.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–6754 Filed 3–17–00; 8:45 am]

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[22] HCAR No. 27000.

[23] The 1997 Order noted that power from the QF would be sold to SPS.

[24] Alliant Energy Corporation, et al., HCAR No. 27096 (October 26, 1999).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27153]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 14, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 4, 2000, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 4, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

SCANA Corporation (70–9639)

SCANA Corporation (''SCANA''), 1426 Main Street, Columbia, South Carolina 29201, a registered holding company, and SCANA Services, Inc. (collectively ''Declarants'') have filed a declaration under sections 6(a), 7, and 12(e) of the Act and rules 62 and 65 under the Act.

Declarants propose to issue, over a period of three years, up to five million shares of its no par value common stock (''Common Stock'') for distribution to participants in SCANA's Long-Term Equity Compensation Plan (''Plan'') by a variety of means. SCANA also seeks authorization to solicit proxies regarding approval of the Plan at SCANA's 2000 Annual Meeting of Shareholders.

Under the Plan, SCANA will offer long-term compensation to the directors of SCANA and its affiliates, as well as to employees of these companies who are selected as significant contributors to the success of their company (''Key Employees''). Five types of long-term compensation are awardable: stock options, stock appreciation rights (''SARs''), restricted stock, performance stock, and performance units (collectively ''Equity Compensation'').

Declarants explain that the Plan, which links Plan participants' interests to those of shareholders, is designed to optimize the profitability and growth of SCANA by (1) allowing Plan participants to share in the successes of SCANA; (2) providing Plan participants incentives to achieve excellence in their individual performances and promote teamwork; and (3) allowing SCANA to motivate, attract, and retain the services of Plan participants.

The Plan will remain in effect until all options and rights granted under the Plan have been satisfied or terminated in accordance with the terms of the Plan, and all performance-based awards granted under the Plan have been completed. In no event, however, shall Equity Compensation be awarded on or after December 31, 2009.

The Plan was approved by the Board on February 22, 2000 but has not yet been approved by SCANA's shareholders. Declarants propose to submit the Plan to SCANA shareholders for consideration and action on April 27, 2000 and, correspondingly, intend to solicit proxies from SCANA shareholders. SCANA therefore requests that its declaration regarding the solicitation of proxies be permitted to become effective as soon as practicable, as provided in Rule 62(d).

It is stated that no State or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

It appearing to the Commission that Declarants' declaration regarding the proposed solicitation of proxies should be permitted to become effective immediately, under rule 62:

It is ordered, that the declaration regarding the proposed solicitation of proxies be, and hereby is, permitted to become effective immediately under rule 62 and subject to the terms and conditions prescribed in rule 24 under the Act. The Commission reserves jurisdiction over all other matters contained in the Declaration.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–6830 Filed 3–17–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24337; 812–11798]

Colchester Street Trust, et al.; Notice of Application

March 13, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under sections 6(c), 12(d)(1)(J) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1) and 17(a).

SUMMARY OF APPLICATION: Applicants request an order that would amend a prior order (''Prior Order'') [1] that permits a fund of funds arrangement. The order also would permit purchases by a fund of funds of shares of an underlying fund in-kind and the purchase and sale of portfolio securities between the fund of funds and the underlying funds in accordance with rule 17a–7 under the Act.

APPLICANTS: Colchester Street Trust, Fidelity Aberdeen Street Trust, Fidelity Advisor Series I, Fidelity Advisor Series II, Fidelity Advisor Series III, Fidelity Advisor Series IV, Fidelity Advisor Series V, Fidelity Advisor Series VI, Fidelity Advisor Series VII, Fidelity Advisor Series VIII, Fidelity Beacon Street Trust, Fidelity Boston Street Trust, Fidelity California Municipal Trust, Fidelity California Municipal Trust II, Fidelity Capital Trust, Fidelity Charles Street Trust, Fidelity Commonwealth Trust, Fidelity Concord Street Trust, Fidelity Congress Street Fund, Fidelity Contrafund, Fidelity Court Street Trust, Fidelity Court Street Trust II, Fidelity Covington Trust, Fidelity Destiny Portfolios, Fidelity Devonshire Trust, Fidelity Exchange Fund, Fidelity Financial Trust, Fidelity Fixed-Income Trust, Fidelity Hastings Street Trust, Fidelity Hereford Street Trust, Fidelity Income Fund, Fidelity Investment Trust, Fidelity Magellan Fund, Fidelity Massachusetts Municipal Trust, Fidelity Money Market Trust, Fidelity Mt. Vernon Street Trust, Fidelity Municipal Trust, Fidelity Municipal Trust II, Fidelity New York Municipal Trust, Fidelity New York Municipal Trust II, Fidelity Oxford Street Trust, Fidelity Phillips Street Trust, Fidelity Puritan Trust, Fidelity Revere Street Trust, Fidelity School Street Trust, Fidelity Securities Fund, Fidelity Select Portfolios, Fidelity Summer Street Trust, Fidelity Trend

[1] *Daily Money Fund, et al.,* Investment Company Act Release Nos. 22107 (July 29, 1996) (notice) and 22171 (Aug. 26, 1996) (order).

Fund, Fidelity Union Street Trust, Fidelity Union Street Trust II, Newbury Street Trust, Variable Insurance Products Fund, Variable Insurance Products Fund II, Variable Insurance Products Fund III; Fidelity Management & Research Company (''FMR''); Fidelity Management Trust Company (''FMTC''); Fidelity Service Company, Inc. (''FSC''); Fidelity Investments Institutional Operations Company, Inc. (''FIIOC''); Fidelity Distributors Corporation (''FDC''); National Financial Services Corporation (''NFSC''); Strategic Advisers, Inc. (''SAI''); and all other registered open-end investment companies and series thereof that are (a) advised by FMR, FMTC, or SAI, or a person controlling, controlled by, or under common control with FMR (collectively, the ''Adviser'') or (b) distributed by FDC or NFSC, or a person controlling, controlled by, or under common control with FDC or NFSC (collectively the future and current investment companies and their series are, the ''Fidelity Funds'').[2]

FILING DATES: The application was filed on October 4, 1999. Applicants have agreed to file an amendment, the substance of which is reflected in this notice, during the notice period.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 7, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, 82 Devonshire Street, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Counsel, at (202) 942–0572, or Nadya B. Roytblat, Assistant Director, 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 SEC's Public Reference Branch, 450 5th Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. Each Fidelity Fund is registered under the Act as an open-end management investment company and currently is organized as either a Massachusetts or Delaware business trust. Certain of the Fidelity Funds are organized as series investment companies. FMR, FMTC, or SAI act as each Fidelity Fund's investment adviser. FMR and SAI are investment advisers registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). FMTC is excluded from the definition of an investment adviser under the Advisers Act. Any other Adviser will be registered under the Advisers Act or exempt from registration. FDC and NFSC serve as distributors of the Fidelity Funds. FSC and FIIOC serve as transfer and dividend paying agents for the Fidelity Funds. FMR, FMTC, SAI, FDC, NFSC, FSC, and FIIOC are direct or indirect subsidiaries of FMR Corp.

2. The Prior Order permits Fidelity Funds that are funds of funds (''FOFs'') to invest in shares of other Fidelity Funds (''Underlying Funds''). In addition to investing in shares of Underlying Funds, the FOFs may make direct investments in stocks, bonds, and money market instruments.[3] Applicants request an order amending the Prior Order to update certain conditions. Applicants also request relief to permit purchases by the FOFs of shares of the Underlying Funds in-kind and to permit the purchase and sale of portfolio securities between the FOFs and the Underlying Funds in accordance with rule 17a–7 under the Act.

Applicant's Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act provides, in relevant part, that no investment company may acquire securities of a registered investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's outstanding total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by the investment company and other investment companies and companies controlled by them. Applicants state that the investment by the FOFs in shares of the Underlying Funds is subject to the limits in sections 12(d)(1)(A) and (B).

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) shall not apply to the securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and the acquired company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) by a securities association registered under section 15A of the Securities Exchange Act of 1934, or the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trusts in reliance on sections 12(d)(1)(F) or (G). Section 12(d)(1)(G)(ii) defines the term ''group of investment companies'' to mean any two or more registered investment companies that hold themselves out to investors as related companies for purposes of investment and investor services. Applicants state that the proposed transactions would comply with section 12(d)(1)(G) but for the fact that the FOFs may invest directly in stock, bonds, and other financial instruments, in addition to investing in the Underlying Funds.[4]

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt, conditionally or unconditionally , any person, security, or transaction from any provision of section 12(d)(1) if and to the extent that

[2] All existing registered open-end investment companies that currently intend to rely on the requested order are named as applicants. Any other existing and future registered open-end investment company will rely on the requested order only in accordance with the terms and conditions of the application.

[3] The Prior Order also permits the FOFs, the Underlying Funds, and their transfer agent to enter into a ''special servicing agreement'' with respect to the payment of administrative expenses.

[4] These other investments will not include shares of registered investment companies that are not Fidelity Funds.

such exemption is consistent with the public interest and the protection of investors. Applicants request relief pursuant to section 12(d)(1)(J) to update the conditions of the Prior Order.

B. Section 17(a)

1. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, or any affiliated person of such affiliated person (''second-tier affiliate''), acting as principal, to sell or purchase any security to or from such investment company. Section 2(a)(3) of the Act defines an affiliated person to include any person directly or indirectly (a) controlling, controlled by, or under common control with, the other person; or (b) owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person. Because the FOFs and the Underlying Funds are advised by the Adviser, they may be deemed to be under ''common control'' and therefore affiliated persons of each other. In addition, because of FOF may own more than 5% of an Underlying Fund, the FOF and the Underlying Fund may be deemed to be affiliated persons of one another. As a result, applicants state that section 17(a) would prohibit purchases by the FOFs of shares of the Underlying Funds in-kind as well as the purchase and sale of portfolio securities between the FOFs and the Underlying Funds.

2. Rule 17a–7 under the Act generally provides an exemption from section 17(a) for a purchase or sale transaction between a registered investment company and an affiliated person (or second-tier affiliate), provided certain conditions are met, including that the transaction must be for no consideration other than cash. In addition, the affiliation between the registered investment company and the affiliated person or second-tier affiliate must exist solely by reason of the entities having a common investment adviser, common directors and/or common officers. Applicants state that the FOFs and the Underlying Funds may be unable to rely on rule 17a–7 because some of the FOFs may own more than 5% of the outstanding voting securities of an Underlying Fund. In addition, the in-kind purchases of shares of an Underlying Fund would not meet the cash payment requirement of rule 17a–7(a).

3. Section 17(b) of the Act authorizes the SEC to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the proposed transaction is consistent with the general policy of the Act. Section 6(c) under the Act permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act.

4. Applicants submit that the requested relief satisfies the standards for relief in sections 6(c) and 17(b). Applicants state that, with respect to the in-kind purchases, the consideration paid by the FOFs for shares of the Underlying Funds will be based on the net asset value of the Underlying Funds. With respect to the purchase and sale of portfolio securities between the FOFs and the Underlying Funds, applicants state that the price paid for the securities will be the current market price of the securities. Further, applicants state that any in-kind purchase will comply with the requirements of rule 17a–7(b) through (f) and any purchase and sale transaction will comply with requirements of rule 17a–7(a) through (f).

Applicants' Conditions

Applicants agree that the amended order will be subjected to the following conditions:

1. Each FOF and each Underlying Fund will be part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act.

2. No Underlying Fund will acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that the Underlying Fund (a) receives securities of another investment company as a dividend or as a result of a plan of a reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting the Underlying Fund to (i) acquire securities of one or more affiliated investment companies for short-term cash management purposes or (ii) lend cash to another fund.

3. Prior to approving any advisory contract under section 15 of the Act, the board of trustees of each FOF, including a majority of the trustees who are not ''interested persons'' of the FOF, as that term is defined in section 2(a)(19) of the Act, shall find that the advisory fees charged under the contract are based on services that will be in addition to, rather than duplicative of, services provided under the contract of any Underlying Fund in which the FOF may invest; provided, however, that no finding will be necessary if (a) the FOF pays no advisory fee; or (b) the FOF pays an advisory fee and either (i) the Underlying Fund pays no advisory fee or (ii) the advisory fee paid by the FOF is reduced by the proportional amount of the advisory fee paid by the Underlying Fund with respect to the shares held by the FOF. If a finding is necessary, the finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the FOF.

4. Any sales charges, distribution-related fees, and service fees relating to the shares of an FOF, when aggregated with any sales charges, distribution-related fees, and services fees paid by the FOF relating to its acquisition, holding, or disposition of shares of the Underlying Funds, will not exceed the limits set forth in rule 2830 of the National Association of Securities Dealers' Rules of Conduct.

5. Any in-kind purchase of shares of the Underlying Funds by the FOFs will be effected in accordance with the terms of rule 17a–7(b) through (f). Any purchase or sale of portfolio securities between the FOFs and the Underlying Funds will be effected in accordance with the terms of rule 17a–7(a) through (f).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–6752 Filed 3–17–00; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before May 19, 2000.

ADDRESSES: Send all comments regarding whether this information

collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Michael McHale, Associate Administrator, Office of HUBZone Empowerment Contracting Program, Small Business Administration, 409 3rd Street, SW., Suite 8000.

FOR FURTHER INFORMATION CONTACT: Michael McHale, Associate Administrator, 202–205–8885 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''HUBZone Empowerment Contracting Program—Annual Self-Certification Form''.

Form No: 2103A.

Description of Respondents: Small Businesses.

Annual Responses: 500.

Annual Burden: 250.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 00–6805 Filed 3–17–00; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Opportunity To Apply for Nomination To the World Trade Organization Dispute Settlement Roster of Panel Candidates—Extension of Time

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of extension of time limit for applications from the public.

SUMMARY: By Federal Register Notice of November 9, 1999 (64 FR 61173) the Office of the United States Trade Representatives announced the opportunity to apply for nomination by the United States to the World Trade Organization (WTO) indicative list of non-governmental persons for potential service as a panelist in settlement of WTO trade disputes. The application deadline cited was December 9, 1999. The deadline has been extended to April 15, 2000.

DATES: Eligible citizens are encouraged to apply by April 15, 2000 to be considered for nomination to the roster.

FOR FURTHER INFORMATION CONTACT: Information concerning the form of the application appears at 64 FR 61173–61175. For information concerning WTO procedures or the duties involved, contact Amelia Porges, Senior Counsel for Dispute Settlement, (202) 395–7305. Further information on the WTO and dispute settlement is available on the Internet at *http://www.ustr.gov/reports/tpa/2000/ii.pdf* and *http://www.ustr.gov/reports/tpa/2000/annex2.pdf;* the text of the WTO Dispute Settlement Understanding is available on the Internet at *http://www.wto.org/wto/dispute/dsu.htm*.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

[FR Doc. 00–6723 Filed 3–17–00; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In February 2000, there were three applications approved. Additionally, 11 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph (d) of §158.29.

PFC Applications Approved

Public Agency: Greater Peoria Airport Authority, Peoria, Illinois.

Application Number: 00–02–C–00–PIA.

Application Type: Impose and use a PFC.

PFC Level : $3.00.

Total PFC Revenue Approved in This Decision: $5,776,324.

Earliest Charge Effective Date: July 1, 2001.

Estimated Charge Expiration Date: September 1, 2009.

Class of Air Carriers not Required to Collect PFC'S: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Greater Peoria Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Rehabilitate runway 4/22 and connecting taxiways.

Overlay and rehabilitation of the asphalt portions of the terminal entrance/Ring Road.

Rehabilitation airport rotating beacon.

Rehabilitation of three underground fuel storage tanks.

Terminal expansion (two gates).

Passenger loading bridges.

Remove waivered obstructions from runway 31 safety area and object free area.

Relocate runway 31 landing threshold.

Relocate runway 31 glide slope, localizer, and medium intensity approach lighting system with runway end identification lights.

Install flight information display system (FIDS).

Public announcement system.

Rehabilitate and widen portions of the runway 13/31 parallel taxiway system.

Snow removal equipment replacement.

Construct runway 13/31 exit taxiway.

Construct runway 4/22 exit taxiway.

Rehabilitate air carrier apron.

Landside development for expansion of southeast air cargo park.

Baggage system rehabilitation.

Land reimbursement.

Update airport layout plan (phases 1 and 2).

Airport environmental assessment.

Decision Date: February 3, 2000.

FOR FURTHER INFORMATION CONTACT: Denis Rewerts, Chicago Airports District Office, (847) 294–7195.

Public Agency: Jacksonville Port Authority, Jacksonville, Florida.

Application Number: 00–05–C–00–JAX.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $13,081,065.

Earliest Charge Effective Date: March 1, 2000.

Earliest Charge Expiration Date: March 1, 2000.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public's agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Jacksonville International Airport.

Brief Description of Projects Approved for Collection and use: Airport master plan and airport layout plan update.

Land acquisition parcel 1.

Brief description of Project Approved in Part for Collection: Land acquisition parcel 2, 3, 4, 5, and 7.

Determination: Partially approved. The approved amount is less than the PFC amount requested in the application. The public agency requested this reduction by letter dated January 24, 2000.

Decision Date: February 15, 2000.

FOR FURTHER INFORMATION CONTACT: Richard M. Owen, Orlando Airports District Office, (407) 812–6331, ext. 19.

Public Agency: City of Chicago, Department of Aviation, Chicago, Illinois.

Application Number: 00–07–C–00–MDW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $592,053,661.

Earliest Charge Effective Date: July 1, 2018.

Estimated Charge Expiration Date: August 1, 2046.

Class of Air Carriers not Required to Collect PFC's: Air taxi operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Chicago Midway Airport.

Brief Description of Projects Approved for Collection and Use:

Reconstruct taxiway P.

Service road reconstruction along taxiway N.

Taxiway K rehabilitation between runway 31C and taxiway V.

Taxiway J rehabilitation between taxiway W and runway 4L.

Runway 31C exit taxiway rehabilitation.

Runway 13C hold pad rehabilitation.

Taxiway N and taxiway Q rehabilitation.

Apron edge taxiway rehabilitation.

Terminal apron construction.

Additional residential insulation.

Midway radio trunking system.

Blast fences northeast and northwest corners.

Land acquisition parcel #131.

Land acquisition parcel #132.

Concourse building.

Terminal explosive detection system.

Taxiway/taxilane.

Aircraft parking apron construction.

Parking structure blast mitigation.

On-airport roads.

Airline equipment (security).

Airline equipment (FIDS).

Brief Description of Projects Approved in Part for Collection and Use: Midway equipment acquisition 1998–2002.

Determination: Partially approved. The public agency, by letter dated January 12, 2000, revised the scope of this project to include only those pieces of equipment for which a contract will be awarded by February 2002. Therefore, some pieces of equipment originally requested in the application were not included in the approved project.

Land acquisition parcel #130.

Determination: Partially approved. The approved amount was reduced from the amount requested to reflect the receipt of an Airport Improvement Program grant. This grant was received after the PFC application had been submitted.

Airline equipment (loading bridges, public seating, and podia).

Determination: Partially approved. The public agency withdrew two proposed elements of this project, baggage handling system and battery chargers, by letters dated January 31, 2000 and February 2, 2999. Therefore, the approved amount is $364,722 less than the amount requested for this component.

Decision Date: February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Philip M. Smithmeyer, Chicago Airports district Office, (847) 294–7335.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
98–02–C–01–JAN, Jackson, MS	01/28/00	$2,992,244	2,828,000	03/01/00	04/01/00
97–03–C–01–LSE, LaCrosse, WI	02/02/00	315,000	485,000	03/01/00	09/01/00
93–01–C–05–MDW, Chicago, IL	02/03/00	96,294,613	131,084,161	10/01/17	07/01/18
94–02–U–01–MDW, Chicago, IL	02/03/00	NA	NA	10/01/17	07/01/18
95–03–C–03–MDW, Chicago, IL	02/03/00	69,354,783	54,021,160	10/01/17	07/01/18
96–05–C–01–MDW, Chicago, IL	02/03/00	163,875,000	156,353,754	10/01/17	07/01/18
98–03–C–01–DSM, Des Moines, IA	02/10/00	27,811,427	28,211,427	03/01/06	05/01/06
93–01–C–03–MOT, Minot, ND	02/10/00	629,327	639,163	02/01/04	02/01/04
92–01–C–04–MCO, Orlando, FL	02/23/00	36,171,733	36,441,847	08/01/94	09/01/94
96–04–C–06–MCO, Orlando, FL	02/23/00	94,327,100	94,740,321	06/01/98	06/01/98
99–06–C–06–MCO, Orlando, FL	02/23/00	95,772,673	95,772,673	06/01/03	06/01/03

Issued in Washington, DC on March 11, 2000.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 00–6821 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. HTSA–2000–6977]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before May 19, 2000.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance number. It is requested, but not required, that 1 original plus 2 copies of the comments be provided. The Docket Section is open on weekdays from 10 am to 5 pm.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Deborah Mazyck, NHTSA, 400 Seventh Street, SW, Room 5320, NPS–32, Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–0846. Please identify the relevant collection of information by referring to its OMB clearance number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How 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, *e.g.,* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Insurer Reporting Requirement for 49 CFR Part 544

Type of Request: Reinstatement of clearance.

OMB Clearance Number: 2127–0547.

Form Number: This collection of information uses no standard forms.

Requested Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information: The Motor Vehicle Theft Law Enforcement Act of 1984 was amended by the Anti Car Theft Act (ACTA) of 1992 (Pub. L. 102–519) which mandated this information collection. One component of the comprehensive theft prevention package required the Secretary of Transportation (delegated to the National Highway Traffic Safety Administration (NHTSA)) to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. Section 615 of the ACTA requires insurance companies and rental/leasing companies to provide information to NHTSA on comprehensive insurance premiums which address motor vehicle theft.

Description of the need for the information and proposed use of the information: The insurer's report will be submitted by motor vehicle insurance companies and rental/leasing companies on an annual basis to NHTSA. All rental/leasing companies (which have a fleet of 50,000 or more units in its fleet and are not covered by theft insurance policies issued by motor vehicle insurers) are bound to comply. Specific motor vehicle insurance companies and subject rental and leasing companies are listed in Appendices A, B, and C of Part 544. These reports are required to be submitted in a specified format as shown in Parts 544.5 and 544.6, giving requirements and contents of the report.

The information will be used by NHTSA in exercising its statutory authority to help reduce comprehensive insurance premiums charged by insurers of motor vehicles due to motor vehicle thefts. The report will also show the rate of theft and recoveries of stolen vehicles that they insure by type and other categories.

Without this information, the agency cannot adequately assess the effectiveness of the ACTA as directed by Congress.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information): The respondents are specific vehicle insurance companies, and rental/leasing companies (which have a fleet size of 50,000 or more and are not covered by theft insurance policies issued by motor vehicle insurers). The agency estimates the number of respondents to total 30 vehicle insurance companies and 13 rental/leasing companies. The frequency of response to the collection of information is determined by the number of specific motor vehicle insurance companies, and rental/leasing companies listed in Appendices A, B, and C of Part 544. The lists are updated annually.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information: The agency estimates that the reporting burden for this year will be $1,168,090 for 30 insurance companies and $99,840 for approximately 17 rental/leasing companies with a fleet size of 50,000 or more. The reporting burden is based on claim adjusters' salaries, clerical and technical expenses, and labor costs.

Authority: 440 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Issued: March 15, 2000.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 00–6820 Filed 3–17–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 8, 2000.

The Department of Treasury 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. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 19, 2000, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0202.

Form Number: IRS Forms 5310 and 6088.

Type of Review: Revision.

Title: Application for Determination Upon Termination (5310); and Distributable Benefits from Employee Pension Benefit Plans (6088).

Description: Employers who have qualified deferred compensation plans can take an income tax deduction for contributions to their plans. IRS uses the data on Forms 5310 and 6088 to determine whether a plan still qualifies and whether there is any discrimination in benefits.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 30,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 5310	Form 6088
Recordkeeping	48 hr., 47 min.	6 hr., 28 min.
Learning about the law or the form	5 hr., 31 min.	1 hr., 12 min.
Preparing, copying, assembling and sending the form to the IRS	12 hr., 33 min.	1 hr., 21 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,138,050 hours.

OMB Number: 1545–0957.

Form Number: IRS Form 8508.

Type of Review: Extension.

Title: Request for Waiver From Filing Information Returns on Magnetic Media.

Description: Certain filers of information returns are required by law to file on magnetic media. In some instances, waivers from this requirement are necessary and justified. Form 8508 is submitted by the filer and provides information on which IRS will base its waiver determination.

Respondents: Business or other for-profit, not-for-profit institution, farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 750.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 00–6732 Filed 3–17–00; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 13, 2000.

The Department of Treasury 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. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 19, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1007.

Form Number: IRS Form 8606.

Type of Review: Revision.

Title: Nondeductible IRAs.

Description: Internal Revenue Code (IRC) section 408(o) requires certain information regarding nondeductible contributions to traditional IRAs (reported on Part I of Form 8606). IRC section 408A(d) requires information regarding conversions from traditional IRAs to Roth IRAs (reported on Parts II and III of Form 8606). IRC section 530 requires information regarding distributions from ED IRAs (reported on Part IV of Form 8606).

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 1,800,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 1 hr., 6 min.

Learning about the law or the form: 1 hr., 37 min.

Preparing the form: 2 hr., 11 min.

Copying, assembling, and sending the form to the IRS: 58 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 2,198,320 hours.

OMB Number: 1545–1506.

Notice Number: Notice 96–65.

Type of Review: Extension.

Title: Treatment of a Trust as Domestic or Foreign-Changes Made by the Small Business Job Protection Act.

Description: Notice 96–65 announces that a domestic trust may avoid an involuntary change in status caused by operation of the Small Business job Protection Act of 1996 by reforming within a reasonable period of time. The notice also announces how to elect to apply the new trust status rules retroactively.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institution.

Estimated Number of Respondents: 1,200.

Estimated Burden Hours Per Respondent: 28 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 550 hours.

OMB Number: 1545–1512.

Revenue Procedure Number: Revenue Procedure 98–50 (formerly Revenue Procedure 96–61).

Type of Review: Revision.

Title: Form 1040 RS e-file Program.

Description: Revenue Procedure 98–50 information those who participate in the Electronic Filing Program for Form 1040, and Form 1040A, and Form 1040EZ, of their obligations to the Internal Revenue Service, and other participants..

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 75,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 30 hours, 19 minutes (or approximately six (6) minutes per electronically filed return).

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 2,273,932 hours.

OMB Number: 1545–1513.

Revenue Procedure Number: Revenue Procedure 98–51 (formerly Revenue Procedure 96–62).

Type of Review: Revision.

Title: Form 1040 On-Line Filing Program.

Description: Revenue Procedure 98–51 information those who participate in the On-Line Filing Program for Form 1040, Form 1040A, and Form 1040EZ, of their obligations to the Internal Revenue Service, taxpayers, and other participants.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 14.

Estimated Burden Hours Per Respondent/Recordkeeper: 5,179 hours (or approximately two (2) minutes per on-line electronically-filed return).

Frequency of Response: On occasion.

Estimated Total Reporting/Recording Burden: 72,509 hours.

OMB Number: 1545–1667.

Revenue Procedure Number: Revenue Procedure 99–50.

Type of Review: Extension.

Title: Combined Information Reporting.

Description: The revenue procedure permits combined information reporting by a successor ''business entity'' (*i.e.,* a corporation, partnership, or sole proprietorship) in certain situations following a merger or an acquisition. The successor must file a statement with the Internal Revenue Service indicating what forms are being filed on a combined basis.

Respondents: Business or other for-profit, not-for-profit institution, farms.

Estimated Number of Respondents: 6,000.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 500 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–6733 Filed 3–17–00; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 00–08]

Preemption Determination

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing its response to a written request for the OCC's determination of whether federal law preempts the application of Pennsylvania laws regulating auctioneers. The OCC has determined that, if the state law applied, it would be preempted under federal law.

FOR FURTHER INFORMATION CONTACT: Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION: A national bank headquartered in Pennsylvania (the Bank) uses an auction format to market and sell certificates of deposit (CDs) over the Internet. The Bank's Internet website permits visitors to link to a site on which the Bank offers potential customers the opportunity to purchase CDs that it issues and that are priced through an online auction process. Interested parties submit bids equal to or below the maximum annual percentage yield that the Bank will pay on the CDs, with the winning bidders being those submitting the lowest bids. The winning bidders then complete an application to purchase the CDs pursuant to the terms and conditions established by the Bank as posted on the auction site.

A Pennsylvania statute [1] requires that auctioneers be licensed and subjects them to examination and inspection by the state. It defines an ''auction'' as the offer to sell property to the members of an audience congregated for the purpose of making bids for the purchase of property in an effort by the auctioneer or apprentice auctioneer to advance the amount of the bids to obtain the highest or most favorable offer.[2]

Auctioneers are required to keep detailed records of sales of property at auction.[3] They are subject to civil and criminal penalties if they fail to obtain a license.[4] The Pennsylvania law permits either individuals or corporations to be auctioneers, thereby leading the Bank to conclude that a corporation that employs an individual auctioneer may have to be licensed both as an auctioneer and as an auction company.

The Bank has submitted a written request for the OCC's opinion on whether federal law preempts the application of the Pennsylvania statute to the Bank's online auction program. The Bank asserted that federal law authorizes it to conduct the online auction program, and that the licensing, recordkeeping, and examination requirements in the Pennsylvania auction statute impermissibly condition and burden the exercise of this federal authority. The Bank relies on the express authority of 12 U.S.C. 24(Seventh) to receive deposits, on the incidental powers clause of § 24(Seventh), and on the OCC's regulation at 12 CFR 7.1019, which authorizes a national bank to do electronically that which it may do by other means. The Bank concludes that the state law conflicts with these federal laws and violates the OCC's exclusive visitorial power to examine and supervise national banks.

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 [5] requires the OCC to publish notice in the **Federal Register** before issuing a final written opinion about the preemptive effect of federal law in four specified areas: Community reinvestment, consumer protection, fair lending, or the establishment of interstate branches. Section 114 also requires the OCC to publish any final opinion letter in which the OCC concludes that federal law preempts a state law in one of the four specified areas. Although it is not clear that the Pennsylvania statute under review falls within one of the four areas covered by section 114, the OCC nevertheless published a notice of the request in the **Federal Register** in light of the novelty of the question presented (namely, the applicability of state law to national banks that provide traditional financial services through electronic means),[6] and is publishing its response to the preemption request as an appendix to this notice.

As is explained in greater detail in the response, the OCC agrees that the activities in question—receiving deposits, marketing, and using electronic means to engage in permissible activities—are authorized by federal law. The OCC also agrees that the state law, if it is applied to the Bank's online auction program, would be preempted, because it would limit or condition the ability of the Bank to exercise its powers under federal law, would frustrate the purposes for which the national banking system was established, and would violate the OCC's exclusive visitorial powers.

Dated: March 14, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

Appendix

March 7, 2000.
Thomas P. Vartanian,
Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20004–7008
Re: *Online Deposit Program*

Dear Mr. Vartanian: This responds to your letter dated December 10, 1999 (the

[1] 63 Pa. Stat. section 734 *et seq.*

[2] *Id.* at § 734.2.

[3] *Id.* at § 734.16.

[4] *Id.* at § 734.29.

[5] Pub. L. 103–328, sec. 114, 108 Stat. 2338, 2366–68 (1994), codified at 12 U.S.C. 43.

[6] 65 FR 2455 (January 14, 2000).

''Letter''), in which you requested confirmation by the Office of the Comptroller of the Currency of your view that federal law preempts a Pennsylvania statute regulating the conduct of auctions under the circumstances described in your letter. For the reasons discussed below, we conclude that federal law would preempt such a state law if it were found to apply to your client's online auction program.

Background

The bank in question (''Bank'') is a national bank headquartered in Pennsylvania with offices in several other states. It markets certificates of deposit (''CDs'') over the Bank's website on the Internet through an online auction program. The rate paid on those CDs is determined by bids submitted by people who participate in the auction. Each auction has a starting and ending time and identifies the dollar face amount, the term, the quantity, and the maximum annual percentage yield (''APY'') of the CDs that are being offered. If, for example, the Bank offers 100 CDs at a stated maturity and face amount with a maximum APY of 8%, the 100 bids with the lowest APY equal to or below 8% will be selected as the winning bidders.

You note that Pennsylvania has a statute governing auctions, and that the statute defines ''auction'' as—

> [t]he offer to sell property by an auctioneer or apprentice auctioneer to the members of an audience congregated for the purpose of making bids for the purchase of property in an effort by the auctioneer or apprentice auctioneer to advance the amount of the bids to obtain the highest or most favorable offer.

63 Pa. Stat. § 734.2 (1998). This statute requires auctioneers (which includes both individuals and corporations) to be licensed by the Pennsylvania Board of Auctioneer Examiners (*id.* at § 734.3), and contemplates the payment of a license fee in connection with the filing of an application to obtain a license (*id.* at § 734.6). Under the statute, Pennsylvania auctioneers are required to keep records of sales of property at auction (*id.* at § 734.16) and are subject to examination by the state (*id.* at § 734.20). Auctioneers are required to pay examination fees which, together with licensing application fees and other fees imposed on auctioneers, must be sufficient to pay for whatever enforcement efforts are required under the Pennsylvania law (*id.* at § 734.6(b)). You suggest that these statutes may apply to the Bank's online auction program, and you request confirmation that federal law would preempt the state laws.

The OCC published a notice of your request in the **Federal Register**,[1] inviting interested parties to comment on whether federal law preempts the Pennsylvania auctioneer laws. Four comments were received in response to the notice. Three commenters opined that federal law does preempt the type of state law in question. Each of these commenters cited the authority of national banks under 12 U.S.C. § 24(Seventh) to engage in deposit-taking activities and other activities necessary to carry on the business of banking. Each also noted that federal law preempts state laws that purport to regulate an activity that is authorized by federal law. The fourth comment was submitted by the Chief Counsel of the Pennsylvania Department of Banking (Banking Department), who, after speaking with counsel to the Pennsylvania Board of State Auctioneers (the Board), stated that, in the view of the Board staff, the Pennsylvania auction laws do not apply to the Bank's online auction program. While this comment by the Banking Department, representing the views of the staff of the Board, might settle the issue in Pennsylvania for the time being, we have concluded, in light of the non-binding nature of those staff views, that it still would be useful to respond to the question you posed in order to provide an advisory opinion on the application of preemption principles when banking activities, such as the activity in question, are conducted over the Internet.

Analysis

Permissibility of the Activity

The threshold question in any preemption analysis is whether the activities in question are permissible for a national bank under federal law. If they are not, then there is no preemption issue.

There are essentially three components to the Bank's activities here. First, the Bank is engaging in an authorized banking activity—deposit-taking. Second, it is marketing one of its deposit products. Third, it is using the Internet to conduct these deposit-taking and marketing activities. Each of these activities is permissible under 12 U.S.C. 24(Seventh).

Section 24(Seventh) specifically authorizes national banks to receive deposits. Thus, a national bank need look no further than the express language of the statute for authorization to accept deposits.

Section 24(Seventh) also authorizes national banks to engage in the more general ''business of banking'' and activities incidental thereto. The Supreme Court has made clear that the ''business of banking'' authorized by section 24(Seventh) is a broad, flexible concept that allows the National Bank Act to adapt to changing times. *See NationsBank of North Carolina, N.A.* v. *Variable Annuity Life Ins. Corp.,* 513 U.S. 251, 258, n.2 (1995) (''We expressly hold that the ''business of banking'' is not limited to the enumerated powers in section 24 Seventh and that the Comptroller therefore has discretion to authorize activities beyond those specifically enumerated.''). An activity will be deemed ''incidental'' to the business of banking if it is ''convenient or useful in connection with the performance of'' a power authorized under federal law. *Arnold Tours, Inc.* v. *Camp,* 472 F.2d 427, 432 (1st Cir. 1972). Clearly, the authority under section 24(Seventh) is sufficiently broad to permit a national bank to market its products and services. *See Franklin National Bank* v. *New York,* 347 U.S. 373, 377 (1954).

Finally, the OCC has clearly established that a permissible activity is equally authorized regardless of whether it is conducted in a traditional manner or through an electronic medium. See 12 CFR 7.1019 (''A national bank may perform, provide, or deliver through electronic means and facilities any activity, function, product, or service that it is otherwise authorized to perform, provide, or deliver.'').

Thus, each of the activities that together comprise the Bank's online auction program is permissible under well-settled authority.

Preemptive Effect of Federal Law

As previously noted, at a staff level, the Board has indicated that its auction laws would not apply to the Bank's online auction program. However, given the unique nature of the Internet that enables the Bank to offer the online auction program in every state simultaneously and the possible

[1] 65 Fed. Reg. 2455 (January 14, 2000) (the Notice). As stated in the Notice, section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103–328, sec. 114, 108 Stat. 2338, 2366-68 (1994), codified at 12 U.S.C. § 43) requires the OCC to publish notice in the **Federal Register** before issuing a final written opinion about the preemptive effect of federal law in the areas of community reinvestment, consumer protection, fair lending, and the establishment of interstate branches. While it is not clear that the Pennsylvania statutes in question fall within one of these four areas, the OCC decided to invite comments on the issues raised in your letter given the novelty of addressing preemption in the context of national banks providing traditional financial services through electronic means.

application of other laws in other jurisdictions,[2] and in view of the non-binding nature of the communication of the staff's views, we believe it is appropriate to provide guidance on the preemptive effect of federal law in the context of state auction laws that are found to apply to auctions conducted over the Internet.[3]

We believe that a court likely would find that federal law preempts laws of the sort adopted by Pennsylvania, assuming they are found to apply to a national bank's online activities, because they would conflict with federal law authorizing the Bank to engage in the activities in question and they would violate the OCC's exclusive visitorial powers over national banks. These points are addressed in more detail below, following a brief summary of the law governing preemption and the OCC's visitorial powers.

Preemption and Visitorial Powers

When the federal government acts within the sphere of authority conferred upon it by the Constitution, federal law is paramount over, and may preempt, state law. U.S. Const. art. VI, cl. 2 (the Supremacy Clause); *Cohen* v. *Virginia*, 19 U.S. (6 Wheat.) 264, 414 (1821) (Marshall, C.J.). Federal authority over national banks stems from several constitutional sources, including the Necessary and Proper Clause and the Commerce Clause of the United States Constitution. U.S. Const. art. I, § 8, cl.3, cl. 18; *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316, 409 (1819).

The United States Supreme Court has identified several bases for federal preemption of state law. First, Congress may expressly state that it intends to preempt state law. *E.g., Jones* v. *Rath Packing Co.*, 430 U.S. 519 (1977). Second, a federal statute may create a scheme of federal regulation ''so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it.'' *Rice* v. *Norman Williams Co.,* 458 U.S. 654, 659 (1982). Third, the state law may conflict with a federal law. See, *e.g.,* Franklin National Bank, supra; *Davis* v. *Elmira Savings Bank*, 161 U.S. 275 (1896). In elaborating on this third test, the Supreme Court has stated—

> federal law may be in ''irreconcilable conflict'' with state law. *Rice* v. *Norman Williams Co.*, 458 U. S. 654, 659 (1982). Compliance with both statutes, for example, may be a ''physical impossibility,'' *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U. S. 132, 142–143 (1963); or, the state law may ''stan[d] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'' *Hines* v. *Davidowitz*, 312 U. S. 52, 67 (1941).

Barnett Bank of Marion County v. *Nelson*, 517 U.S. 25, 31 (1996). The Court in Barnett went on to state that—

> In defining the pre-emptive scope of statues and regulations granting a power to national banks, these cases [*i.e.,* national bank preemption cases] take the view that normally Congress would not want States to forbid, or to impair significantly, the exercise of a power that Congress explicitly granted. To say this is not to deprive States of the power to regulate national banks, where * * * doing so does not prevent or significantly interfere with the national bank's exercise of its powers.

517 U.S. at 33.

A conflict between a state law and federal law need not be complete in order for federal law to have preemptive effect. If a state law places limits on an unrestricted grant of authority under federal law, the state law will be preempted. See, e.g., *New York Bankers Association, Inc.* v. *Levin*, 999 F. Supp. 716 (W.D.N.Y. 1998). Moreover, federal law preempts not only state laws that purport to prohibit a national bank from engaging in an activity permissible under federal law but also state laws that condition the exercise by a national bank of its express or incidental powers. As stated in Barnett,

> * * * where Congress has not expressly conditioned the grant of ''power'' upon a grant of state permission, the Court has ordinarily found that no such condition applies. In *Franklin Nat. Bank*, the Court made this point explicit. It held that Congress did not intend to subject national banks' power to local restrictions, because the federal power-granting statute there in question contained ''no indication that Congress [so] intended * * * as it has done by express language in several other instances.''

517 U.S. at 34 (citations omitted; emphasis in original).

When reviewing the application of state laws to national banks, the Supreme Court's analysis is informed by the unique purposes for which the national banking system was created. Through the national charter, Congress has established a banking system intended to be both nationwide in scope and uniform in character.[4] As stated by the Supreme Court in *Easton* v. *Iowa*, 188 U.S. 220 (1903), federal legislation affecting national banks ''has in view the erection of a system extending throughout the country, and independent, so far as the powers conferred are concerned, of state legislation which, if permitted to be applicable, might impose limitations and restrictions as various and as numerous as the states.'' Id. at 229. See also *Davis, supra*, at 283 (''This freedom from State control over a national bank's powers protects national banks from conflicting local laws unrelated to the purpose of providing the uniform, nationwide banking system that Congress intended.''); *Farmers' & Merchants National Bank* v. *Dearing*, 91 U.S. 29, 33–34 (1875) (''National banks organized under [the National Bank A]ct are instruments designed to be used to aid the government in the administration of an important branch of the public service. They are means appropriate to that end. * * * Being such means, brought into existence for this purpose, and intended to be so employed, the States can exercise no control over them, nor in any wise affect their operation, except in so far as Congress may see proper to permit. Any thing beyond this is ''an abuse, because it is the usurpation of power which a

[2] You note in your letter that laws similar to the Pennsylvania law have been adopted in other states. For instance, Kentucky requires a person seeking to be licensed as an auctioneer to serve two years as an apprentice and to pass an examination (Ky. Rev. Stat. § 330.070), Ohio requires an applicant to complete a course of study and serve an apprenticeship for at least twelve months during which time he or she must participate in at least twelve auctions (Ohio Rev. Code § 4707.09), and Pennsylvania requires a person to serve a two-year apprenticeship, pass an examination, and participate in at least 30 auctions (63 Pa. Stat. § 734.5). A licensed auctioneer in Pennsylvania may have only one apprentice at any one time, while in Ohio, a licensed auctioneer may have two apprentices. At least one state has passed an auction law that would purport to apply to online auctions. See the Illinois Auction License Act, Public Act 91–0603, effective January 1, 2000.

[3] This letter assumes, solely for the sake of analysis, that a given state's laws would apply to the Bank's online auction program. We note, however, that the law governing ''prescriptive'' jurisdiction (*i.e.,* the jurisdiction to regulate conduct, as opposed to ''procedural'' jurisdiction, which is the ability to summon a party into a given court) in the context of commerce conducted over the Internet is not settled. For a discussion of some of the jurisdictional issues presented by Internet commerce, see the American Bar Association's Project on Internet Jurisdiction at http://www.kentlaw.edu/cyberlaw/. By assuming for the sake of the preemption analysis that a state's laws would apply to the Bank's online auction program, we are not expressing any views on the applicability of a particular state law purporting to regulate online auctions conducted by national banks.

[4] One of the original purposes of the national banking system was to foster a stable and unitary banking and financial system. The sponsors of the national system expected that State banks would cease to exist and national banks, centrally and uniformly regulated, would replace them. See, e.g., B. Hammond, Banks and Politics in America from the Revolution to the Civil War, 724–34 (1957); P. Studenski & H. Krooss, Financial History of the United States, 154–55, 178–79 (1st ed. 1952); Hackley, Our Baffling Banking System, 52 Va. L. Rev. 565, 571–73 (1966). Subsequent developments led to the continuation of State banks. However, the original purpose that national banks would be uniformly and centrally governed continues.

single State cannot give.'') (citations omitted).

The Supreme Court has consistently relied on the special federal purpose of national banks as an important reason for concluding that national bank powers normally are not limited by state law. Congress created the national bank charter to serve the purpose of providing a uniform, nationwide banking system. Through national banks, Congress intended to promote the nationwide availability of private credit and other banking services vital to economic development and expansion. As stated by the Court in Davis, *supra:*

> National banks are instrumentalities of the Federal government, created for a public purpose, and as such necessarily subject to the paramount authority of the United States. It follows that an attempt by a State to define their duties, or control the conduct of their affairs is absolutely void, wherever such attempted exercise of authority expressly conflicts with the laws of the United States, and either frustrates the purpose of the national legislation, or impairs the efficiency of these agencies of the Federal government to discharge the duties for the performance of which they were created. This freedom from State control over a national bank's powers protects national banks from conflicting local laws unrelated to the purpose of providing the uniform, nationwide banking system that Congress intended.

161 U.S. at 283. More recently, the Supreme Court, after quoting approvingly the language from Davis about national banks being instrumentalities of the federal government, went on to state that ''[c]lose examination of the National Bank Act of 1864, its legislative history, and its historical context makes clear that, contrary to the suggestion of petitioners, Congress intended to facilitate what Representative Hooper termed a 'national banking system.' '' *Marquette National Bank* v. *First of Omaha Corp.*, 423 U.S. 299, 314–315 (1978) (citations omitted). See also *First National Bank of San Jose* v. *California*, 262 U.S. 366, 369 (1923) (FNB San Jose) (''[A]ny attempt by a state to define [national banks'] duties or control the conduct of their affairs is void, whenever it conflicts with the laws of the United States or frustrates the purposes of the national legislation, or impairs the efficiency of the bank to discharge the duties for which it was created.'').

Consistent with the goal of establishing a nationwide banking system, Congress vested the OCC with the authority to determine whether a national bank is engaging in permissible activities. Under 12 U.S.C. 484 and other federal statutes (see, e.g., 12 U.S.C. 93, 481, and 1818), the OCC has exclusive visitorial powers over national banks except as otherwise expressly provided by federal law. *Guthrie* v. *Harkness*, 199 U.S. 148 (1905); *Bank One Texas, N.A.* v. *Patterson*, No. 3:93–CV–108–G (N.D. Tex. Sept. 9, 1994), aff'd 68 F.3d 469 (5th Cir. 1995). These powers include the right to examine a bank, inspect a bank's books and records, regulate and supervise activities authorized or permitted pursuant to federal banking law, and enforce compliance with any applicable federal or state laws concerning those activities. 12 CFR 7.4000(a)(2). See also *First National Bank of Youngstown* v. *Hughes*, 6 F. 737, 740–41.

Application of Federal Law to State Statutes

State licensing laws such as the Pennsylvania auction law, to the extent that they are found to apply to the Bank's online activities, present several potential conflicts with federal law.[5]

First, the state laws that require licensing by, and the payment of a fee to, a state would be preempted because they would ''stan[d] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'' Hines, 312 U.S. at 67. Clearly, Congress intended to permit national banks to engage in, among other things, deposit-taking activities when it enacted 12 U.S.C. 24(Seventh). Congress also intended that national banks would have available to them ''all such incidental powers as shall be necessary to carry on the business of banking,'' including the power to market the bank's products and services. See Franklin, supra. The online auction program is simply another way to engage in these activities. To the extent that a state asserts the right to restrict or condition a national bank's exercise of the federally granted powers, that state's law will be preempted. *Barnett, supra*, at 34; *Franklin, supra*, at 378; *Bank of America National Trust & Savings Ass'n* v. *Lima*, 103 F. Supp. 916, 918, 920 (D. Mass. 1952) (exercise of national bank powers is not subject to state approval; states have no authority to require national banks to obtain a license to engage in an activity permitted to them by federal law.). See also OCC Interpr. Ltr. No. 866 (Oct. 8, 1999) (state law requirements that purport to preclude national banks from soliciting trust business from customers located in states other than where the bank's main office is located would be preempted); OCC Interpr. Ltr. No. 749 (Sept. 13, 1996) (state law requiring national banks to be licensed by the state to sell annuities would be preempted); OCC Interpr. Ltr. 644 (March 24, 1994) (state registration and fee requirements imposed on mortgage lenders would be preempted).[6]

Second, state regulation of the Bank's online auction program would be inconsistent with the purpose of creating a uniform, nationwide banking system. The Internet presents financial institutions with the opportunity to offer banking products and services efficiently to anyone with access to the Internet. By so doing, the Internet greatly facilitates the operation of the nationwide banking system envisioned by Congress when it established the national bank charter. Supplanting the primary federal regulator's supervision and regulation of an activity conducted nationwide would present a significant interference with the efficient operation of the national banking system.[7]

Finally, the application by a state of its auctioneer licensing laws would violate the exclusive visitorial authority vested in the OCC. As previously noted, only the OCC may determine whether a national bank is engaging in activities permissible under federal law. See, e.g., 12 U.S.C. 484; 12 CFR 7.4000(a)(2). A state law that purports to vest this authority in a state (by, for instance, applying licensing and qualification requirements to national banks[8]) is

[5] Because the activities in question do not involve the business of insurance, the unique preemption standard established under the McCarran-Ferguson Act is not at issue. 15 U.S.C. 1012. Nor are the recently enacted provisions of the Gramm-Leach-Bliley Act. Pub. L. 106–102, sec. 104 (to be codified at 15 U.S.C. 6701).

[6] We note that the exercise of permissible federal banking powers over the Internet may present preemption issues unique to the Internet context. There may be instances, beyond licensing and examination laws, where states would assert prescriptive jurisdiction (see footnote 3 for a description of ''prescriptive jurisdiction'') over an activity performed via the Internet. If the debate over prescriptive jurisdiction is resolved in a way that subjects an entity engaged in commerce over the Internet to substantive requirements imposed by every state in the country, this could create a situation where the state laws collectively present such a significant impairment or interference with the activity that federal law would be found to preempt them. However, because we are faced in the instant situation with state licensing and examination laws that would be preempted according to well-established preemption principles, we need not address this issue here.

[7] While the Internet is a medium of communication available both to state banks and national banks, this does not change the fact that the Internet facilitates the operation of the ''uniform, nationwide banking system that Congress intended.'' Davis, supra, 161 U.S. at 283.

[8] Kentucky requires a person seeking to be licensed as an auctioneer to serve two years as an apprentice and to pass an examination (Ky. Rev. Stat. § 330.070), Ohio requires an applicant to complete a course of study and serve an apprenticeship for at least twelve months during

preempted by the OCC's exclusive visitorial authority.

Conclusion

If the Pennsylvania auction laws were to apply to the Bank's online auction program, we believe that federal law would preempt the state laws. We trust that this is responsive to your inquiry. Our conclusions are based on the facts and representations made in your letter. Any material change in facts or circumstances could affect the conclusions stated in this letter.

Sincerely,

Julie L. Williams,

First Senior Deputy Comptroller and Chief Counsel.

[FR Doc. 00–6865 Filed 3–17–00; 8:45 am]

BILLING CODE 4840–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is a correction to the notice published in the August 11, 1998 **Federal Register** and is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending June 30, 1998.

Last name	First name	Middle name
ABEGGLEN	JAMES	CHRISTIAN.
AIDA	MERIKO.	
AKIBA	TAKESHI.	
ALLEN-POLLOCK	BONNIE	SUE.
ARANTTA	MARIA	MARISA.
B0YCE	ALAN	ANDERSON.
BARSCH	MARIA	BENEDIKTA.
BRANN	PETER	SCOTT.
CARTER	PHILIPPE	PIERRE-FELICIEN.
CHO	FREDERICK	HYUNKOOK.
CHOI	YOUNG	HEE.
CHRISTOPHER-STICKEY	FRANCIS	ROBIN.
CULLEN	BARBARA	JEAN.
D'ARCY	JERRY	FRANCIS.
DAVIES	PETER	FREENAM.
DON PARK	DANIEL	YOUNG.
DRAPAC	JON	THOMAS.
DRAPAC-WEIDEN	LUCIA	MARIA.
FREELAND	FRED	CHARLES.
GEIPEL	GERARD	CHRISTIAN.
GLOVER-MESSER	EVA	MARIE.
GRAHAM	RICHARD	DAVID.
HALL	CHARLES	ROBERT.
HAMILL	MAURA.	
HONG	SUK	IN.
HURDSTORN	KAREN.	
IDETA	TAKESHI	ARNOLD.
IGASHI	MARIKO.	
ISAACSON	PAUL	W.
JOHNSON NEE COREMAN	ANNIE	YVONNE.
KENNY	ROBERT	ALEXANDER.
KIM	JONATHAN	KUNDO.
KIM	YOON	KOO.
KIM	EUGENE	YOUNG-SOO.
KIMOTO	ROSE	MARIE.
KING	CHRISTOPHER	CARLSON.
KOTLER	MARC	WILLIAM.
LARKIN	CAROL-ANN.	
LUCAS	NANCY	ELLEN.
MAHIA	HELLEN	WAITHERERO.
MCDONAGH	MAUREEN	ANGELA.
MORRIS	WILLIAM	WESLEY.
MYERS	MICHAEL	TODD.
NEE MITCHELL	CONSTANCE	ELLEN-CARSTENS.
NICOD	ROSE	MARIE.
PAIE	JI-EUN.	
PECARINA	MARIJAN.	
POPE	PETRELLA	THERESE.

which time he or she must participate in at least twelve auctions (Ohio Rev. Code § 4707.09), and Pennsylvania requires a person to serve a two-year apprenticeship, pass an examination, and participate in at least 30 auctions (63 Pa. Stat. § 734.5). A licensed auctioneer in Pennsylvania may have only one apprentice at any one time, while in Ohio, a licensed auctioneer may have two apprentices.

Last name	First name	Middle name
POPE	WILLIAM.	
QUINN	ATAN.	
REESE	MANUELA	KATHY.
REN	CHENG	GANG.
RHEE	KUN	MIN.
SAID	DINA.	
SAKURAI	MITSUHIRO.	
SANTO	MASASHI.	
SCHATZ	IRENE.	
SCHREYER	LORE.	
SCHRODER	BERNARD	LOUIS.
SHEPARD	STEPHEN	MICHAEL.
SHIN	HYUNHEE	KIMBERLY.
SLATER	NOBUKO	NATASHA.
SPRADLEY	ROBERT	DOUGLAS.
TAKAHASHI	AYA.	
TAYLOR	SAMANTHA	SUE.
TUGGLE	JAMES	DOUGLAS.
UENOHARA	HIROYUKI.	
VALERIANI	DOMENICO.	
VAN ECK DUYMAER VAN TWIST	BIRGIT	BELINDA.
VARPU-YLONEN EXSCHNEIDER	NANNELI	LEA.
VON RIESENFELDER	ELIZABETH..	
WALL	JOYCE	ELLEN.
WALLER	MYONG	SUK.
WANTANABE	TAKAHIRO.	
WILJAKKALA	OLGA.	

Approved: February 29, 2000.

Doug Rogers,

Chief, Special Projects & Support Branch, International District.

[FR Doc. 00–6579 Filed 3–17–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

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 comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Fiduciary Powers of Federal Savings Associations information collection package.

DATES: Submit written comments on or before May 19, 2000.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0037. Hand deliver comments to the Public Reference Room, 1700 G Street, NW., lower level, from 9:00 a.m. to 4:00 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mails to ''public.info@ots.treas.gov'', and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Nadine Y. Washington, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6706.

SUPPLEMENTARY INFORMATION:

Title: Fiduciary Powers of Federal Savings Associations.

OMB Number: 1550–0037.

Form Number: Not applicable.

Abstract: Section 12 CFR part 550 requires Federal savings associations that want to exercise fiduciary powers to file an application containing information sufficient for adequate OTS review. Part 550 also requires Federal savings associations to keep adequate fiduciary records, including but not limited to, documentation of the establishment and termination of each fiduciary account; requires Federal Savings associations to note at least annually in the minutes of its Board of Directors' meeting the results of an audit (required at least once every calendar year) of its fiduciary activities; and requires Federal savings associations seeking to surrender their authority to exercise trust powers to file with the OTS a certified copy of the resolution of its Board of Directors evidencing that intent.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 88.

Estimated Time Per Respondent: 2.5 hours.

Estimated Total Annual Burden Hours: 216 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment 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; (d) ways to minimize the burden of the collection of information

on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 14, 2000.

John E. Werner,

Director, Information & Management Services Division.

[FR Doc. 00–6766 Filed 3–17–00; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register

Vol. 65, No. 54

Monday, March 20, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[RP99-496-003]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 00–6183, appearing on page 13742, in the issue of Tuesday, March 14, 2000, make the following correction:

On page 13742, in the third column, the docket number is corrected to read as set forth above.

[FR Doc. C0–6183 Filed 3–17–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–58–000, et al.]

The United Illuminating Company, et al.; Electric Rate and Corporate Regulation Filings

Correction

In notice document 00–5439 beginning on page 11996 in the issue of Tuesday, March 7, 2000, make the following correction:

On page 11996, in the second column, under the headings numbered 2 and 3, and in the third column, under headings 4 and 5, the portion of each docket number reading ''EC00'' should read ''ER00''.

[FR Doc. C0–5439 Filed 3–17–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 200

[Docket No. FR–3482–F–06]

RIN 2501–AB57

Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance

Correction

In rule document 99–23016 beginning on page 50140 in the issue of Wednesday, September 15, 1999, make the following correction:

PART 200 [CORRECTED]

On page 50224, in the second column, the subpart heading for the text should read **Subpart O—Lead-Based Paint Poisoning Prevention**.

[FR Doc. C9–23016 Filed 3–17–00; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 228

[Release Nos. 33-7803; 34-42462; 35-27142; 39-2382; IC-24319 File No. S7-05-00]

RIN 3235-AH79

Rulemaking for EDGAR System

Correction

In proposed rule document 00–5045 beginning on page 11507 in the issue of Friday, March 3, 2000, make the following correction:

§228.601 [Corrected]

On page 11519, second column, amendatory instruction 2 is corrected to read as follows:

''2. By amending § 228.601, by removing exhibits (27) and (28), and by reserving exhibits (27) through (98), and removing footnote * * * * * in the exhibit table in paragraph (a), by removing paragraph (b)(27) and reserving paragraphs (b)(27) through (b)(98), and by removing paragraph (c) and Appendices A through F.''

[FR Doc. C0–5045 Filed 3–17–00; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42493; File No. SR-OPRA-00-03]

Options Price Reporting Authority; Notice of Filing and Order Granting Accelerated Effectiveness of Amendment to OPRA Plan Adopting a Temporary Capacity Allocation Plan

Correction

In notice document 00–5757 beginning on page 12597, in the issue of Thursday, March 9, 2000, make the following correction:

On page, 12599, in the third column, in the first line, ''Dated: '' should be removed.

[FR Doc. C0–5757 Filed 3–17–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
March 20, 2000

Part II

Department of Housing and Urban Development

Notice of Certain Operating Cost-Adjustment Factors; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4569–N–01]

Notice of Certain Operating Cost Adjustment Factors

AGENCY: Office of the Secretary, HUD.

ACTION: Publication of Fiscal Year (FY) 2000 Operating Cost Adjustment Factors (OCAFs) for Section 8 rent adjustments at contract renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), as amended by the Preserving Affordable Housing for Senior Citizens and Families into the 21st Century Act of 1999, and under Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) Projects assisted with Section 8 Housing Assistance Payments.

SUMMARY: This notice establishes factors used in rent adjustments under Section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) as amended by the Preserving Affordable Housing for Senior Citizens and Families into the 21st Century Act of 1999, and under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA).

EFFECTIVE DATE: March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Department of Housing and Urban Development, Office of Multifamily Housing, Office of Business Products, 451 Seventh Street, SW, Washington, DC 20410; Telephone (202) 708–3000; (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:

I. Operating Cost Adjustment Factors (OCAFs)

Various statutes provide for rents under Section 8 project-based assistance contracts to be determined using OCAFs. The legislation requiring HUD to establish OCAFs for LIHPRHA projects and projects with contract renewals under Section 524 of MAHRA is similar in wording and intent, and HUD has developed factors that will be applied to both programs. Section 524 gives HUD broad discretion in setting OCAFs. The law simply refers to ''operating cost factors established by the Secretary.'' The one specific requirement is that application of an OCAF shall not result in a negative adjustment.

An analysis of operating cost data for FHA-insured projects showed that their expenses could be grouped into nine categories: wages, employee benefits, property taxes, insurance, supplies and equipment, fuel oil, electricity, natural gas, and water and sewer. States are the lowest level of geographical aggregation at which there are enough projects to permit statistical analysis. Based on an analysis of these data, HUD derived estimates of the percentage of routine operating costs that were attributable to each of these nine expense categories. Data for projects with unusually high or low expenses due to unusual circumstances were deleted from analysis. No data was available for the Western Pacific Islands, and data for Hawaii was used to generate OCAFs for these areas.

The best current measures of cost changes for the nine cost categories were selected. The only categories for which current data are available at the State level are for fuel oil, electricity, and natural gas. Current price change indices for the other six categories are only available at the national level. The Department had the choice of using dated State-level data or relatively current national data. It opted to use national data rather than data that would be two or more years older (e.g., the most current local wage data are for 1996). The data sources for the nine cost indicators selected used were as follows:

Labor Costs—Bureau of Labor Statistics (BLS).

Employment Benefit Costs—BLS Employment Cost Index.

Property Taxes—BLS Consumer Price Index, All Items Index.

Goods, Supplies, Equipment—BLS Producer Price Index, Finished Goods Less Food and Energy.

Insurance—BLS Consumer Price Index, residential insurance index.

Fuel Oil—U.S. Department of Energy, average State prices for #2 residential fuel oil (U.S. average change was used for the States with too little fuel oil consumption to have values).

Electricity—U.S. Department of Energy, ''Electric Power Monthly''—October 1999, ''Electric Sales and Revenue—1998.''

Natural Gas—U.S. Department of Energy, ''Natural Gas Monthly'' average annual change (monthly data are available, but are so erratic that annual averages offer a more reliable measure).

Water and Sewer—BLS Consumer Price Index Detailed Report.

The sum of the nine cost components equals 100 percent of operating costs for purposes of OCAF calculations. To calculate the OCAFs, the selected inflation factors are multiplied by the relevant State-level operating cost percentages derived from the previously referenced analysis of FHA insured projects. For instance, if wages in Virginia comprised 50 percent of total operating cost expenses and wages increased by 4 percent from March 1998 to March 1999, the wage increase component of the Virginia OCAF for FY 2000 would be 2.0 percent (4% X 50%). This 2.0 percent would then be added to the increases for the other eight expense categories to calculate the FY 2000 OCAF for Virginia. These types of calculations were made for each State for each of the nine cost components, and are included as the Appendix to this Notice.

OCAFs are to be applied uniformly to all projects utilizing OCAFs as the method by which rents are adjusted upon expiration of the term of the contract. OCAFs are applied to project contract rent less debt service.

II. MAHRA OCAF Procedure

The Multifamily Assisted Housing Reform and Affordability Act of 1997, title V of Pub. L. 105–65 (approved October 7, 1997), 42 U.S.C. 1437f note (MAHRA) as amended by the Preserving Affordable Housing for Senior Citizens and Families into the 21st Century Act of 1999, created the Mark-to-Market Program to reduce the cost of Federal housing assistance, enhance HUD's administration of such assistance, and to ensure the continued affordability of units in certain multifamily housing projects. Section 524 of MAHRA authorizes renewal of Section 8 project-based assistance contracts for projects without Restructuring Plans under the Mark-to-Market Program, including renewals that are not eligible for Plans and those for which the owner does not request Plans. Renewals must be at rents not exceeding comparable market rents except for certain projects. For Section 8 Moderate Rehabilitation projects, other than single room occupancy projects (SROs) under the Stewart B. McKinney Homeless Assistance Act (Mckinney Act, 42 U.S.C. 11301 *et seq.*), that are eligible for renewal under section 524(b)(3) of MAHRA, the renewal rents are required to be set at the lesser of: 1) the existing rents under the expiring contract, as adjusted by the OCAF; 2) fair market rents (less any amounts allowed for tenant-purchased utilities; or 3) Comparable market rents for the market area.

III. Findings and Certifications

Environmental Impact. This issuance sets forth rate determinations and related external administrative

requirements and procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism. This final rule 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'').

Catalog of Federal Domestic Assistance Number. The Catalog of Federal Domestic Assistance Number for this program is 14.187.

Dated: March 13, 2000.

Andrew Cuomo,

Secretary.

Appendix

FY 2000 OPERATING COST ADJUSTMENT FACTORS (OCAF) FOR RENT ADJUSTMENTS AT SECTION 8 CONTRACT RENEWAL

[In percent]

State	Total
Alabama	2.6
Alaska	2.4
Arizona	2.3
Arkansas	2.2
California	2.0
Colorado	2.4
Connecticut	2.0
Delaware	2.5
Dist. of Columbia	2.5
Florida	2.2
Georgia	2.0
Hawaii	1.3
Idaho	2.5
Illinois	1.7
Indiana	2.4
Iowa	2.2
Kansas	2.0
Kentucky	2.2
Louisiana	2.0
Maine	1.9
Maryland	2.4
Massachusetts	1.6
Michigan	2.2
Minnesota	2.0
Mississippi	2.4
Missouri	2.3
Montana	2.4
Nebraska	2.1
Nevada	2.9
New Hampshire	2.2
New Jersey	2.0
New Mexico	1.8
New York	2.0
N. Carolina	2.5
N. Dakota	2.7
Ohio	2.4
Oklahoma	2.1
Oregon	2.7
Pennsylvania	2.2
Rhode Island	1.1
S. Carolina	2.5
S. Dakota	2.1
Tennessee	2.7
Texas	2.0
Utah	2.7
Vermont	2.4
Virginia	2.2
Washington	2.4
W. Virginia	2.5
Wisconsin	2.3
Wyoming	2.5
Pacific Islands	2.1
Puerto Rico	2.4
Virgin Islands	2.0
U.S. Average	2.1

[FR Doc. 00–6727 Filed 3–17–00; 8:45 am]

BILLING CODE 4210–32–P

Federal Register

Monday,
March 20, 2000

Part III

Federal Reserve System

Department of the Treasury

12 CFR Parts 208 and 1501
Financial Subsidiaries; Interim Rule

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulation H; Docket No. R–1066]

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

12 CFR Part 1501

RIN 1505–AA77

Financial Subsidiaries

AGENCIES: The Department of the Treasury and the Board of Governors of the Federal Reserve System.

ACTION: Joint interim rule with request for comments.

SUMMARY: The Department of the Treasury (Treasury) and the Board of Governors of the Federal Reserve System (Board) are jointly issuing this interim rule pursuant to section 121 of the Gramm-Leach-Bliley Act (GLBA). The GLBA permits a national bank or state member bank that is among the second 50 largest insured banks to own or control a financial subsidiary only if the bank meets either the eligible debt requirement set forth in section 121 of the Act or alternative criteria established jointly by Treasury and the Board. This interim rule establishes the alternative criteria and provides that a bank meets the criteria if it has a current long-term issuer credit rating from a nationally recognized statistical rating organization that is within the three highest investment grade rating categories used by the organization.

DATES: This interim rule is effective March 14, 2000. Written comments must be submitted on or before May 15, 2000.

ADDRESSES: Comments should refer to docket number R–1066 and should be sent both: to Comparable Ratings Regulation, Office of Financial Institutions Policy, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Room SC 37, Washington, D.C. 20220, and to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to the Treasury Department also may be mailed electronically to *financial.institutions@do.treas.gov* or delivered to the Treasury Department mail room between the hours of 8:45 a.m. and 5:15 p.m. at the 15th Street entrance to the Treasury Building. Comments addressed to Ms. Johnson also may be mailed electronically to *regs.comments@federalreserve.gov* or delivered to the Board's mail room between the hours of 8:45 a.m. and 5:15 p.m. and, outside of those hours, to the Board's security control room. Both the Board's mail room and the security control room are accessible from the Eccles Building courtyard entrance, located on 20th Street between Constitution Avenue and C Street, N.W. Members of the public may inspect comments in Room SC 37 of the Treasury Department and in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT:

Department of the Treasury: Joan Affleck-Smith, Director, Office of Financial Institutions Policy (202/622–2740); Matthew Green, Senior Financial Analyst (202/622–2740); or Gary W. Sutton, Senior Banking Counsel (202/622–1976).

Board of Governors: Kieran J. Fallon, Senior Counsel, Legal Division (202/452–5270); or Mark S. Carey, Senior Economist, Division of Research & Statistics (202/452–2784). For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Janice Simms (202/872–4984).

SUPPLEMENTARY INFORMATION:

Background

On November 12, 1999, the President signed the GLBA, Public Law 106–102, 113 Stat. 1338, which comprehensively restructures the statutory framework that governs the financial services industry. Section 121 of the Act authorizes national banks and state member banks to acquire control of, or hold an interest in, a new type of subsidiary called a ''financial subsidiary.'' A financial subsidiary may, with certain exceptions, engage in activities that have been determined to be financial in nature or incidental to financial activities in accordance with the GLBA, and in other activities that the parent bank is permitted to conduct directly.

In order for a national bank or state member bank to control, or hold an interest in, a financial subsidiary, the bank and each of its depository institution affiliates must be ''well-capitalized'' and ''well-managed,'' as those terms are defined in the GLBA. The aggregate consolidated total assets of all financial subsidiaries of the bank also may not exceed the lesser of 45 percent of the consolidated total assets of the parent bank or $50 billion. (The $50 billion limit is to be adjusted according to an indexing mechanism established in a separate regulation to be issued jointly by Treasury and the Board.) In addition, in order to acquire control of a financial subsidiary, the bank and each of its insured depository institution affiliates must have received a ''satisfactory'' or better rating at its most recent examination under the Community Reinvestment Act.

In addition, if the bank is one of the 50 largest insured banks, as determined by the bank's consolidated total assets at the end of the most recent calendar year, the bank must have at least one issue of outstanding eligible debt that is rated in one of the three highest rating categories by a nationally recognized statistical rating organization (debt rating requirement). If the bank is one of the second 50 largest insured banks, the bank must meet either this debt rating requirement or such alternative criteria that the Secretary of the Treasury and the Board jointly determine by regulation to be comparable to and consistent with the purpose of the rating requirement.[1] This interim rule establishes such alternative criteria.

Description of the Interim Rule

The interim rule provides that a national bank or state member bank within the second 50 largest insured banks satisfies the alternative criteria if the bank has a current long-term issuer credit rating from a nationally recognized statistical rating organization that is within the three highest investment grade rating categories used by the rating organization. A long-term issuer credit rating is one that assesses the bank's overall capacity and willingness to pay on a timely basis its unsecured financial obligations.[2] Unlike debt ratings, an issuer credit rating does not assess the bank's ability and willingness to make payments on any individual class or issue of debt, nor does it reflect priority or preference in payment among financial obligations. Ratings organizations may issue long-term or short-term issuer credit ratings for the same bank and separate ratings for dollar-denominated and foreign currency-denominated obligations. Only long-term issuer credit ratings for dollar-denominated obligations satisfy the requirements of the rule. A long-term issuer credit rating is one that reflects the bank's ability over a period of not

[1] A bank does not have to satisfy the debt rating requirement or the alternative criteria established by this rule if the bank's financial subsidiaries engage in the newly authorized financial activities solely as agent and not as principal.

[2] Issuer credit ratings that are assigned to a subsidiary or affiliate of the bank, such as a subsidiary engaged in derivatives activities, do not meet the rule's requirements.

less than one year to fulfill its financial obligations on a timely basis.

Treasury and the Board believe that the long-term issuer credit rating required by the rule is comparable to, and consistent with the purposes of, the debt rating requirement applicable to the 50 largest insured banks. The long-term issuer credit rating assigned large banks generally is identical to the rating given the bank's senior long-term unsecured debt, where such rated debt exists. Furthermore, representatives of rating organizations have indicated that the rating given to a specific long-term unsecured financial obligation of an issuer is anchored to the issuer's long-term issuer credit rating because the latter rating exemplifies the issuer's fundamental creditworthiness over the long-term. For these reasons, Treasury and the Board believe that the long-term issuer credit rating is consistent with the purposes underlying the debt rating requirement.

The interim rule requires that the parent bank have a long-term issuer credit rating in the top three investment grade rating categories from at least one nationally recognized statistical rating organization. Standard & Poor's top three investment grade categories for long-term issuer credit ratings are AAA, AA, or A, with AAA denoting the highest rating.[3] Standard & Poor's may modify its AA or A ratings with the addition of a plus (+) or minus (−) sign to show relative standing within these rating categories. Any rating from A minus to AAA would satisfy the long-term issuer credit rating requirement; an A minus would constitute the lowest acceptable rating (in the case of Standard & Poor's). Moody's top three investment grade categories for long-term issuer credit ratings are Aaa, Aa, or A, with Aaa denoting the highest rating. Moody's likewise applies numerical modifiers of 1, 2 and 3 in the Aa and A rating categories, with 3 denoting the lowest end of the letter-rating modifiers. Any rating from A–3 to Aaa would satisfy the long-term issuer credit rating requirement; a rating of A–3 would be the lowest acceptable rating (in the case of Moody's).

Interim Effectiveness of the Rule

This interim rule is effective on March 14, 2000. Section 553 of the Administrative Procedure Act permits agencies to issue a rule without public notice and comment when the agency, for good cause, finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Section 553 also permits agencies to issue a rule without delaying its effectiveness for thirty days from publication if the agency finds good cause and publishes this finding with the rule. 5 U.S.C. 553(d)(3). In addition, section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994, 12 U.S.C. 4802(b), permits federal banking agencies to issue a regulation which takes effect before the first day of a calendar quarter beginning on or after the date on which the regulations are published in final form when the agency determines for good cause (published with the regulation) that the regulation should become effective before such time.

For the reasons set forth below, Treasury and the Board find that there is good cause for issuing this interim rule without notice and public comment and without a delayed effective date. For the same reasons, Treasury and the Board find that there is good cause for the interim rule to become effective before the first day of a calendar quarter beginning on or after the date on which the regulations are published in final form.

Section 121 of the GLBA becomes effective on March 11, 2000. A national bank or state member bank that is among the second 50 largest insured banks may control a financial subsidiary or hold an interest in a financial subsidiary only if the bank meets the debt rating requirement or the alternative criteria established by this rule. To prevent any bank from being denied the opportunity to control or hold an interest in a financial subsidiary, it is in the public interest to make this interim rule effective immediately. Treasury and the Board are soliciting comments on all aspects of the interim rule and will consider those comments before the rule is finalized.

Regulatory Flexibility Act Analysis

Because no notice of proposed rulemaking is required for this interim final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) do not apply. In addition, the interim rule applies only to national banks and state member banks that are within the second 50 largest insured banks. Accordingly, the interim rule is not expected to have a significant economic impact on a substantial number of small entities.

Executive Order 12866 Determination

The Department of the Treasury has determined that this rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

Solicitation of Comments Regarding the Use of ''Plain Language''

Section 722 of the Gramm-Leach-Bliley Act requires the Board to use ''plain language'' in all proposed and final rules published after January 1, 2000. The Board invites comments about how to make the interim rule easier to understand, including answers to the following questions:

(1) Is the material organized in an effective manner? If not, how could the material be better organized?

(2) Are the terms of the rule clearly stated? If not, how could the terms be more clearly stated?

(3) Does the rule contain technical language or jargon that is unclear? If not, which language requires clarification?

(4) Would a different format (with respect to the grouping and order of sections and use of headings) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?

(5) Would increasing the number of sections (and making each section shorter) clarify the rule? If so, which portions of the rule should be changed in this respect?

(6) What additional changes would make the rule easier to understand?

List of Subjects

12 CFR Part 208

Administrative practice and procedure, Federal Reserve System, Banks.

12 CFR Part 1501

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements.

Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the preamble, the Board of Governors of the Federal Reserve System amends part 208 of Chapter II, Title 12 of the Code of Federal Regulations as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 continues to read as follows:

[3] Standard & Poor's also issues counterparty credit ratings, which are a form of issuer credit rating.

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1823(j), 1828(o), 1831, 1831o, 1831p–1, 1831r–1, 1831w, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106 and 4128.

2. Section 208.71 is amended by adding a new paragraph (c) to read as follows:

§ 208.71 What are the requirements to invest in or control a financial subsidiary?

* * * * *

(c) *Alternative requirement.* A state member bank satisfies the alternative criteria referenced in paragraph (b)(1)(ii) of this section if the bank has a current long-term issuer credit rating from at least one nationally recognized statistical rating organization that is within the three highest investment grade rating categories used by the organization.

3. Section 208.77 is amended by redesignating paragraphs (e) and (f) as paragraphs (f) and (g), respectively, and adding a new paragraph (e) to read as follows:

§ 208.77 Definitions.

* * * * *

(e) *Long-term issuer credit rating.* The term ''long-term issuer credit rating'' means a written opinion issued by a nationally recognized statistical rating organization of the bank's overall capacity and willingness to pay on a timely basis its unsecured, dollar-denominated financial obligations maturing in not less than one year.

* * * * *

By order of the Board of Governors of the Federal Reserve System, March 14, 2000.

Jennifer J. Johnson,

Secretary of the Board.

Department of the Treasury

12 CFR Chapter XV

Authority and Issuance

For the reasons set forth in the preamble, the Department of the Treasury amends part 1501 of Chapter XV of Title 12 of the Code of Federal Regulations as follows:

PART 1501—FINANCIAL SUBSIDIARIES

1. The authority citation for part 1501 continues to read as follows:

Authority: Section 5136A of the Revised Statutes of the United States (12 U.S.C. 24a).

2. A new § 1501.2 is added to read as follows:

§ 1501.2 Comparable ratings requirement for national banks among the second 50 largest insured banks.

(a) *Scope and purpose.* Section 5136A of the Revised Statutes permits a national bank that is within the second 50 largest insured banks to own or control a financial subsidiary only if, among other requirements, the bank satisfies the eligible debt requirement set forth in section 5136A or an alternative criteria jointly established by the Secretary of the Treasury and the Board of Governors of the Federal Reserve System. This section establishes the alternative criteria that national banks among the second 50 largest insured banks may meet, which criteria is comparable to and consistent with the purposes of the eligible debt requirement established by section 5136A.

(b) *Alternative criteria.* A national bank satisfies the alternative criteria referenced in Section 5136A(a)(2)(E) of the Revised Statutes (12 U.S.C. 24a) and 12 CFR 5.39(g)(3) if the bank has a current long-term issuer credit rating from at least one nationally recognized statistical rating organization that is within the three highest investment grade rating categories used by the organization.

(c) *Definition of long-term issuer credit rating.* A '*long-term issuer credit rating*' is a written opinion issued by a nationally recognized statistical rating organization of the bank's overall capacity and willingness to pay on a timely basis its unsecured, dollar-denominated financial obligations maturing in not less than one year.

Dated: March 14, 2000.

Gregory A. Baer,

Assistant Secretary for Financial Institutions, Department of the Treasury.

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H.R. 3557/P.L. 106–175
To authorize the President to award a gold medal on behalf of the Congress to John Cardinal O'Connor, Archbishop of New York, in recognition of his accomplishments as a priest, a chaplain, and a humanitarian. (Mar. 5, 2000; 114 Stat. 21)

H.R. 149/P.L. 106–176
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H.R. 764/P.L. 106–177
To reduce the incidence of child abuse and neglect, and for other purposes. (Mar. 10, 2000; 114 Stat. 35)

H.R. 1883/P.L. 106–178
Iran Nonproliferation Act of 2000 (Mar. 14, 2000; 114 Stat. 38)

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*400–699	(869–042–00012–9)	41.00	Jan. 1, 2000
700–899	(869–038–00013–0)	32.00	Jan. 1, 1999
900–999	(869–042–00014–5)	46.00	Jan. 1, 2000
1000–1199	(869–038–00015–6)	46.00	Jan. 1, 1999
1200–1599	(869–038–00016–4)	34.00	Jan. 1, 1999
1600–1899	(869–038–00017–2)	55.00	Jan. 1, 1999
1900–1939	(869–038–00018–1)	19.00	Jan. 1, 1999
1940–1949	(869–038–00019–9)	34.00	Jan. 1, 1999
1950–1999	(869–042–00020–0)	38.00	Jan. 1, 2000
2000–End	(869–042–00021–8)	31.00	Jan. 1, 2000
8	(869–038–00022–9)	36.00	Jan. 1, 1999
9 Parts:			
1–199	(869–038–00023–7)	42.00	Jan. 1, 1999
200–End	(869–038–00024–5)	37.00	Jan. 1, 1999
10 Parts:			
1–50	(869–038–00025–3)	42.00	Jan. 1, 1999
51–199	(869–038–00026–1)	34.00	Jan. 1, 1999
200–499	(869–038–00027–0)	33.00	Jan. 1, 1999
500–End	(869–038–00028–8)	43.00	Jan. 1, 1999
11	(869–038–00029–6)	20.00	Jan. 1, 1999
12 Parts:			
1–199	(869–038–00030–0)	17.00	Jan. 1, 1999
200–219	(869–042–00031–5)	22.00	Jan. 1, 2000
220–299	(869–038–00032–6)	40.00	Jan. 1, 1999
*300–499	(869–042–00033–1)	29.00	Jan. 1, 2000
500–599	(869–038–00034–2)	24.00	Jan. 1, 1999
600–End	(869–038–00035–1)	45.00	Jan. 1, 1999
13	(869–038–00036–9)	25.00	Jan. 1, 1999
14 Parts:			
1–59	(869–038–00037–7)	50.00	Jan. 1, 1999
60–139	(869–038–00038–5)	42.00	Jan. 1, 1999
140–199	(869–038–00039–3)	17.00	Jan. 1, 1999
200–1199	(869–038–00040–7)	28.00	Jan. 1, 1999
1200–End	(869–042–00041–2)	25.00	Jan. 1, 2000
15 Parts:			
0–299	(869–042–00042–1)	28.00	Jan. 1, 2000
300–799	(869–038–00043–1)	36.00	Jan. 1, 1999
800–End	(869–038–00044–0)	24.00	Jan. 1, 1999
16 Parts:			
0–999	(869–038–00045–8)	32.00	Jan. 1, 1999
1000–End	(869–038–00046–6)	37.00	Jan. 1, 1999
17 Parts:			
1–199	(869–038–00048–2)	29.00	Apr. 1, 1999
200–239	(869–038–00049–1)	34.00	Apr. 1, 1999
240–End	(869–038–00050–4)	44.00	Apr. 1, 1999
18 Parts:			
1–399	(869–038–00051–2)	48.00	Apr. 1, 1999
400–End	(869–038–00052–1)	14.00	Apr. 1, 1999
19 Parts:			
1–140	(869–038–00053–9)	37.00	Apr. 1, 1999
141–199	(869–038–00054–7)	36.00	Apr. 1, 1999
200–End	(869–038–00055–5)	18.00	Apr. 1, 1999
20 Parts:			
1–399	(869–038–00056–3)	30.00	Apr. 1, 1999
400–499	(869–038–00057–1)	51.00	Apr. 1, 1999
500–End	(869–038–00058–0)	44.00	[7] Apr. 1, 1999
21 Parts:			
1–99	(869–038–00059–8)	24.00	Apr. 1, 1999
100–169	(869–038–00060–1)	28.00	Apr. 1, 1999
170–199	(869–038–00061–0)	29.00	Apr. 1, 1999
200–299	(869–038–00062–8)	11.00	Apr. 1, 1999
300–499	(869–038–00063–6)	50.00	Apr. 1, 1999
500–599	(869–038–00064–4)	28.00	Apr. 1, 1999
600–799	(869–038–00065–2)	9.00	Apr. 1, 1999
800–1299	(869–038–00066–1)	35.00	Apr. 1, 1999
1300–End	(869–038–00067–9)	14.00	Apr. 1, 1999
22 Parts:			
1–299	(869–038–00068–7)	44.00	Apr. 1, 1999
300–End	(869–038–00069–5)	32.00	Apr. 1, 1999
23	(869–038–00070–9)	27.00	Apr. 1, 1999
24 Parts:			
0–199	(869–038–00071–7)	34.00	Apr. 1, 1999
200–499	(869–038–00072–5)	32.00	Apr. 1, 1999
500–699	(869–038–00073–3)	18.00	Apr. 1, 1999
700–1699	(869–038–00074–1)	40.00	Apr. 1, 1999
1700–End	(869–038–00075–0)	18.00	Apr. 1, 1999
25	(869–038–00076–8)	47.00	Apr. 1, 1999
26 Parts:			
§§ 1.0-1–1.60	(869–038–00077–6)	27.00	Apr. 1, 1999
§§ 1.61–1.169	(869–038–00078–4)	50.00	Apr. 1, 1999
§§ 1.170–1.300	(869–038–00079–2)	34.00	Apr. 1, 1999
§§ 1.301–1.400	(869–038–00080–6)	25.00	Apr. 1, 1999
§§ 1.401–1.440	(869–038–00081–4)	43.00	Apr. 1, 1999
§§ 1.441-1.500	(869-038-00082-2)	30.00	Apr. 1, 1999
§§ 1.501–1.640	(869–038–00083–1)	27.00	[7] Apr. 1, 1999
§§ 1.641–1.850	(869–038–00084–9)	35.00	Apr. 1, 1999
§§ 1.851–1.907	(869–038–00085–7)	40.00	Apr. 1, 1999
§§ 1.908–1.1000	(869–038–00086–5)	38.00	Apr. 1, 1999
§§ 1.1001–1.1400	(869–038–00087–3)	40.00	Apr. 1, 1999
§§ 1.1401–End	(869–038–00088–1)	55.00	Apr. 1, 1999
2–29	(869–038–00089–0)	39.00	Apr. 1, 1999
30–39	(869–038–00090–3)	28.00	Apr. 1, 1999
40–49	(869–038–00091–1)	17.00	Apr. 1, 1999
50–299	(869–038–00092–0)	21.00	Apr. 1, 1999
300–499	(869–038–00093–8)	37.00	Apr. 1, 1999
500–599	(869–038–00094–6)	11.00	Apr. 1, 1999
600–End	(869–038–00095–4)	11.00	Apr. 1, 1999
27 Parts:			
1–199	(869–038–00096–2)	53.00	Apr. 1, 1999

Title	Stock Number	Price	Revision Date
200–End	(869–038–00097–1)	17.00	Apr. 1, 1999
28 Parts:			
0-42	(869–038–00098–9)	39.00	July 1, 1999
43-end	(869-038-00099-7)	32.00	July 1, 1999
29 Parts:			
0–99	(869–038–00100–4)	28.00	July 1, 1999
100–499	(869–038–00101–2)	13.00	July 1, 1999
500–899	(869–038–00102–1)	40.00	[8] July 1, 1999
900–1899	(869–038–00103–9)	21.00	July 1, 1999
1900–1910 (§§ 1900 to 1910.999)	(869–038–00104–7)	46.00	July 1, 1999
1910 (§§ 1910.1000 to end)	(869–038–00105–5)	28.00	July 1, 1999
1911–1925	(869–038–00106–3)	18.00	July 1, 1999
1926	(869–038–00107–1)	30.00	July 1, 1999
1927–End	(869–038–00108–0)	43.00	July 1, 1999
30 Parts:			
1–199	(869–038–00109–8)	35.00	July 1, 1999
200–699	(869–038–00110–1)	30.00	July 1, 1999
700–End	(869–038–00111–0)	35.00	July 1, 1999
31 Parts:			
0–199	(869–038–00112–8)	21.00	July 1, 1999
200–End	(869–038–00113–6)	48.00	July 1, 1999
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–038–00114–4)	46.00	July 1, 1999
191–399	(869–038–00115–2)	55.00	July 1, 1999
400–629	(869–038–00116–1)	32.00	July 1, 1999
630–699	(869–038–00117–9)	23.00	July 1, 1999
700–799	(869–038–00118–7)	27.00	July 1, 1999
800–End	(869–038–00119–5)	27.00	July 1, 1999
33 Parts:			
1–124	(869–038–00120–9)	32.00	July 1, 1999
125–199	(869–038–00121–7)	41.00	July 1, 1999
200–End	(869–038–00122–5)	33.00	July 1, 1999
34 Parts:			
1–299	(869–038–00123–3)	28.00	July 1, 1999
300–399	(869–038–00124–1)	25.00	July 1, 1999
400–End	(869–038–00125–0)	46.00	July 1, 1999
35	(869–038–00126–8)	14.00	[8] July 1, 1999
36 Parts			
1–199	(869–038–00127–6)	21.00	July 1, 1999
200–299	(869–038–00128–4)	23.00	July 1, 1999
300–End	(869–038–00129–2)	38.00	July 1, 1999
37	(869–038–00130–6)	29.00	July 1, 1999
38 Parts:			
0–17	(869–038–00131–4)	37.00	July 1, 1999
18–End	(869–038–00132–2)	41.00	July 1, 1999
39	(869–038–00133–1)	24.00	July 1, 1999
40 Parts:			
1–49	(869–038–00134–9)	33.00	July 1, 1999
50–51	(869–038–00135–7)	25.00	July 1, 1999
52 (52.01–52.1018)	(869–038–00136–5)	33.00	July 1, 1999
52 (52.1019–End)	(869–038–00137–3)	37.00	July 1, 1999
53–59	(869–038–00138–1)	19.00	July 1, 1999
60	(869–038–00139–0)	59.00	July 1, 1999
61–62	(869–038–00140–3)	19.00	July 1, 1999
63 (63.1–63.1119)	(869–038–00141–1)	58.00	July 1, 1999
63 (63.1200–End)	(869–038–00142–0)	36.00	July 1, 1999
64–71	(869–038–00143–8)	11.00	July 1, 1999
72–80	(869–038–00144–6)	41.00	July 1, 1999
81–85	(869–038–00145–4)	33.00	July 1, 1999
86	(869–038–00146–2)	59.00	July 1, 1999
87-135	(869–038–00146–1)	53.00	July 1, 1999
136–149	(869–038–00148–9)	40.00	July 1, 1999
150–189	(869–038–00149–7)	35.00	July 1, 1999
190–259	(869–038–00150–1)	23.00	July 1, 1999
260–265	(869–038–00151–9)	32.00	July 1, 1999
266–299	(869–038–00152–7)	33.00	July 1, 1999
300–399	(869–038–00153–5)	26.00	July 1, 1999
400–424	(869–038–00154–3)	34.00	July 1, 1999
425–699	(869–038–00155–1)	44.00	July 1, 1999
700–789	(869–038–00156–0)	42.00	July 1, 1999
790–End	(869–038–00157–8)	23.00	July 1, 1999
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–038–00158–6)	14.00	July 1, 1999
101	(869–038–00159–4)	39.00	July 1, 1999
102–200	(869–038–00160–8)	16.00	July 1, 1999
201–End	(869–038–00161–6)	15.00	July 1, 1999
42 Parts:			
1–399	(869–038–00162–4)	36.00	Oct. 1, 1999
400–429	(869–038–00163–2)	44.00	Oct. 1, 1999
430–End	(869–038–00164–1)	54.00	Oct. 1, 1999
43 Parts:			
1–999	(869–038–00165–9)	32.00	Oct. 1, 1999
1000–end	(869–038–00166–7)	47.00	Oct. 1, 1999
44	(869–038–00167–5)	28.00	Oct. 1, 1999
45 Parts:			
1–199	(869–038–00168–3)	33.00	Oct. 1, 1999
200–499	(869–038–00169–1)	16.00	Oct. 1, 1999
500–1199	(869–038–00170–5)	30.00	Oct. 1, 1999
1200–End	(869–038–00171–3)	40.00	Oct. 1, 1999
46 Parts:			
1–40	(869–038–00172–1)	27.00	Oct. 1, 1999
41–69	(869–038–00173–0)	23.00	Oct. 1, 1999
*70–89	(869–038–00174–8)	8.00	Oct. 1, 1999
90–139	(869–038–00175–6)	26.00	Oct. 1, 1999
140–155	(869–038–00176–4)	15.00	Oct. 1, 1999
156–165	(869–038–00177–2)	21.00	Oct. 1, 1999
166–199	(869–038–00178–1)	27.00	Oct. 1, 1999
200–499	(869–038–00179–9)	23.00	Oct. 1, 1999
500–End	(869–038–00180–2)	15.00	Oct. 1, 1999
47 Parts:			
0–19	(869–038–00181–1)	39.00	Oct. 1, 1999
20–39	(869–038–00182–9)	26.00	Oct. 1, 1999
40–69	(869–038–00183–7)	26.00	Oct. 1, 1999
70–79	(869–038–00184–5)	39.00	Oct. 1, 1999
80–End	(869–038–00185–3)	40.00	Oct. 1, 1999
48 Chapters:			
1 (Parts 1–51)	(869–038–00186–1)	55.00	Oct. 1, 1999
1 (Parts 52–99)	(869–038–00187–0)	30.00	Oct. 1, 1999
2 (Parts 201–299)	(869–038–00188–8)	36.00	Oct. 1, 1999
3–6	(869–038–00189–6)	27.00	Oct. 1, 1999
7–14	(869–038–00190–0)	35.00	Oct. 1, 1999
15–28	(869–038–00191–8)	36.00	Oct. 1, 1999
29–End	(869–038–00192–6)	25.00	Oct. 1, 1999
49 Parts:			
1–99	(869–038–00193–4)	34.00	Oct. 1, 1999
100–185	(869–038–00194–2)	53.00	Oct. 1, 1999
186–199	(869–038–00195–1)	13.00	Oct. 1, 1999
200–399	(869–038–00196–9)	53.00	Oct. 1, 1999
400–999	(869–038–00197–7)	57.00	Oct. 1, 1999
1000–1199	(869–038–00198–5)	17.00	Oct. 1, 1999
1200–End	(869–038–00199–3)	14.00	Oct. 1, 1999
50 Parts:			
1–199	(869–038–00200–1)	43.00	Oct. 1, 1999
200–599	(869–038–00201–9)	22.00	Oct. 1, 1999

Title	Stock Number	Price	Revision Date
600–End	(869–038–00202–7)	37.00	Oct. 1, 1999
CFR Index and Findings Aids	(869–038–00047–4)	48.00	Jan. 1, 1999
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.